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Florida State Courts

**Strategy for Pandemic Influenza and  
Other Infectious Disease Outbreaks**  
*Keeping the Courts Open in a Pandemic*

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Unified Supreme Court/Branch  
Court Emergency Management Group  
March 2006

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## Foreword

According to the U.S. Department of Health and Human Services (HHS), looking only at the 20<sup>th</sup> Century, pandemic influenza and other infectious disease outbreaks caused tens of millions of deaths and cost hundreds of billions of dollars in lost lives, wages, productivity and economic devastation.

“Although pandemic influenza threats are one of the greatest public health challenges of our time, other emerging infectious diseases can also have a devastating impact on human health...However, the capacity and capabilities developed for pandemic influenza preparedness will enable HHS to respond more effectively to other emerging infectious diseases.”<sup>1</sup>

While much of this document references the pandemic influenza, the information, considerations, tools, recommendations, and other resources are applicable to other types of pandemic outbreaks. Since this document was originally published, it has been updated to expand the strategy to include additional types of infectious disease pandemics.

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<sup>1</sup> United States. U.S. Department of Health and Human Services. Pandemic Influenza Plan. Nov. 2005. Updated 2017.

## Part One:

# Background on the National Strategy and State Response

## Goals of the National Strategy for Pandemic Influenza

In November 2005, then President George W. Bush released the *National Strategy for Pandemic Influenza*. The strategy has three critical goals. The third of these three goals is most relevant for the purposes of the Florida State Courts.

At the National Institutes of Health, where he introduced the strategy, the president said:

Our strategy is designed to meet three critical goals: First, we must detect outbreaks that occur anywhere in the world; second, we must protect the American people by stockpiling vaccines and antiviral drugs, and improve our ability to rapidly produce new vaccines against a pandemic strain; and **third, we must be ready to respond at the federal, state and local levels in the event that a pandemic reaches our shores** (emphasis added).<sup>1</sup>

## Frequency and Impact of an Influenza Pandemic:

Predicting when and where an influenza pandemic will occur is problematic. However, history provides some guidance on the frequency of the occurrences of pandemic influenza. Based on the historical occurrences, the frequency of an influenza pandemic is estimated by public health officials to be approximately every 35 years. The last influenza pandemic was the 2009 H1N1 Pandemic.<sup>2</sup>

*The United States Center for Disease Control and Prevention (CDC) defines a **pandemic** as an epidemic that has spread over several countries or continents, usually affecting a large number of people.*

The impact of an influenza pandemic has the potential to be unlike any other emergency event, according to University of Minnesota public health expert Michael Osterholm. Osterholm, who helped draft the national strategy, advises that millions of Americans could be sickened and at least two million Americans could be killed in a flu pandemic. Osterholm states:

*The CDC defines an **epidemic** as the increase, often sudden, in the number of cases of a disease above what is normally expected in that population in that area. An **outbreak** carries the same definition as epidemic but is often used for a more limited geographic area.*

We can predict now twelve to eighteen months of stress, of potentially not going to work, of wondering if you're going to have food on the table the next day... Those are all things that are going to mean that we're going to have to plan unlike any other kind of crisis that we've had in literally the last 80-some years in this country.<sup>3</sup>

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<sup>1</sup> Bush, George W. 1 Nov. 2005, Bethesda, Maryland. National Institutes of Health.

<sup>2</sup> Shahrou, Naem. Lessons Learned from the 2009-2010 H1N1 Pandemic. *Avicenna Journal of Medicine*, vol. 2, no. 2, Apr. 2012, pp. 38–39., doi:10.4103/2231-0770.99159.

<sup>3</sup> Osterholm, Michael. Interview with Susan Dentzer. *The NewsHour with Jim Lehrer*. 1 Nov. 2005. Public Broadcasting Service. WFSU, Tallahassee. 1 Nov. 2005.

Additionally, Osterholm advises that communities will be required to shut down sporting events and other public gatherings to minimize the spread of infection. The situation will also require local communities to treat thousands of sick patients in improvised hospitals and deal with the grisly task of handling an unprecedented number of bodies.

The horrific images described by Osterholm seem to be acknowledged by the U.S. Department of Health and Human Services (HHS). The *HHS Pandemic Influenza Plan*<sup>1</sup>, issued in November 2005 and updated 2017, states the characteristics of an influenza pandemic that must be considered in strategic planning are:

- Delays in availability of vaccines and shortages of antiviral drugs are likely, particularly early in the pandemic.
- The seasonality of a pandemic cannot be predicted with certainty. With seasonal influenza, peak disease usually occurs during December through March in the United States. During the 2009 A(H1N1) pandemic, the first cases were identified in April, and widespread US community outbreaks first began in August, with illness peaking in October 2009, months earlier than is routinely seen with seasonal influenza.
- The novel virus will have the ability to spread rapidly worldwide.
- If the pandemic is characterized by severe disease, it will have the potential to disrupt national and community infrastructures (including health care, transportation, commerce, utilities, and public safety) due to widespread illness, absenteeism, and death among workers and their families, as well as concern about ongoing exposure to the virus.
- Not all jurisdictions will experience clusters of disease simultaneously; however, near-simultaneous clusters likely will occur in many communities across the United States, thereby limiting the ability of any jurisdiction to support and assist other jurisdictions.
- During a pandemic, infection in a localized area can last about six to eight weeks. At least two pandemic disease waves will occur. Following the pandemic, the newly circulating virus is likely to become a regularly occurring seasonal influenza.
- Immunity to the novel pandemic influenza subtype will vary based on the strain of the virus, but most people will likely be susceptible, depending on whether a similar strain has circulated in previous seasons.
- The number of hospitalizations and deaths will depend on the severity of the disease and the success of steps to mitigate its transmission. Nonetheless, estimates could differ by as much as a factor of 10 between more and less severe scenarios.

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<sup>1</sup> United States. U.S. Department of Health and Human Services. [Pandemic Influenza Plan](#). Nov. 2005. Updated 2017.

The World Health Organization (WHO) has developed a six-phase categorization to describe the state of a pandemic. A table (see Table One) of the WHO pandemic phases is provided.

### The Florida Department of Health Response:

The response to these potentially horrific events in Florida will be guided by the Florida Department of Health (DOH). Planning considerations developed by the DOH also paint a dire image with only limited resources being able to be brought to bear by the DOH in an influenza pandemic.

There is no scientific way to know the extent, impact, and duration of a possible influenza pandemic. Numbers from official sources can vary widely. Staff has reached out to the DOH to update this information. Based on current sources<sup>1 and 2</sup> from the DOH, planning considerations for the pandemic influenza are as follows:

- Introduction of pandemic influenza into Florida could come from a variety of sources. When it occurs, its virulence and infectivity is uncertain.
- If the pandemic occurs outside the U.S., the first U.S. cases are likely to occur within two to four weeks following recognition, absent effective intervention.
- Multiple waves of illness, periods during which community outbreaks take place across the country, could occur with each wave lasting up to 12 weeks.
- The seasonality of a pandemic cannot be predicted with certainty.
- An influenza pandemic will be a long-term event, lasting from weeks or months, to over a year.
- Total deaths in Florida could be as high as 320,000. Half of all deaths are likely to occur in the first wave.
- As high as 35 percent of the population could become ill.
- Approximately 10 percent of those who become ill will need hospitalization.
- In addition to the 35 percent who become ill, an additional 30 to 50 percent will be infected but will be asymptomatic.
- The incubation period is estimated to be between two (2) and fourteen (14) days.
- Florida will have available only a limited number of doses of Oseltamivir (Tamiflu), the only effective antiviral currently available for many, but not all, strains of influenza. The current DOH policy is to use these limited doses as a means to attempt to save those lives in the greatest danger. Other types of outbreaks may not have an effective antiviral available.

*The DOH defines **isolation** as the separation and the restriction of movement of persons who are ill. Isolation can occur in the home, a hospital, or other facility.*

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<sup>1</sup> Florida. Division of Disease Control Technical Assistance Group. Florida Department of Health. Pandemic Influenza: Discussion and Planning Recommendations. Draft version, 7 Sept. 2005.

<sup>2</sup> Tyan, Bill. "Pandemic Influenza: The Perfect Storm." State Emergency Response Team, ESF-8. Pre-Governor's Executive Leadership Table Top Exercise: Pandemic Influenza Planning Meeting. State Emergency Operations Center, Tallahassee. 3 Feb. 2006.

- While vaccination is the primary method of preventing influenza, six to eight months may be needed to develop a vaccine once a new strain of influenza or other infectious disease has been identified. Some new strains or diseases may take years for an effective vaccine to be development
- The primary means available to the DOH to slow the incidence of disease during a pandemic include:
  - Isolation of those infected;
  - Quarantine of those exposed to influenza;
  - Restrictions in travel for persons ill or exposed to influenza or other disease; and
  - Social distancing measures, such as school and work closures, cancelation of public gatherings.
- While the DOH policy on isolation and quarantine has yet to be finalized or distributed to the courts, it may be that “at the height of a pandemic wave the very large number of cases would make effective isolation of the sick and quarantine of the exposed logistically unfeasible. But between waves there would be fewer cases and that would make isolation and quarantine easier.”<sup>1</sup>
- 2019 Florida Statute [381.00315](#) deals with the topics of public health advisories, public health emergencies, isolation, and quarantines.
- Rules [64D-3.037](#) and [64D-3.038](#) of the Florida Administrative Code deal with the topics of communicable diseases and conditions which may significantly affect public health.

