

# Is Your Court Prepared to Handle the Challenges of Pandemic Influenza?

**T**here are many strains of influenza. Most are of the variety that occurs in predictable seasonal patterns. Healthy adults are not at risk for serious complications. Vaccines can be developed for these strains, and anti-viral drugs can be used to minimize their impact. However, in 1918, 1957, and 1968 there were pandemic outbreaks of virulent strains of viruses that differ from the seasonal variety. Unlike seasonal influenza, there is little or no preexisting immunity to the virus. Vaccines would not be available in the early stages of the pandemic. Complications to the infection would be severe. The U.S. Department of Health and Human Services predicts that in a severely virulent outbreak of influenza similar to that of 1918, as many as 30 percent of the total U.S. population will become infected with the disease. Approximately ten million will require hospitalization, and as many as two million will die from complications.

Apparently, it is not a question of if this will occur. Rather, it is a question of when we will have to deal with it. When it does occur, it is predicted that pandemic influenza will come in waves that last six to eight weeks over a period of approximately one year. This is obviously a massive problem for the health-care system. Why should courts be concerned? Most of us have never dealt with a disaster of this magnitude or thought about its consequences on our daily lives. Consider this. The predictions are that in a pandemic nearly 40 percent of the workforce will be absent. Can you sustain operations under such a scenario?

One of the strategies for dealing with a virulent disease of this nature will be to quarantine and isolate people. Most judges have never had to deal with issuing orders to enforce health-department requests for quarantine and isolation. What are the constitutional implications of issuing civil orders that have the effect of criminal penalties? If a court issues such orders will they be served? How will you deal with those who refuse to comply with such an order? What will you do if there is an infected person in your jail? What are the essential functions of your court that must take place in the event of a community quarantine order? Do your state and local court rules provide any methods for conducting hearings when face-to-face contact with others is dangerous or not possible? Have you talked with the local hos-

pital, law enforcement, and other emergency services providers to consider your role in community control when there is a critical shortage of drugs, ventilators, and other essential commodities that people need for survival? In short, do you have a plan to deal with this inevitable problem?

Fortunately, the statistics cited above are the worst-case scenario. However, even if it is a moderate pandemic as occurred in 1968 when there were only 209,000 deaths nationwide, you can be assured it will have a major impact on local communities and court operations. Planning for this disaster is underway at the federal level. The federal mandate is to have disaster plans complete by August 30, 2006. It is not clear that all state and local governments have included courts in their disaster planning. Every court should have a disaster plan coordinated with those who are providing emergency services and dealing with all facets of the impact of a pandemic on the community. In planning for response, judges should not assume that everything will work as planned. With 40 percent of the workforce absent and possibly in quarantine or isolation, it is not unreasonable to assume that there will be interruptions in telecommunications, Internet, and other forms of technology we rely upon to transmit information.

Director Domingo Herraiz of the U.S. Department of Justice's Bureau of Justice Assistance led a symposium for the nationwide justice and public-health communities to alert us to the looming problem and our role in dealing with it on May 24 and 25, 2006, in Chicago. Director Herraiz and his staff assembled a great deal of information and resources to assist courts in this effort to prepare for a pandemic influenza or similar disaster. One resource is the *Public Health Law Bench Book for Indiana Courts* written by Judge Linda L. Chezem and Amy R. Schofield, J.D., M.P.H. This is an excellent resource available at <http://publichealthlaw.info/INBenchBook.pdf>. Another resource is the *Health and Human Services Pandemic Influenza Plan* available at [http://www2a.cdc.gov/phlp/docs/PHLP\\_HHSPandemicInfluenzaPlan.pdf](http://www2a.cdc.gov/phlp/docs/PHLP_HHSPandemicInfluenzaPlan.pdf). There are other resources and consultants available to assist you in your preparations that this author will post on the AJA Web site as the information becomes available. 