

**TEXAS SUPREME COURT TASK FORCE TO ENSURE
JUDICIAL READINESS IN TIMES OF EMERGENCY
BORDER ISSUES COMMITTEE
REPORT**

Foreword

On November 19, 2007, the Supreme Court of the State of Texas issued an Order creating a Task Force to Ensure Judicial Readiness in Times of Emergency. The Task Force was charged with designing and implementing a full service emergency management program that would assist the courts of the State of Texas at every level in areas of prevention, preparedness and responsiveness during any disaster, whether a natural disaster or a man-made disaster. In recognizing the regional differences that exist across the vast State of Texas, the Border Issues Committee emerged out of the Task Force to specifically identify the needs that are unique to the United States-Mexico border area.

The considerations outlined by this report call for increased communication, coordination and cooperation in response to an emergency and/or disaster in the United States-Mexico border area. The overall goal is to utilize resources available on both sides of the border to prevent and respond to emergency situations to protect public health, environment and property. The Texas Judiciary along the United States-Mexico border encounters unique legal and security issues that need to be addressed during a disaster.

CONSIDERATIONS

1. **INFRASTRUCTURE PROTECTION:** A narrow focus on border issues is counter-terrorist infrastructure protection for both countries. All other hazards and disasters that will impact both sides of the border encompass the wider focus of border issues. The Department of Homeland Security has defined risk as the function of vulnerability, consequence and threat. A determination of risks that could impact the Texas courts along the US–Mexico border need to be included in the overall emergency management plans of the counties along the border.

2. **VULNERABILITIES AND RESPONSE CAPABILITIES:** An assessment of the vulnerabilities, consequences and resources available to respond to an infrastructure event is necessary. These events include: explosive attack, nuclear attack, radiological attack, biological attack, chemical attack, natural disasters, cyber attack and pandemic diseases. Identification of essential infrastructure issues that involve both sides of the border (water, sewage, energy, environmental disasters, air quality, contamination, etc.) is critical. Cross-border judicial procedures and capabilities need to be developed that provide for the continued execution of critical mission functions across a wide range of potential cross-border judicial emergencies. Texas courts along the border need to anticipate an influx of civil/criminal cases during disasters/emergencies in the Mexican communities across the border.

3. **LOSS OF JUDICIAL FACILITIES:** The impact on judicial facilities during a cross-border disaster must be anticipated. Damage to the infrastructure immediately surrounding any judicial facility, and/or a regional disaster should be considered. The implementation of a binational judicial emergency alert system would provide immediate activation of the Continuity of Operations Plan for the Texas border courts.

4. **ENERGY:** The power grid at Piedras Negras, Mexico is operated by both foreign and United States investor companies. This facility provides west and south Texas some of their electrical power. The Texas border courts are vulnerable to any disruption of energy supplied by this power grid. Effective emergency preparedness must address this issue along the border areas.

5. **PUBLIC HEALTH:** A pandemic influenza scenario along the US-Mexico border would require an immediate international response. Immediate coordination of resources across the US-Mexico border would be critical to the containment of a pandemic influenza scenario. Cross-border issues of medical treatment, mass fatality, transportation of bodies and pharmaceuticals, isolation/quarantine and illegal immigration of sick individuals for emergency medical attention must be anticipated. Existing state health laws should be revised for international emergencies/disasters to allow for a sharing of medical resources and humanitarian assistance along the border areas.

6. **TRAVEL RESTRICTIONS:** Texas border courts may be required to implement judicial orders that restrict travel of individuals, the transportation of goods across the U.S.-Mexico border and throughout the state during a public health emergency/disaster. Education and training of the entire Texas judiciary on these issues would guarantee a uniform statewide response to an international problem.

7. **COOPERATIVE BINATIONAL JUDICIAL COMMUNICATION PLANNING AND DISASTER TRAINING:** Cooperative planning for communicating between the judiciary of Texas and Mexico during natural disasters/emergencies is vital to the continuity of operations in the border area. Emergencies provoked by such circumstances as terrorists, civil disruption, or drug violence necessitate judicial cooperation and collaboration between countries. A Binational Summit on Judicial Emergency Preparedness Planning would provide the border judiciary the opportunity to establish a communication network and implement a plan for binational disaster training in the fourteen (14) "sister" cities along the border area. A familiarity with each jurisdiction's laws, policies, protocols, capabilities, and resources would enhance the effectiveness of the individual judicial emergency preparedness plans. Binational judicial planning would require a commitment from the Texas Supreme Court, its Mexican counterpart, the local Mexican Consulates of each Texas city along the border, along with the necessary federal representatives, to facilitate the creation of a binational agreement.