*The DOH defines **quarantine** as the separation and the restriction of movement of persons as yet not ill who have been exposed to an infectious agent and may become ill or infectious. Quarantine can occur in the home or other designated facility.*

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<sup>1</sup> Tynan, Bill. "RE: Pandemic Question." E-mail to Greg Cowan. 6 Feb. 2006.

**Table One:  
Pandemic Phases Developed by the  
World Health Organization (WHO)<sup>1</sup>**

<b>Interpandemic period</b>	
<b>Phase 1:</b>	No new influenza virus subtypes have been detected in humans. An influenza virus subtype that has caused human infection may be present in animals. If present in animals, the risk of human infection or disease is considered to be low.
<b>Phase 2:</b>	No new influenza virus subtypes have been detected in humans. However, a circulating animal influenza virus subtype poses a substantial risk of human disease.
<b>Pandemic alert period</b>	
<b>Phase 3:</b>	Human infection(s) with a new subtype but no human-to-human spread, or at most rare instances of spread to a close contact.
<b>Phase 4:</b>	Small cluster(s) with limited human-to-human transmission but spread is highly localized, suggesting that the virus is not well adapted to humans.
<b>Phase 5:</b>	Larger cluster(s) but human-to-human spread still localized, suggesting that the virus is becoming increasingly better adapted to humans but may not yet be fully transmissible (substantial pandemic risk).
<b>Pandemic period</b>	
<b>Phase 6:</b>	Pandemic: increased and sustained transmission in general population.
<b>Postpandemic period</b>	
	Return to interpandemic period.

Notes: The distinction between **phases 1** and **2** is based on the risk of human infection or disease resulting from circulating strains in animals. The distinction is based on various factors and their relative importance according to current scientific knowledge. Factors may include pathogenicity in animals and humans, occurrence in domesticated animals and livestock or only in wildlife, whether the virus is enzootic or epizootic, geographically localized or widespread, and other scientific parameters.

The distinction among **phases 3, 4,** and **5** is based on an assessment of the risk of a pandemic. Various factors and their relative importance according to current scientific knowledge may be considered. Factors may include rate of transmission, geographical location and spread, severity of illness, presence of genes from human strains (if derived from an animal strain), and other scientific parameters.

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<sup>1</sup> [WHO Global Influenza Preparedness Plan](#). World Health Organization. Switzerland: Department of Communicable Disease Surveillance and Response, 2005.

## Part Two:

# Issues for Consideration in the Florida State Courts

### **Strategic Goals in the Florida State Courts:**

Even under the dire circumstances described above, the strategic goals for emergency preparedness efforts in the Florida State Courts still apply. These strategic goals are:

- We must deal with crises in a way that protects the health and safety of everyone at court facilities; and
- We must “keep the courts open” to ensure justice for the people.

### **Scenario for the Florida State Courts System:**

The pandemic scenario is distinct from other emergency scenarios, hurricanes for example, recently impacting the Florida State Courts System. In addition to the dire description above, the pandemic scenario specifically for the Florida State Courts is likely to include:

- A significant increase in emergency matters and case filings generated due to issues associated with the quarantine and isolation of individuals by state and local public health officials may occur;
- Of the judges, attorneys, parties, clerks and deputy clerks, sheriffs and deputy sheriffs, court administrators and staff, state and local public health officials, jurors, etc., necessary to perform mission essential functions, one third will not be available due to illness or death;
- Face-to-face contact between judges, attorneys, parties, clerks and deputy clerks, sheriffs and deputy sheriffs, court administrators and staff, state and local public health officials, jurors, etc., necessary to perform mission essential functions may be dramatically limited or unavailable;
- Court facilities, court infrastructure, public utilities, residences, etc., will all, more than likely, be physically undamaged; and
- While physically undamaged, facilities, infrastructure, utilities, and services may be impacted by a lack of adequate staffing due to isolation, quarantine, illness, or death of necessary staff to keep operations running.

### **Tactical Objectives for the Florida State Courts:**

Clearly under the situation as described above, court operations may be dramatically impacted for potentially an extended period of time. According to Osterholm, this period of time could be 12 to 18 months. Given the extent and duration of the impact, both a short-term tactical objective and a long-term tactical objective are required.

Both the short-term and long-term tactical objectives are augmentations of existing continuity of operations plans (COOP). These augmentations are designed to address the unique situation brought about by an influenza pandemic and may or may not apply to other emergency situations. Descriptions of these tactical objectives are provided below. Also, a

flowchart depicting the full process for responding to an influenza pandemic is provided as Appendix A.

***Short-Term Tactical Objective (Up to 90 Days)***

In the first 90 days of COOP activation due to the outset of an influenza pandemic, the tactical objectives are to:

1. Have the capacity to perform all mission essential functions, as should be currently defined in each courts' continuity of operations plans (COOP); and
2. Have the capacity to address all emergency matters and cases generated due to issues associated with the quarantine and isolation of individuals and other public health related cases brought by public health officials.

These short-term objectives may need to be performed under a situation where no, or only limited, face-to-face contact is possible and with significant impact to judges, attorneys, parties, clerks and deputy clerks, sheriffs and deputy sheriffs, court administrators and staff, state and local public health officials, jurors, etc., due to illness or death.

While traditionally COOP allows for 30 days under which mission essential functions are performed, the limitation on face-to-face contact may require an addition 60 days under which operations are limited to only mission essential functions.

Transition to full operations should be initiated as soon as possible. If full operations can not be initiated within 90 days, efforts to achieve the long-term tactical objectives described below should be initiated within 90 days of COOP activation.

***Long-Term Tactical Objective (90 Days and Longer)***

Within 90 days of COOP activation, the tactical objective is to have the capacity to perform all criminal matters, including the capacity to conduct jury trials, have the capacity to address all emergency civil matters, and have the capacity to perform all other mission essential functions under a situation where no, or only limited, face-to-face contact is possible and with significant impact to judges, attorneys, parties, clerks and deputy clerks, sheriffs and deputy sheriffs, court administrators and staff, state and local public health officials, jurors, etc., due to illness or death.

**Planning Assumptions for the Florida State Courts:**

The following planning assumptions should be considered when developing court emergency preparedness plans to achieve the tactical objectives listed above:

- An increase in cases with individuals seeking relief and other matters may occur.
- Court operations may be detrimentally impacted by the pandemic for up to 18 months.

- Response and recovery will be bottom-up with local court officials being primarily responsible for the response and recovery efforts in their area with only limited support from federal and state government officials.
- At a minimum, each court should ensure they have the capacity to perform their mission essential function, as defined in their COOP, and all emergency matters and cases generated due to issues associated with the quarantine and isolation of individuals and other public health related cases brought by public health officials for the first 90 days of COOP activation.
- If due to the nature of the pandemic, full operations cannot be restored within 90 days of COOP activation, each court should ensure they have the capacity to:
  - perform all criminal matters, including the capacity to conduct jury trials within 90 days of COOP activation;
  - address all emergency civil matters within 90 days of COOP activation; and
  - perform all other mission essential functions within 90 days of COOP activation.
- Of the judges, attorneys, parties, clerks and deputy clerks, sheriffs and deputy sheriffs, court administrators and staff, state and local public health officials, jurors, etc., necessary to perform the mission essential functions, one third will not be available due to illness or death.
- Face-to-face contact between judges, attorneys, parties, clerks and deputy clerks, sheriffs and deputy sheriffs, court administrators and staff, state and local public health officials, jurors, etc., necessary to perform mission essential functions may be dramatically limited or unavailable.
- The court facilities, court infrastructure, public utilities and services, and most, if not all, residences will be physically intact during the response and recover from the pandemic but services may be limited due to isolation, quarantine, illness, or death within the impacted communities.

## Part Three:

# Tasks and Tools of the Florida State Courts Strategy

### **Eight Planning Tasks of the Florida State Courts Strategy:**

As has been mentioned above, strategic goals, short-term and long-term tactical objectives, and a flowchart depicting the full process for responding to a pandemic (see Appendix A) are all interrelated elements of the Florida State Courts strategy for responding to a pandemic.

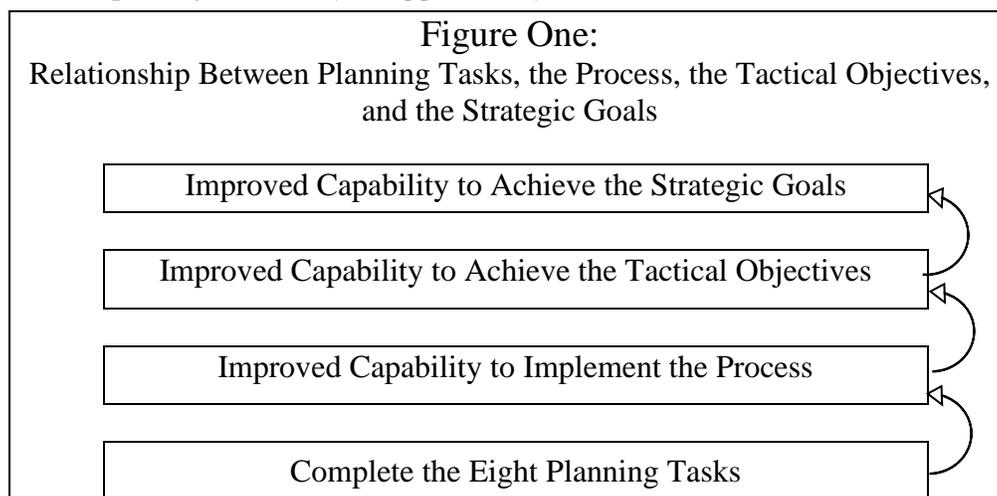
Existing branch-wide and local plans should be updated so courts are prepared to implement the process provided as Appendix A in the event of a pandemic. By successfully implementing the process, courts should improve their capacity to achieve the tactical objectives. And by achieving the tactical objectives, courts should improve their capacity to ensure they can achieve the strategic goals.

To facilitate efforts necessary to update all court plans, a series of seven planning tasks have been defined and are provided below. Also, a more detailed checklist for each of these seven planning tasks is provided as Appendix B.

The diagram (see Figure One) illustrates how the eight planning tasks, the process, the tactical objectives, and the strategic goals are all related.

In addition to the flowcharted process and the checklist for the eight planning tasks, additional planning tools are provided as appendices to this document. These additional planning tools include:

- A checklist of legal considerations for pandemic influenza (see Appendix C);
- A fact sheet for legal preparedness for public health officials (see Appendix D);
- A template to help with updates to the Court Technology Continuity and Disaster Recovery Plans (see Appendix E);
- A sample flyer to help facilitate task 4 described below (see Appendix F);
- A description of supplies to include in a disaster supply kit (see Appendix G); and
- A glossary of terms (see Appendix H).



***Task 1: Engage State and Local Public Health and Other Officials in Advance***

According to the *HHS Pandemic Plan*, issued in November 2005,

The first step in the planning process for state and local governments is to establish a Pandemic Influenza Coordinating Committee to oversee preparedness planning and ensure integration with other emergency planning efforts.<sup>1</sup>

Whether under such a coordinating committee or not, the courts must be engaged in state and local planning efforts. In order to be engaged, representatives from the courts must reach out to state and local public health officials.

Representatives from the unified Supreme Court/Branch Court Emergency Management Group (CEMG) have reached out to and are engaged with representatives from the DOH and the Florida Division of Emergency Management. The CEMG will help to keep the branch engaged at the state level.

Either current emergency coordinating officers (ECO) or other local court officials should immediately reach out to the local public health and/or emergency management officials in their communities. The goals are to:

1. Ensure the courts are “hooked-into” the current local preparedness and planning efforts;
2. Ensure courts are kept informed of these current local efforts; and
3. Ensure the courts themselves are locally prepared to do our part to successfully respond and recover from a pandemic.

***Task 2: Prepare for Legal Considerations in a Pandemic***

General guidance regarding the legal considerations that will be raised in a pandemic is available in the *HHS Pandemic Influenza Plan*, issued in November 2005. The HHS plan includes two appendices of particular interest, one is a “Checklist of Legal Considerations for Pandemic Influenza” and another is a “Fact Sheet: Practical Steps for Legal Preparedness.” The full text from these two appendices from the *HHS Pandemic Plan* is included as Appendix C and Appendix D in this document. This information is included in this document for informational purposes to help state and local court personnel prepare for the legal considerations that may arise as part of the overall public health response to a pandemic.

In 2007, the Florida Court Education Council published the *Pandemic Influenza Benchguide: Legal Issues Concerning Quarantine and Isolation*.<sup>2</sup> This benchguide was updated most recently in

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<sup>1</sup> United States. Health and Human Services. *HHS Pandemic Influenza Plan*. Nov. 2005.

<sup>2</sup> Florida. Florida Court Education Council. *Pandemic Influenza Benchguide: Legal Issues Concerning Quarantine and Isolation*. 2007. Updated 2019.

2019 and is located on the Florida Courts website at: <https://www.flcourts.org/Publications-Statistics/Publications>.

Additional questions regarding how to handle legal considerations raised in the response to an influenza pandemic should be directed to staff with the General Counsel's Office at the Office of the State Courts Administrator (OSCA).

### ***Task 3: Update Court Technology Continuity and Disaster Recovery Plans***

**Technology is vital in order to maintain operations in a pandemic.**

Court Technology Continuity and Disaster Recovery Plans were originally developed based on direction provided in administrative order AOSC03-14<sup>1</sup> and following recommendations from the Florida Courts Technology Commission.<sup>2</sup>

Given that an influenza pandemic may place extraordinary limits on face-to-face interactions, these plans should now be updated to consider the supporting IT infrastructure components necessary to perform all appropriate mission essential functions and other tactical objectives by videoconference, Internet-based conference solution or teleconference/telephone, if conditions require.

There may be some legal limitations to some specific court proceedings being held via teleconference or telephone. But for planning purposes, assume most court proceedings included within your mission essential functions and other tactical objectives can be held via teleconference or telephone under the emergency conditions described in this document. Additional specifics on these matters are being considered as part of the efforts described in Task 2 above.

Efforts should begin immediately to update existing Court Technology Continuity and Disaster Recovery Plans to:

- Identify and record all the supporting IT infrastructure components necessary to perform all appropriate mission essential functions and other tactical objectives by videoconference, Internet-based conference solution or teleconference/telephone;
- Identify the custodial entity for all the supporting IT infrastructure components necessary to perform all appropriate mission essential functions and other tactical objectives by videoconference, Internet-based conference solution or teleconference/telephone;
- Develop and finalize any memorandum of understanding or other necessary agreements to secure the use of all the supporting IT infrastructure components necessary to perform all appropriate mission essential functions and other tactical

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<sup>1</sup> Florida. Florida Supreme Court. [AOSC03-14: Technology Emergency Preparedness](https://www.floridasupremecourt.org/content/download/240097/2125413/sc03-14.pdf). 13 Mar. 2003. 22 Feb. 2006 <<https://www.floridasupremecourt.org/content/download/240097/2125413/sc03-14.pdf>>.

<sup>2</sup> Florida. Florida Courts Technology Commission. [Court Technology Continuity and Disaster Recovery Planning](https://www.floridasupremecourt.org/content/download/240098/2125419/sc03-14report.pdf). 23 Dec. 2002. <<https://www.floridasupremecourt.org/content/download/240098/2125419/sc03-14report.pdf>>.

objectives by videoconference, Internet-based conference solution or teleconference/telephone;

- Implement, train, and exercise all the supporting IT infrastructure components necessary to perform all appropriate mission essential functions and other tactical objectives by videoconference, Internet-based conference solution or teleconference/telephone;
- Update manual contingencies or develop new strategies that may be necessary to be able to perform any mission essential function or other tactical objective including those that must be held in person; and
- Identify any fiscal or other resources needed to develop and implement all the supporting IT infrastructure components necessary to perform all appropriate mission essential functions and other tactical objectives by videoconference, Internet-based conference solution, or teleconference/telephone.

A template to assist in this effort has been developed and is provided as Appendix E. The template is consistent with the previously utilized template developed based on recommendations from the Florida Courts Technology Commission.

***Task 4: Provide Education Regarding the Threat Posed by a Pandemic***

Efforts should begin immediately throughout the branch to educate judges, attorneys, clerks, marshals, court administrators and staff to the threats posed by an influenza pandemic. Educational efforts should also focus on both the steps that can be taken now to prepare and the common-sense health measures that should be followed. Some points to include in these educational efforts include:

- Stress the need to adopt administrative practices that encourage sick employees to stay home;
- Anticipate how to function with a significant portion of the workforce absent due to illness or caring for ill family members;
- Stress the need to practice good health habits, including eating a balanced diet, exercising daily, and getting sufficient rest and take these common-sense steps to stop the spread of germs:
  - Wash hands frequently with soap and water;
  - Cover coughs and sneezes with tissues;
  - Stay away from others as much as possible if you are sick;
- Stress the need to stay informed using reputable sources, such as the World Health Organization, United States Centers for Disease Control and Florida Department of Health;
- Stress the need to update family preparedness plans;

- Stress the need to update family emergency supply kits;<sup>1</sup>
  - Beyond the regular hurricane supplies:
    - Include enough food and water for a two-week supply for each family member;
    - Include hand sanitizer;
    - Include protective gloves; and
    - Include particulate respirators at a minimum of 95% efficiency [e.g., N95 or comparable respirators] (see [http://www.cdc.gov/niosh/npptl/topics/respirators/disp\\_part/n95list1.html](http://www.cdc.gov/niosh/npptl/topics/respirators/disp_part/n95list1.html)).<sup>2</sup>

### ***Task 5: Improve Communications***

Recent improvements in emergency communications in the Florida State Courts include the expanded use of websites, hotlines, satellite phones, coordinated emergency conference calls, and social media. These improvements have greatly assisted the courts in successfully responding and recovering from hurricanes.

In order to ensure these improvements will also benefit the courts in a pandemic, each court should review both their internal and external communications plans. Each court should also review and coordinate the functions of their emergency coordinating officer (ECO) and public information officer (PIO). These efforts should be designed to ensure each court is prepared to communicate successfully with judges, attorneys, parties, clerks and deputy clerks, sheriffs and deputy sheriffs, court administrators and staff, state and local public health officials, jurors, local bar associations, and the general public under the emergency conditions described in this document.

### ***Task 6: Strengthen Court Emergency Management Teams and Address Other Personnel Questions***

As part of the emergency preparedness initiated after the 9/11 attacks, each court should have identified their court emergency management team(s) (CEMT). Building upon this team approach, each court should name and prepare a team made up of judges, attorneys, deputy clerks, deputy sheriffs, IT staff, and others who will be trained and prepared to perform the court's mission essential functions through the technical and other means developed for their court. Public health officials should be actively engaged in these teams.

Each court should consider purchasing and stockpiling enough hand sanitizer, gloves, eye protection, particulate respirators at a minimum of 95% efficiency [e.g., N95 or comparable

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<sup>1</sup> United States. U.S. Department of Health and Human Services Centers for Disease Control and Prevention. [Get Your Household Ready for Pandemic Flu](https://www.cdc.gov/nonpharmaceutical-interventions/pdf/gr-pan-flu-ind-house.pdf). Apr 2017. < <https://www.cdc.gov/nonpharmaceutical-interventions/pdf/gr-pan-flu-ind-house.pdf> >.