8. **INTERNATIONAL AGREEMENTS/ "SISTER CITY" AGREEMENTS MEMORANDUMS OF UNDERSTANDINGS:** The Texas border courts should coordinate any emergency preparedness agreements with their Mexican judicial counterparts and with their local city/county emergency management agency. A Binational Summit on Judicial Emergency Preparedness Planning would provide the opportunity to network with the emergency preparedness experts in Texas and Mexico. Local "sister city" agreements could be executed that would establish a protocol among the border judiciary during emergency/disaster events.

9. **SHARING HUMAN RESOURCES:** Emergency situations located in Mexico caused by natural disasters that impact the neighboring Texas border cities must be anticipated. For example, in August 2006 during the massive flooding of El Paso, Texas, a dam in Ciudad Juarez, Chihuahua, that contained 9 million cubic feet of water, was in danger of failing. The failure of this dam would have flooded the downtown El Paso, closed the El Paso County courthouse and displaced the El Paso County courts for an extended period of time. El Paso County emergency officials had to cross into Ciudad Juarez and assist as first responders with expertise and equipment. This event emphasizes the need to draft new laws and/or enter into agreements among the border cities that allow for the sharing of human resources and equipment in order to save human life and/or safeguard infrastructure.

10. **MEXICAN CONSULS ASSIGNED TO TEXAS BORDER CITIES:** The Texas judiciary along the border must establish and maintain lines of communication with the Mexican Consuls in their cities. This relationship will enhance the effectiveness of any judicial emergency preparedness plan in the Texas border counties. The Mexican Consuls can provide invaluable assistance and information on emergency issues that require immediate attention.

11. **DETENTION FACILITIES AND MASSIVE ILLEGAL IMMIGRATION DURING A DISASTER:** The Texas border courts have to be prepared for a massive influx of illegal immigrants during a disaster along with the increase in crime and civil disruption. The border judiciary must work closely with the law enforcement agencies in their counties to establish a comprehensive emergency plan to ensure the detention of federal/state/local inmates. Legal issues may arise from the movement and care of inmates from affected detention facilities, both state and federal. Issues could involve the need for pictures, release of medical or criminal records (for liability concerns) and the immigration status of the inmates.

12. **SECURITY OF THE JUDICIARY:** Federal and state law enforcement agencies are responsible for the protection of the judiciary, to ensure judicial process, and have the ability to reconstitute the courts in the event of an emergency. Judicial security is an important concern during a disaster/emergency occurring along the United States-Mexico border. For court safety and security, portable x-ray machines and magnetometers could be dispatched or pre-staged from Austin to the affected courts.

13. **MILITARY CONSIDERATIONS:** The Texas border courts that are located near military installations should consider the possibility of entering into a military base Housing Emergency Relocation Facility Agreement/Memorandum of Understanding for an alternate site for the local border courts. The local military emergency preparedness experts can also assist the border judiciary in evaluating the courthouse facilities and the local Judicial Continuity of Operations Plans.

14. **LANGUAGE ISSUES:** The Texas courts along the United States-Mexico border must deal with a large population of Spanish speaking individuals. The Judicial Continuity of Operations Plans implemented in these Texas counties must include Spanish speaking interpreters as part of the emergency personnel responding to any disaster/emergency.

GENERAL STATEMENT

The United States and Mexico are two distinct countries that are united by the proximity of their borders. These borders are illusionary in times of natural disasters and emergencies. Whatever impacts Mexico along its border, will impact the United States and Texas along its border. We have to understand and appreciate our cultural differences. As neighbors, as countries, as partners, we have a shared responsibility that goes beyond borders.

The Supreme Court of the State of Texas is committed to the emergency preparedness of the Texas courts by its creation of the Task Force to Ensure Judicial Readiness in Times of Emergency. The Task Force has recognized the unique issues that face the Texas courts along the United States-Mexico border. The Judicial Continuity of Operations Plans that are implemented in the Texas border counties must provide for the interaction and collaboration of the Mexican government. The Texas judiciary should be involved in the sharing of judicial resources, identifying judicial weakness/differences, and reducing judicial vulnerabilities along the United States-Mexico border. There is an urgent need to convene a Binational Summit on Judicial Emergency Preparedness Planning. The mission of this Summit would be to coordinate the judicial emergency operations plans of each jurisdiction in an effort to enhance the effectiveness of their implementation. These plans could merge resources, fill needed gaps and promote judicial access when needed. There must be common laws for both countries establishing a smooth transition back to normal operations and the repatriation of citizens back to their respective cities and countries after a catastrophic event. International judicial issues and cases will arise involving the purchasing of goods, materials, human resources used, and reimbursement of costs between jurisdictions.