<sup>2</sup> [WHO Global Influenza Preparedness Plan](#). World Health Organization. Switzerland: Department of Communicable Disease Surveillance and Response, 2005.

respirators], and other equipment or supplies identified as necessary during a pandemic for use by judges, attorneys, parties, clerks and deputy clerks, sheriffs and deputy sheriffs, court administrators and staff, and jurors. Staff with OSCA's General Services unit will be reviewing additional purchasing options for these supplies.

At a minimum, each CEMT member should be directed to:

- Train and exercise any technology to be used to perform the court's mission essential functions in the event of a pandemic;
- Develop a family disaster plan with specific attention to preparing for and being able to respond to and recover from a pandemic;
- Update their personal emergency supplies to include items listed in Appendix G, including:<sup>1</sup>
  - Enough food and water for a two-week supply for each family member;
  - Hand sanitizer;
  - Protective gloves; and
  - Particulate respirators at a minimum of 95% efficiency [e.g., N95 or comparable respirators] (see [http://www.cdc.gov/niosh/npptl/topics/respirators/disp\\_part/n95list1.html](http://www.cdc.gov/niosh/npptl/topics/respirators/disp_part/n95list1.html)); and
- Maintain a heightened state of readiness and be prepared to respond as needed to a pandemic to ensure the continuous operation of their court's mission essential functions and other tactical objectives.

In addition to the primary team members, ample back-ups for each member must be named and ready to fill-in as needed.

A number of personnel questions are likely to be raised in the event of an influenza pandemic. Answers to some of these questions will need to be considered prior to the outset of the pandemic. Some of these questions may include:

- Is there sufficient flexibility in personnel regulations to allow for extended periods of administrative leave, sick leave or family leave if employees are subject to isolation or quarantine orders?
- Will the courts permit the use of available annual or sick leave for employees who choose to shelter at home or self-quarantine?
- Will the courts approve administrative leave or some other form of leave for employees who choose to shelter at home or self-quarantine?
- Are there any additional pay issues that need to be addressed?
- If an employee wants to come to work and not use any leave, does management have the right to tell the employee not to come to work?

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<sup>1</sup> "Disaster Supplies Kit." *Preparedness Today*. 22 June 2005. Centers for Disease Control and Prevention/American Red Cross. 10 Feb. 2006 <[http://www.redcross.org/preparedness/cdc\\_english/dskit.asp](http://www.redcross.org/preparedness/cdc_english/dskit.asp)>

For guidance on planning for personnel matters, please reference the *Pandemic Staffing Guide*, available here: <https://www.flcourts.org/Resources-Services/Emergency-Preparedness/Pandemic-Preparedness>

***Task 7: Consider Jury Management: A Non-Traditional Approach***

One of the most difficult operational issues to address in a pandemic will be developing the capacity to conduct jury trials within 90 days of COOP activation. Issues to be addressed include:

- What will be the impact on summoning yield?
- How will jurors report for service?
- How will jurors be assembled?
- How will voir dire be held and how will juries be selected?
- How will jurors sit-in on and deliberate cases?
- How will jurors be paid for their service?

Solutions to all of these, and perhaps other, questions will need to be made at the local level prior to the outset of the pandemic and will need to be ready to implement within 90 days of the outset of the pandemic. Efforts are underway to formulate a workgroup of jury managers from around the state to recommend possible solutions to each of these, and possibly other issues. More information on these issues will be provided under a separate cover.

***Task 8: Evaluate Court Security and Facility Access Policies***

Courts should address the question of whether court security personnel should ban persons that appear to be sick from entering a court facility. In accessing the proper policy, court personnel should take into consideration the severity level of the health crisis, the level of training and experience of the security personnel and whether quarantine or other public health order has been issued.

The following is a guideline for a mild or moderate pandemic event like the H1N1 (swine flu) influenza:

Court security personnel should communicate (via signage, recorded announcement or other means of communication) that persons that have the flu or believe they have the flu should stay at home and request a continuance of their case, jury duty or other scheduled court activity. Since persons with H1N1 virus are infectious for approximately one week and cannot become infectious again, a one-week continuance should be enough time to safely prevent the spread of the flu. Other types of pandemics may have different infection periods.

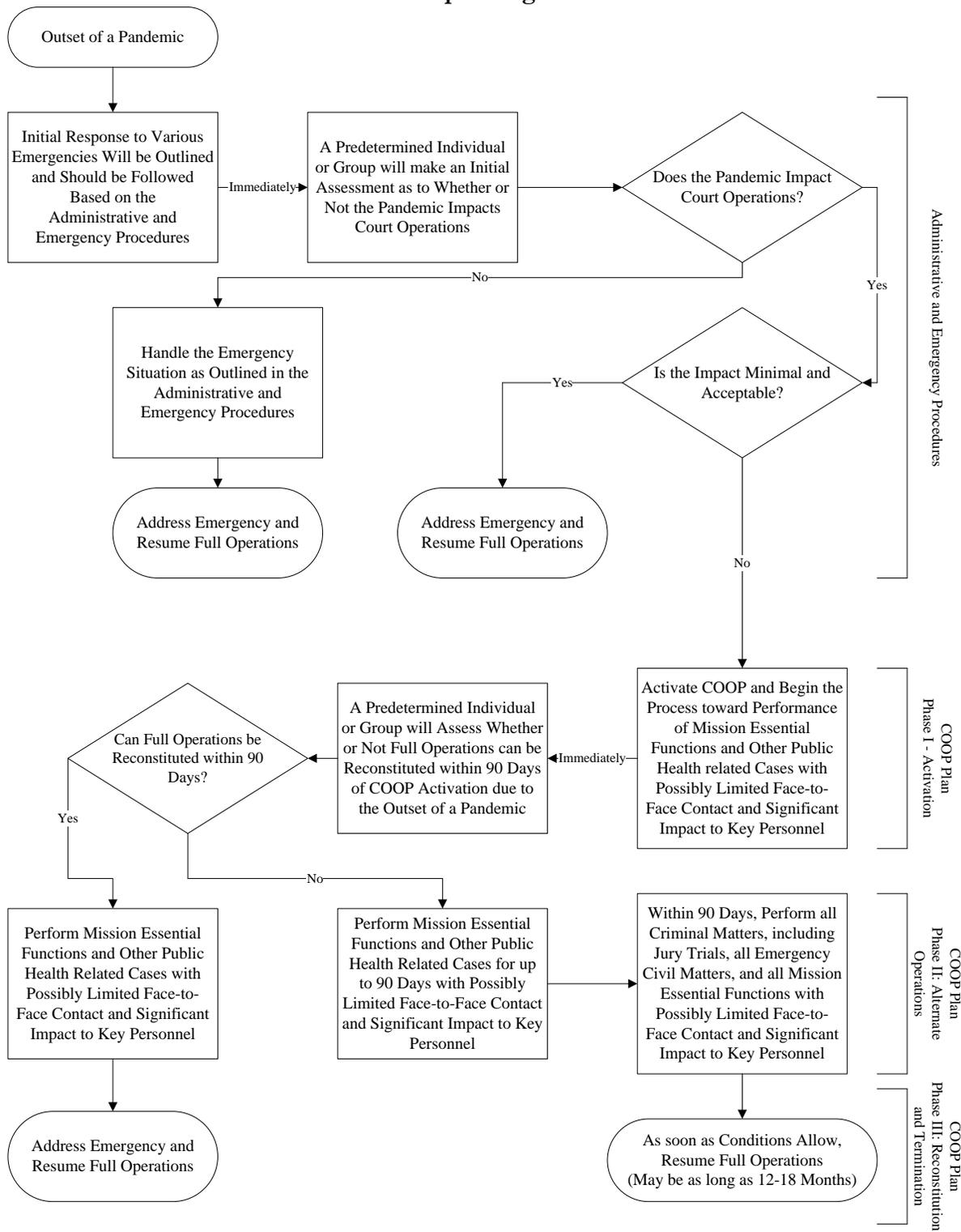
However, if a person exhibits symptoms and insists on entering the court facility that person should be permitted to enter. Such persons or persons with another communicable illness should be provided a surgical mask and be encouraged to wear it at all times while in the court facility. They should also be encouraged to wash their hands frequently and/or use antibacterial hand sanitizers. Court personnel should be informed that persons wearing surgical masks should be accommodated in conducting their court business. Procedures to decontaminate counters, documents, furniture, etc., using antibacterial wipes or other methods should be considered to provide greater protection for court personnel.

**Comment:** Persons that cough, sneeze, or exhibit flu like symptoms may have an allergy, common cold, or other non-flu illness. Court personnel do not have the expertise to differentiate between persons that may or may not have the flu or other virus. Some persons may have a virus and not have a fever. Some persons that seek access to a court facility may have emergency situations that require immediate court action. An example would be a person seeking an injunction in a domestic violence matter. Prohibiting access to such persons could place them in greater harm.

## Part Three (continued):

### Appendices and Tools

**Appendix A:  
Process for Responding to a Pandemic**



**Appendix B:  
Checklist of Planning Tasks Associated with  
Preparing for a Pandemic**

*Directions:* For each task below indicate whether you have “Completed” or “Not Started” the task. If the task is still on-going indicate “On-going.” If the task is not applicable indicate “Not Applicable.”

***Task 1: Engage State and Local Public Health and Other Officials in Advance***

- \_\_\_\_\_ Task 1a: Schedule a meeting with local public health and/or emergency management officials to get the courts “hooked-into” current local preparedness and planning efforts.
- \_\_\_\_\_ Task 1b: Ensure through follow-up with local public health and/or emergency management officials that the courts are kept informed regarding current local preparedness and planning efforts.
- \_\_\_\_\_ Task 1c: Follow through on your courts preparedness efforts to ensure your court is prepared to do its part to successfully respond and recover from a pandemic (See Task 2, Appendix C and Appendix D below for more ideas).
- \_\_\_\_\_ Task 1d: Others. Describe:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

***Task 2: Prepare for Legal Considerations in a Pandemic***

- \_\_\_\_\_ Task 2a: Coordinate with representatives from the DOH on statutory and regulatory issues associated with isolation/quarantine for pandemic influenza. Additional guidance to all courts may be provided by the OSCA General Counsel. (This task is applicable only to the Supreme Court/OSCA.)
- \_\_\_\_\_ Task 2b: Using any additional guidance developed based on Task 2a above, local efforts should be focused on ensuring local

administrative mechanisms regarding isolation/quarantine for pandemic influenza.

\_\_\_\_\_ Task 2c: Participate in any locally developed legal preparedness task force.

\_\_\_\_\_ Task 2d: Ensure that judges and attorneys are aware of the legal issues associated with isolation/quarantine including the review of the benchguide.

\_\_\_\_\_ Task 2e: Become familiar with any legal documents or templates that may be presented to the courts by public health officials as part of efforts to isolate/quarantine individuals in a pandemic.

\_\_\_\_\_ Task 2f: Ensure procedures and/or protocols exist to ensure that persons subject to an isolation/quarantine order have access to legal counsel, if desired (e.g., list of attorneys willing to provide services at little or no cost).

\_\_\_\_\_ Task 2g: Coordinate with public health officials to develop a 24 hours a day, 7 days a week “on call” list of judges or hearing officers to review emergency requests regarding isolation/quarantine.

\_\_\_\_\_ Task 2h: Coordinate with public health officials to develop a plan for hearing cases and/or appeals for persons subject to isolation/quarantine orders (e.g., participation telephonically, by teleconference, by videoconference, etc.).

\_\_\_\_\_ Task 2i: Others. Describe:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

***Task 3: Update Court Technology Continuity and Disaster Recovery Plans***

\_\_\_\_\_ Task 3a: Identify and record all the supporting IT infrastructure components necessary to perform all appropriate mission essential functions and other tactical objectives by videoconference, Internet-based conference solution or teleconference/telephone.

\_\_\_\_\_ Task 3b: Identify the custodial entity for all the supporting IT infrastructure components necessary to perform all appropriate mission essential functions and other tactical objectives by videoconference, Internet-based conference solution or teleconference/telephone.

\_\_\_\_\_ Task 3c: Develop and finalize any memorandum of understanding or any other necessary agreements to secure the use of all the supporting IT infrastructure components necessary to perform all appropriate mission essential functions and other tactical objectives by videoconference, Internet-based conference solution or teleconference/telephone.

\_\_\_\_\_ Task 3d: Implement, train, and exercise all the supporting IT infrastructure components necessary to perform all appropriate mission essential functions and other tactical objectives by videoconference, Internet-based conference solution or teleconference/telephone.

\_\_\_\_\_ Task 3e: Update manual contingencies or develop new strategies that may be necessary to be able to perform any mission essential function or other tactical objective including those that must be held in person.

\_\_\_\_\_ Task 3f: Identify any fiscal or other resources needed to develop and implement all the supporting IT infrastructure components necessary to perform all appropriate mission essential functions and other tactical objectives by videoconference, Internet-based conference solution or teleconference/telephone.

\_\_\_\_\_ Task 3g: Others. Describe:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

***Task 4: Provide Education Regarding the Threat Posed by a Pandemic***

\_\_\_\_\_ Task 4a: Adopt administrative practices that encourage sick employees to stay home.

\_\_\_\_\_ Task 4b: Plan for how to function with a significant portion of the workforce absent due to illness or caring for ill family members.

\_\_\_\_\_ Task 4c: Stress to all employees the need to practice good health habits, including eating a balanced diet, exercising daily, and getting sufficient rest and take these common-sense steps to stop the spread of germs:

- Wash hands frequently with soap and water;
- Cover coughs and sneezes with tissues; and
- Stay away from others as much as possible if you are sick.

\_\_\_\_\_ Task 4d: Stress to all employees the need to stay informed about pandemic influenza. A good resource is [www.pandemicflu.gov](http://www.pandemicflu.gov).

\_\_\_\_\_ Task 4e: Stress to all employees the need to stay prepared including updating family preparedness plans and family emergency supply kits (see Appendix G).

\_\_\_\_\_ Task 4f: Develop and distribute a flyer regarding:

- The threat posed by a pandemic;
- The administrative practices and preparedness efforts the courts are taking to be able to respond and recover;
- The good health habits employees should practice; and
- How employees can stay informed about pandemic influenza. (A sample flyer is provided as Appendix F.)

\_\_\_\_\_ Task 4g: Develop and provide statewide training to judges, clerks, marshals, trial court administrators and staff on legal, operational, preparedness, and other issues associated with an influenza pandemic. (This task is applicable only to the Supreme Court/OSCA.)

\_\_\_\_\_ Task 4h: Reach out to The Florida Bar and assist with education and training efforts for attorneys in the state. (This task is applicable only to the Supreme Court/OSCA.)

\_\_\_\_\_ Task 4i: Others. Describe:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

***Task 5: Improve Communications***

\_\_\_\_\_ Task 5a: Review both your court’s internal and external communications plans to ensure you are prepared to communicate successfully with judges, attorneys, parties, clerks and deputy clerks, sheriffs and deputy sheriffs, court administrators and staff, state and local public health officials, jurors, local bar associations, and the general public under the emergency conditions described in this document.

\_\_\_\_\_ Task 5b: Review and coordinate the functions of your emergency coordinating officer (ECO) and public information officer (PIO) to ensure you are prepared to communicate successfully with judges, attorneys, parties, clerks and deputy clerks, sheriffs and deputy sheriffs, court administrators and staff, state and local public health officials, jurors, local bar associations, and the general public under the emergency conditions described in this document.

\_\_\_\_\_ Task 5c: Others. Describe:

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***Task 6: Strengthen Court Emergency Management Teams and Address Other Personnel***

\_\_\_\_\_ Task 6a: Name and prepare a team made up of judges, attorneys, deputy clerks, deputy sheriffs, IT staff, and others who will be trained and prepared to perform the court’s mission essential functions and other tactical objectives through the technical and other means developed for their court.

\_\_\_\_\_ Task 6b: Include public health officials in the team(s) being developed to respond to a pandemic.

\_\_\_\_\_ Task 6c: Consider purchasing and stockpiling enough hand sanitizer, gloves, eye protection, and particulate respirators at a minimum of 95% efficiency [e.g., N95 or comparable respirators] , and other equipment or supplies identified as necessary during a pandemic for use by judges, attorneys, parties, clerks and deputy clerks, sheriffs and deputy sheriffs, court administrators and staff, and jurors. (Note:

Staff with OSCA's General Services section will be reviewing additional purchasing options for these supplies.)

\_\_\_\_\_ Task 6d: Ensure all team members:

- Train and exercise any technology to be used to perform the court's mission essential functions in the event of a pandemic;
- Develop a family disaster plan with specific attention to preparing for and being able to respond and recover from a pandemic;
- Update their personal emergency supply kits (see Appendix G); and
- Maintain a heightened state of readiness and be prepared to respond as needed to a pandemic to ensure the continuous operation of the mission essential functions.

\_\_\_\_\_ Task 6e: Ensure ample back-ups for each team member is named and ready to fill-in as needed.

\_\_\_\_\_ Task 6f: Review and adapt a version of the Pandemic Staffing Guide for use by your court. Consider additional human resources related questions that may be raised by an influenza pandemic and develop answers as best can be determined. (This task should be coordinated with the OSCA's Office of Human Resources.)

\_\_\_\_\_ Task 6g: Others. Describe:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

***Task 7: Consider Jury Management: A Non-Traditional Approach***

\_\_\_\_\_ Task 7a: Give consideration to the operational issues associated with restoring jury trials within 90 days of the outset of the pandemic.

Issues to be addressed include:

- What will be the impact on summoning yield?
- How will jurors report for service?
- How will jurors be assembled?
- How will voir dire be held?
- How will juries be selected?
- How will jurors sit-in on, and deliberate cases?

- How will jurors be paid for their service?

\_\_\_\_\_ Task 7b: Develop a statewide workgroup including membership from jury managers within the state to recommend possible solutions to these and possibly other questions. (This task is applicable only to the Supreme Court/OSCA.)

\_\_\_\_\_ Task 7c: Others. Describe:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

***Task 8: Evaluate Court Security and Facility Access Policies***

\_\_\_\_\_ Task 8a: Assess the severity of the health emergency

\_\_\_\_\_ Task 8b: Determine the access policy that best protects the health of court personnel and the public while permitting access to court resources.

\_\_\_\_\_ Task 8c: Implement communication plan (signs, recorded announcement, etc.) to encourage sick persons to stay home.

\_\_\_\_\_ Task 8d: Train court personnel on proper procedures to decontaminate counters and common use areas.

\_\_\_\_\_ Task 8e: Others. Describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Appendix C:

### **Checklist of Legal Considerations for Pandemic Influenza Included in the *HHS Pandemic Plan* (Emphasis added)<sup>1</sup>**

The following checklist is a planning tool highlighting the relevant partners, resources, planning considerations, due process considerations, and issues of legal liability and immunity that may arise in the context of pandemic influenza. Next to each consideration are listed the legal partners (e.g., public health, hospitals, public safety, emergency management, judiciary) who may be called upon to address these considerations as part of the affected community's response. **The challenge of the public health response is to protect the health of many, while safeguarding the rights of the individual. An integrated and coordinated response by attorneys at all levels in the community is essential to achieving this goal.**

The checklist format is not intended to set forth mandatory requirements or establish a national standard for legal preparedness. **Each state and local jurisdiction should determine for itself whether it is adequately prepared for disease outbreaks in accordance with its own laws and procedures. Relevant federal law also should be reviewed and statutes harmonized, as feasible.**

#### **Planning Considerations**

- Ensure that public health personnel have a basic understanding of the intersection among federal, state, local, and tribal laws regarding quarantine and isolation as they relate to international airports and interstate border crossings. [public health/public safety/emergency management]
- Where applicable, draft or update legal orders, motions, and templates requiring medical evaluation of non-compliant persons who meet the pandemic influenza case definition and have symptoms of pandemic influenza. [public health/hospitals]
- Ensure that legal counsel has reviewed the feasibility of requiring persons to self-monitor for medical conditions (e.g., temperature checks) and (where applicable) drafted legal orders or agreements. [public health]
- Ensure that legal counsel has reviewed the feasibility of issuing “exclusion” orders (i.e., excluding contacts from using public transportation, attending public meetings) and, where applicable, drafted templates and legal orders. [public health/public safety/emergency management]
- Ensure the existence of a statute, regulation, or other administrative mechanism authorizing isolation/quarantine for pandemic influenza. [public health/public safety/judiciary]
- Draft legal orders, motions, and templates for isolation/quarantine in homes, hospitals, or other designated facilities. [public health/hospitals/emergency management/public safety]

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<sup>1</sup> United States. Health and Human Services. [HHS Pandemic Influenza Plan](#). Nov. 2005.

- Ensure that legal counsel has reviewed the feasibility of using electronic methods to monitor suspected non-compliant individuals in home isolation and/or quarantine. [public health/public safety]
- Ensure that legal counsel has reviewed draft legal orders, motions, and templates to quarantine facilities and to credential ingress and egress into such facilities. [public health/public safety/emergency management]
- Ensure that legal counsel has reviewed the feasibility of using faith-based organizations to assist or provide services to persons in isolation and quarantine. [public health]
- Ensure that public health officials have reviewed the availability of workers' compensation and/or other forms of financial support for persons unable to return to work because of an isolation/quarantine order. [public health]
- Ensure that legal counsel has considered whether the health department should issue documents designed to assist with reintegration of persons subject to isolation/quarantine order (e.g., letter to employer or school explaining that patient is no longer infectious). [public health]
- Ensure that legal counsel has reviewed agreements relating to overtime and/or flexibility of hours for staff. [public health/hospitals/public safety/emergency management]
- Ensure that legal counsel has a clear understanding of legal authorities relevant to environmental remediation of buildings. [public health/hospitals/emergency management]

### Partnerships/Outreach

- **Assemble a legal preparedness task force with representation from public health, public safety, hospitals, emergency management, judiciary, and other relevant individuals and/or organizations at various levels of authority (federal, state, tribal, local, cross-border). [public health/public safety/hospitals/emergency management/judiciary]**
- Establish procedures for enforcement of isolation/quarantine orders. [public health/public safety]
- Provide public safety personnel with educational materials relating to pandemic influenza and have a clear understanding for how to enforce an isolation/quarantine order. [public health/public safety]
- Ensure that procedures or protocols exist between hospitals and public health to manage a possible or known pandemic influenza case-patient who attempts to leave the hospital against medical advice. [public health/hospitals/public safety]
- Where applicable, draft memoranda of agreement (MOA) or understanding (MOU) to allow for the loaning of facilities or other services necessary to implement a quarantine and/or isolation order for persons who cannot be isolated at home (e.g., travelers, homeless populations). [public health/hospitals/emergency management]

- **Ensure that judges and attorneys in the area, through local bar organizations or other entities, have received educational materials, training, or information related to SARS and the potential use of isolation/quarantine to interrupt disease transmission. [public health/judiciary]**
- Ensure that legal counsel has reviewed and/or drafted data sharing/data use/confidentiality agreements related to sharing of confidential patient medical information between public health and other partners. [public health/hospitals/public safety/emergency management]

### **Due Process Considerations**

- Draft legal orders and templates using terms such as “quarantine,” “isolation,” and “detention” consistently. [public health/judiciary]
- Ensure that legal counsel has reviewed all draft isolation/quarantine orders and forms, as well as applicable administrative hearing procedures, to ensure concurrence with basic elements of due process (e.g., adequate notice, opportunity to contest, administrative determination). [public health/judiciary]
- Ensure that procedures or protocols exist to ensure that persons subject to an isolation/quarantine order have access to legal counsel, if desired (e.g., list of attorneys willing to provide services at little or no cost). [public health/judiciary]
- Ensure that legal counsel has analyzed procedures needed to satisfy due process in different isolation/quarantine scenarios (e.g., “voluntary” home isolation, isolation in a guarded facility, exclusion from certain public activities). [public health/judiciary]
- Where applicable, ensure that public health officials have worked with the local court system to develop a 24 hours a day, 7 days a week “on call” list of judges or hearing officers to review emergency requests for isolation/quarantine. [public health/judiciary]
- Ensure that public health officials have worked with the local court system to develop a plan for hearing cases and/or appeals for persons subject to isolation/quarantine orders (e.g., participation via telephone, video conference). [public health/judiciary]

### **Legal Resources and Statutes**

- Ensure that legal counsel has reviewed and has a clear understanding of the legal resources and tools relevant to a community’s public health response. [public health/judiciary/emergency management] Such resources and tools include:
  - Draft Model State Emergency Health Powers Act  
[www.publichealthlaw.net/MSEHPA/MSEHPA2.pdf](http://www.publichealthlaw.net/MSEHPA/MSEHPA2.pdf)
  - Emergency Management Assistance Compact (model agreement)  
<http://www.emacweb.org/?13>

- Emergency Management Assistance Compact (as implemented in a state or jurisdiction)
- Memorandum of Understanding for Establishment of Local Public Health Mutual Aid and Assistance System  
[www.publichealthlaw.net/Resources/ResourcesPDFs/MOU.pdf](http://www.publichealthlaw.net/Resources/ResourcesPDFs/MOU.pdf)
- American Bar Association Draft Checklist for State and Local Government Attorneys to Prepare for Possible Disasters  
<http://www.publichealthlaw.net/Resources/BTlaw.htm>
- Legal Authorities for Isolation and Quarantine  
<http://www.cdc.gov/ncidod/sars/legal.htm>
- Quarantine and Isolation: Lessons Learned from SARS  
<http://www.louisville.edu/medschool/ibhpl/images/pdf/SARS%20REPORT.pdf>
- Checklists on Legal Preparedness for Bioterrorism and other Public Health Emergencies  
<http://www.publichealthlaw.net/Resources/BTlaw.htm>
- Legal Materials Related to Public Health Legal Preparedness  
[http://www2a.cdc.gov/phlp/sub\\_menu.asp](http://www2a.cdc.gov/phlp/sub_menu.asp)  
Additional materials and resources may be posted at  
<http://www.cdc.gov/phlp/index.htm>
- Distribute draft letters or fact sheets to hospitals and other healthcare providers describing permissible uses and disclosures of health information for public health purposes under the Privacy Rule of the Health Insurance Portability and Accountability Act (HIPAA) ([www.hhs.gov/ocr/hipaa/](http://www.hhs.gov/ocr/hipaa/)). [public health/hospitals]
- Where applicable, ensure that legal counsel understands procedures for declaring a public health emergency (at various levels of government) and consequences of such a declaration. [public health/public safety/emergency management]
- Ensure that legal counsel is familiar with the requirements of the Emergency Medical Treatment and Active Labor Act (EMTALA) ([www.aem.org/emtala/index.shtml](http://www.aem.org/emtala/index.shtml)) and has determined if such requirements have been incorporated into public health and hospital planning for pandemic influenza. [public health/hospitals]
- Ensure that legal counsel has reviewed hospital screening and admission procedures for potential pandemic influenza patients (e.g., establishment of evaluation clinics for persons with influenza-like symptoms) for compliance with EMTALA. [public health/hospitals]
- Ensure that legal counsel has reviewed potential EMTALA implications of a community-wide EMS protocol for transport of pandemic influenza patients (e.g., protocol requiring transport of pandemic influenza patients to a hospital or facility other than the hospital that owns the ambulance). [public health/hospitals/emergency management]

### **Legal Liability and Immunity**

- Ensure that legal counsel has reviewed the potential legal liability of implementing “working” quarantine for essential service personnel. [public health/hospitals]
- Ensure that legal counsel has reviewed the potential legal liability of housing pandemic influenza patients in home isolation with non-exposed residents subject to infection control precautions. [public health]
- Ensure that legal counsel has reviewed liability/immunity for volunteers providing assistance or services to persons in isolation/quarantine. [public health/emergency management]
- Ensure that legal counsel has reviewed hospital employment policies on emergency licensure and/or employment of retired or non-medical personnel or personnel from other medical departments or hospitals. [public health/hospitals]

**Appendix D:**  
**Fact Sheet: Practical Steps for Legal Preparedness**  
**Included in the *HHS Pandemic Plan* (Emphasis added)<sup>1</sup>**

**Step 1: Know your legislation**

State and local public health officers need to be familiar with the legal requirements in their jurisdictions regarding isolation of infectious persons and quarantine of exposed persons. Although most states have laws to compel isolation and/or quarantine, procedures may vary widely from jurisdiction to jurisdiction. Key persons, such as legal counsel, judges, and policymakers, should be identified and made part of your jurisdiction's planning for pandemic influenza.

HHS has statutory authority, which has been delegated to CDC, to quarantine or isolate individuals who have been exposed to or infected with pandemic influenza. President Bush added pandemic influenza to the list of quarantinable diseases by Executive Order 13375 on April 1, 2005.

**Step 2: Plan “due process”**

Procedural due process is implicated when the government seeks to deprive an individual of “liberty” interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment to the U.S. Constitution. Many states, through statute or regulation, have established specific administrative and judicial schemes for affording due process to a person subject to a quarantine and/or isolation order. Schemes in other jurisdictions may not directly address this issue.

Although due process is a flexible concept and calls for procedural protections as the particular situation demands, the basic elements of due process include: adequate notice (typically through written order) of the action the agency seeks to compel; right to be heard (typically through the right to present evidence and witnesses and to contest the government's evidence and witnesses); access to legal counsel; and a final administrative decision that is subject to review in a court of law. These due process protections should not impede the immediate isolation or quarantine of an individual for valid public health reasons in an emergency situation.

**Step 3: Draft key documents in advance**

State and local public health officers should consider drafting key documents in advance of an emergency. These template documents can be critical time savers in an emergency. Documents that jurisdictions should consider preparing in advance include: draft quarantine and/or isolation orders; supporting declarations and/or affidavits by public health and/or medical personnel; and an explanation of the jurisdiction's due process procedures for persons subject to an isolation/quarantine order. Examples of documents created by other jurisdictions are found at: <http://www.cdc.gov/phlp/index.htm>

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<sup>1</sup> Ibid.

#### **Step 4: Contact other jurisdictions**

It is possible for federal, state, tribal, and local health authorities simultaneously to have separate but concurrent legal quarantine power in a particular situation (e.g., an arriving aircraft at a large city airport). Furthermore, public health officials at the federal, state, tribal, and local level may occasionally seek the assistance of their respective counterparts, e.g., law enforcement, to assist in the enforcement of a public health order. State and local public health officers should therefore be familiar with the roles and responsibilities of other jurisdictions: vertically (local, state, tribal, federal), horizontally (public health, law enforcement, emergency management, and health care), and in geographical clusters (overlapping state/local neighbors).

#### **Step 5: Engage the courts in advance**

**Some jurisdictions may rely on older public health statutes that have not been amended in over half a century, while other jurisdictions may have recently revised their legal authorities to respond to bioterrorism or other public health emergencies. Judges who may be called upon to review a public health order may not be familiar with the state or local health authority's broad public health powers. During the 2003 SARS outbreak in Toronto, Canada, for example, many judges were unaware of the health officer's broad ex parte authority to compel isolation/quarantine under rarely used laws.**

#### **Step 6: Anticipate practical problems**

**State and local public health officers need to be prepared for the practical problems that may arise in affording adequate due process protections to persons subject to isolation and/or quarantine orders. Such problems may include how to arrange for the appearance and representation of persons in quarantine (e.g., video conference or other remote means); how to serve an isolation/quarantine order (likely through law enforcement) and other procedures to advise persons of their legal rights; and isolation arrangements for transient or homeless populations.**

#### **Step 7: Communication**

**Communication planning is vital not only for an effective public health response but also for an effective legal response to a public health emergency.** Public health agency counsel should be aware of media training available to other public health officers. During the SARS and monkeypox outbreaks, CDC, through the Public Health Law Program (<http://www.cdc.gov/phlp/index.htm>), established telephone conferences for public health legal counsel to share experiences and engage in peer-to-peer consultations. Efforts are now underway to develop materials to assist state and local public health departments in conducting further outreach on emergency public health issues to the legal community through local bar associations.

**Appendix E:  
Template to Assist with Updates to the  
Court Technology Continuity and Disaster Recovery Plans**

**Court Function or Objective:** \_\_\_\_\_

**Maximum Tolerable Downtime:** \_\_\_ N/A \_\_\_ 1 Day \_\_\_ 1 Week \_\_\_ 1 Month

<b>Supporting IT Infrastructure Components</b>	<b>Custodial Entity</b>
____ (Yes/No) Workstations	_____
____ (Yes/No) LAN	_____
____ (Yes/No) WAN	_____
____ (Yes/No) Centralized Equipment	_____
____ (Yes/No) Videoconferencing Equip/Services	_____
____ (Yes/No) Teleconferencing Equip/Services	_____
____ (Yes/No) Telephone Equip/Services	_____
____ (Yes/No) Other Audio Visual	_____
____ (Yes/No) Other Public Access Equip/Services	_____
____ (Yes/No) Other (Please Describe)	_____

**Sufficient Manual Contingency**

\_\_\_\_ Is **sufficient manual contingency** available? Describe:

Fiscal or other resources needed to provide manual contingency:

**Sufficient Automated Contingency**

\_\_\_\_ Is **sufficient automated contingency** available? Describe:

Fiscal or other resources needed to provide automated contingency:

Appendix F:  
Sample Flyer to Help Educate Court Personnel  
Regarding the Threat Posed by a Pandemic

SAMPLE

## Preparing for Pandemic Influenza

### Keeping the Courts Open in a Pandemic

#### Strategy for Responding to a Pandemic

Following the November 1, 2005, release of the National Strategy for Pandemic Influenza, the unified Florida Supreme Court/Branch Court Emergency Management Group, under the leadership of Chief Justice Barbara J. Pariente, initiated an effort to develop a branch-wide strategy for pandemic influenza.

The branch-wide strategy was issued early in 2006 and is designed to build upon previous emergency preparedness efforts.

The goals within the branch-wide strategy will be to deal with a pandemic in a way that:

1. Protects the health and safety of everyone inside our facilities; and
2. Ensures we can “keep the courts open” to ensure justice for our people.

#### Need More Information

Recently published articles by the ABA and others provide additional insight on the legal issues associated with a pandemic. If you have any questions on specific branch-wide preparedness efforts, please contact Greg Cowan at (850) 922-5460 or at [cowan@flcourts.org](mailto:cowan@flcourts.org).

**PandemicFlu.gov**

## The Threat Posed by Pandemic Influenza

A pandemic could detrimentally impact court operations for up to 18 months. The impact may include:

- Limited infrastructure, utilities, and services due to isolation, quarantine, illness, or death of necessary staff to keep operations running;
- Isolation or quarantine of judges, attorneys, staff, and others with only limited face-to-face interaction;
- A significant number of judges, attorneys, staff, and others may not be available due to illness or death; and
- A significant increase in emergency matters and case filings generated due to issues associated with the quarantine and isolation.

In order to respond and recover from this threat, each court must have a plan in place before the outset of a pandemic. A strategy to help courts plan for the threat has been developed and court officials have been directed to develop their plans.

## Good Health Habits, Best Prevention

The best way to help avoid getting or spreading the flu is to practice good health habits. These habits include:

- Staying home and staying away from others as much as possible if you feel sick;
- Washing your hands frequently with soap and water; and
- Covering coughs and sneezes with tissues.

SAMPLE

## **Appendix G: Disaster Supply Kit**

**A disaster supplies kit is a collection of basic items that could be needed in the event of a disaster. Floridians are used to hurricane supply kits which should include:**

**Water** - at least 1 gallon daily per person for 3 to 7 days

**Food** - at least enough for 3 to 7 days

- non-perishable packaged or canned food / juices
- foods for infants or the elderly
- snack foods
- non-electric can opener
- cooking tools / fuel
- paper plates / plastic utensils

**Blankets / Pillows, etc.**

**Clothing** - seasonal / rain gear/ sturdy shoes

**First Aid Kit / Medicines / Prescription Drugs**

**Special Items** - for babies and the elderly

**Toiletries / Hygiene items / Moisture wipes**

**Flashlight / Batteries**

**Radio** - Battery operated and NOAA weather radio

**Cash (with some small bills)** - Banks and ATMs may not be open or available for extended periods.

**Keys**

**Toys, Books and Games**

**Important documents** - in a waterproof container or watertight resealable plastic bag  
— insurance, medical records, bank account numbers, Social Security card, etc.

**Tools** - keep a set with you during the storm

**Vehicle fuel tanks filled**

**Pet care items**

- proper identification / immunization records / medications
- ample supply of food and water
- a carrier or cage
- muzzle and leash<sup>1</sup>

**In addition to these hurricane supplies, additional items will need to be included in each disaster supply kit. These items include:**

Enough food and water for a **two-week** supply for each family member

Hand sanitizer<sup>2</sup>

Protective gloves

Particulate respirators at a minimum of 95% efficiency [e.g., N95 or comparable respirators] (see [http://www.cdc.gov/niosh/npptl/topics/respirators/disp\\_part/n95list1.html](http://www.cdc.gov/niosh/npptl/topics/respirators/disp_part/n95list1.html)).<sup>3</sup>

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<sup>1</sup> Based on "Supply Kit." Hurricane Preparedness. National Hurricane Center. 27 Feb. 2006 <[http://www.nhc.noaa.gov/HAW2/english/prepare/supply\\_kit.shtml](http://www.nhc.noaa.gov/HAW2/english/prepare/supply_kit.shtml)>.

<sup>2</sup> "Disaster Supplies Kit." Preparedness Today. 22 June 2005. Centers for Disease Control and Prevention/American Red Cross. 10 Feb. 2006 <[http://www.redcross.org/preparedness/cdc\\_english/dskit.asp](http://www.redcross.org/preparedness/cdc_english/dskit.asp)>.

<sup>3</sup> WHO global influenza preparedness plan. World Health Organization. Switzerland: Department of Communicable Disease Surveillance and Response, 2005.

## Appendix H: Glossary of Terms<sup>1</sup>

**Antigen:** A protein, typically foreign, that elicits a specific immune response.

**Antigenic drift:** Point mutations leading to changes in antigenicity of the major H and N antigen subtypes of an influenza virus.

**Antigenic shift:** Change in circulating major antigen (H and N) determinants either through exchange and reassortment of genetic material or adaptation to human transmission.

**Attack Rate:** The proportion of susceptible individuals exposed to a specific risk factor in a disease outbreak that become cases. For an infectious risk factor, the attack rate is the number of secondary cases occurring within the accepted incubation period divided by the number of susceptible individuals in a closed group exposed to the primary (index) case.

**Case Fatality Rate:** Cumulative incidence of death in the group of individuals that develop the disease over a time period.

**Census:** A sample that includes every individual in a population or group

**Demographic information:** The personal characteristics of age, sex, race, residence, and occupation. Demographic information is used in descriptive epidemiology to define the population at risk.

**Efficacy:** An index of the potency of a drug or disease treatment. Efficacy is the measure of the impact of a treatment e.g. vaccine, under trial conditions (as opposed to effectiveness which is its impact within the population). Thus, efficacy is the percentage reduction in infection or disease caused by a vaccine in a trial group compared to a control group.

**Epidemic:** (*Syn: outbreak*) The occurrence of more cases of a particular type of disease, chronic condition, or injury than expected in a given area, or among a specific group of people, over a particular period of time.

**Epidemic:** A rapid increase in the levels of an infection. Typical of the microparasitic infections (with long lasting immunity and short generation times) an epidemic is usually heralded by an exponential rise in the number of cases in time and a subsequent decline as susceptible numbers are exhausted. Epidemics may arise from the introduction of a novel pathogen (or strain) to a previously unexposed (naïve) population or as a result of the regrowth of susceptible numbers some time after a previous epidemic due to the same infectious agent.

**Epidemic period:** The time span of an epidemic.

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<sup>1</sup> Florida. Division of Disease Control Technical Assistance Group. Florida Department of Health. [Pandemic Influenza: Discussion and Planning Recommendations](#). Draft version, 7 Sept. 2005.

**Epidemiology:** The study of the distribution and determinants of health conditions or events in populations, and the application of this study to control health problems.

**Exposure:** Coming into contact with a cause of, or possessing a characteristic that is a determinant of, a particular health problem.

**Hemagglutinin:** One of the two major surface proteins. Important for virus attachment to cells of the respiratory epithelium. Subtypes include H1 to H15. H1, H2 and H3 are the only described determinants involved in sustained human-to-human transmission.

**High-risk group:** A group of people whose risk for a particular disease, health condition, or type of injury is higher than that of the rest of their community or population.

**Immunity:** 1) A state in which a host is not susceptible to infection or disease, or 2) the mechanisms by which this is achieved. Immunity is achieved by an individual through one of three routes: *natural* or *innate immunity* genetically inherited or acquired through maternal antibody, *acquired immunity* conferred after contact with a disease, and *artificial immunity* after a successful vaccination.

**Immunogenicity:** The ability of a vaccine to stimulate the immune system, as measured by the proportion of individuals who produce specific antibody or T cells, or the amount of antibody produced, say.

**Immunosuppression:** A reduction in the capacity of the immune system. Caused by infection (e.g. HIV), drug treatment, pregnancy and malnutrition among others. Immunosuppressed individuals are commonly referred to as *immunocompromised*.

**Incidence:** A rate that measures the frequency with which a health problem, such as a new injury or case of illness, occurs in a population. In calculating incidence, the numerator is the number of new cases occurring in the population during a given period of time, and the denominator is the total population at risk during that time.

**Incubation period:** The time that elapses between infection and the appearance of symptoms of a disease.

**Infectious period:** The time period during which infected persons are able to transmit an infection to any susceptible host or vector they contact. Note that the infectious period may not necessarily be associated with symptoms of the disease.

**Influenza-like illness (ILI):** The presence of fever  $>100^{\circ}$  F, with a cough or sore throat.

**Isolation:** The separation and the restriction of movement of persons who are ill. Isolation can occur in the home, a hospital, or other facility.

**Morbidity:** State of ill-health produced by a disease.

**Mortality Rate:** The proportion of individuals in a population that die in a given period of time, usually a year and usually multiplied by a 10n population size so it is expressed as the number per 1,000, 10,000, 100,000, individuals per year. These proportions are often broken into cause-specific and age-specific proportions and are often standardized so different groups can be compared and the population at the middle of the time interval is often used as the denominator.

**Mortality rate, age-adjusted:** A mortality rate that has been statistically modified to account for the effect of different age distributions in different populations in a study.

**Mortality rate, age-specific:** A mortality rate limited to a particular age group. In calculating age-specific mortality rates, the numerator is the number of deaths in the age group, and the denominator is the number of people in that age group.

**Mortality rate, cause-specific:** The mortality rate from a specified cause.

**Neuraminidase:** One of the two major surface proteins of the influenza virus. Less important for attachment but probably important for propagation and virulence. Subtypes N1 to N9.

**Novel virus (strain):** A virus that is new to the human population, a mutation from an existing virus.

**Outbreak** (*Syn: epidemic*): Because the public sometimes perceives "outbreak" as less sensational than "epidemic," it is sometimes the preferred word. Sometimes the two words are differentiated, with "outbreak" referring to a localized health problem, and "epidemic," to one that takes in a more general area.

**Outcome(s):** Any or all of the possible results that may stem from exposure to a causal factor or from preventive or therapeutic interventions; all identified changes in health status that result from the handling of a health problem.

**Pandemic:** An epidemic occurring over a very wide area (several countries or continents) and usually affecting a large proportion of the population.

**Pathogenicity:** The proportion of people who are infected by an agent and then develop clinical disease.

**Population:** The total number of inhabitants of a given area or country. In sampling, the population may refer to the units from which the sample is drawn, not necessarily the total population of people. A population can also be a particular group at risk, such as everyone who is engaged in a certain occupation.

**Prophylaxis:** Acting against or preventing a disease.

**Proportion:** A dimensionless number between 0.0 and 1.0 (if a probability) or, equivalently, between 0% and 100% (if a percentage) consisting of one count as the numerator divided by another count as the denominator.

**Public health surveillance:** The systematic, ongoing collection, analysis, interpretation, and dissemination of health data. The purpose of public health surveillance is to gain knowledge of the patterns of disease, injury, and other health problems in a community so that we can work toward controlling and preventing them.

**Quarantine:** The separation and the restriction of movement of persons as yet not ill who have been exposed to an infectious agent and may become ill or infectious. Quarantine can occur in the home or other designated facility.

**R0:** The basic reproduction number,  $R_0$ , is the number of secondary cases produced by one case in a completely susceptible population. It depends on the duration of the infectious period, the probability of infecting a susceptible individual during one contact, and the number of new susceptible individuals contacted per unit of time. It varies between populations because of different contact rates.

**Rate:** An instantaneous or "velocity" measure that can range from 0.0 to infinity, has the dimensions of number of individuals per group - unit of time and is the number of individuals in the at-risk group that experience the event during one time unit (per hour, day, week, month, year, ...). A rate is a ratio of the number of events in a group of individuals at risk for the event divided by the total time units contributed by the individuals at-risk of the event and is not a proportion. Proportions are often miss-identified as "rates."

**Ratio:** A numerator divided by a denominator that usually does not include subjects of the numerator and is not restricted to values between 0.0 and 1.0 as are proportions.

**Risk:** The probability that an individual will be affected by, or die from, an illness or injury within a stated time or age span.

**Sample:** A selected subset of a population. A sample may be random or nonrandom and representative or non-representative.

**Seasonality:** Change in physiological status or in the occurrence of a disease, chronic condition, or type of injury that conforms to a regular seasonal pattern.

**Sensitivity:** The ability of a system to detect epidemics and other changes in the occurrence of health problems; the proportion of people with a health problem who are correctly identified by a screening test or case definition.

**Sentinel surveillance:** A surveillance system using a prearranged sample of sources (e.g., physicians, hospitals, clinics) who have agreed to report all cases of one or more notifiable diseases.

**Specificity.** The proportion of people without a particular disease, chronic condition, or type of injury who are correctly identified by a screening test or case definition.

**Stochastic model:** A mathematical model, which takes into consideration the presence of some randomness in one or more of its parameters or variables. The predictions of the model therefore do not give a single point estimate but a probability distribution of possible estimates.

**Strategic National Stockpile (SNS):** A federal cache of medical supplies and equipment to be used in emergency and disaster situations.

**Surveillance:** The collection, analysis and dissemination of data.

**Symptom:** A condition of the body reported by an individual when suffering from a disease; here used more loosely to include *signs*: any evidence used in diagnosis or identification of infected individuals.

**Syndromic:** Based on clinical signs and symptoms.

**Test:** A test is anything that produces evidence from a patient at any stage in the clinical process. From the clinical epidemiology perspective, the following are examples of a "test": history taking (presence or absence of a component), clinical exam results (presence or absence of a sign), imaging findings (presence or absence of a feature on a radiograph), or response to therapy (as anticipated or not).

**Transmission (of infection):** Any mode or mechanism by which an infectious agent is spread to a susceptible host.

**Vaccine:** A drug intended to induce active artificial immunity against a pathogen. Vaccines may be *live* or *dead*. Live vaccines are usually attenuated versions of the wild type pathogen.

**Virulence:** The measure of severity of a disease, expressed as the proportion of people with the disease who become extremely ill or die.