

**COURTS IN THE AFTERMATH OF SEPTEMBER 11TH  
NINE-ELEVEN SUMMIT SESSIONS**

**"LEADING THE COURTS"**

**MARRIOTT FINANCIAL CENTER  
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1           JUDGE KEATING:  Actually, while our panel is getting  
2 settled I'm going to read a note we received yesterday morning.  
3  It says, "The storm track keeps sliding a bit to the east.  
4 The last report indicates the eye will pass almost on top of  
5 the city.  With any luck it will keep on sliding and will miss  
6 us.  Unfortunately, that means a lot of folks in the  
7 Mississippi gulf coast will have the problems we hopefully will  
8 avoid."

9           "I talked to our chief yesterday and we're closing  
10 down the court for Wednesday and Thursday.  Unfortunately, I'm  
11 one of the two lucky ones in town who will have direct access  
12 to the building.  If we lose power, the electromagnetic locks  
13 on the doors can be forced open possibly by high winds.  The  
14 Marshal Service is going to manually lock the doors tonight.  
15 That's fine, but we found another flaw in our plan.  The  
16 several keys we have which ostensibly open the exterior doors  
17 work from the inside but not the outside.  Thus, if the door is  
18 locked, you can get out but you cannot get in.  We'll fix  
19 that."

20           "The long story made short is that the Chief Judge  
21 wants me here because we're opening on Friday even if I have to  
22 open the doors myself.  I'll try again tomorrow before the wind  
23 gets too high.  Thus regrettably, I'll have to cancel my trip.  
24 I'm flattered by the invitation but know the program will be a  
25 great success in my absence.  My best to all."

1           This note was written by Charles Fulbruge, the Clerk  
2 of the Court for the United States Court of Appeals for the 5th  
3 Circuit in New Orleans. He was on Friday morning's plenary  
4 panel on emergency preparedness before Hurricane Isadore or  
5 Storm Isadore interrupted his plans.

6           I think we begin this session today [unintelligible]  
7 that emergencies in all our courts can occur at any time.  
8 However, the purpose of the 9/11 summit is to discuss how the  
9 courts can handle crucial decisions when faced with emergencies  
10 or disasters. The big issues [unintelligible] in times of  
11 crisis include the safety of human beings, the security of the  
12 court buildings, and the integrity of the judicial system.

13           We begin our proceedings during this first plenary  
14 session with a discussion with court administrators who have  
15 led their courts through actual crisis. In this plenary  
16 session, we'll introduce the topic of emergency preparedness  
17 which will be covered over the next few days by asking court  
18 leaders who faced at least five different emergency situations  
19 to discuss the actual decisions that were made when disaster  
20 struck and why those decisions were made, and the lessons to be  
21 learned from the future from their experience.

22           I would like to introduce the panel starting with  
23 Judge Jonathan Lippman. Judge Lippman is the Chief  
24 Administrative Judge of the State of New York. Together with  
25 Chief Judge Kay, Judge Lippman led the Court during the 9/11

1 crisis. His narrative description of the Court's experience on  
2 September 11th and its immediate aftermath are included in your  
3 materials.

4           Judge Joel Douglas Medd, North Dakota District Judge  
5 in the Northeast Central Judicial District in Grand Forks,  
6 North Dakota. Judge Medd chaired the Grand Forks Courthouse  
7 Security Committee which spearheaded the implementation of  
8 courthouse security after a Judge in his courthouse, Judge  
9 Jahnke, was shot while presiding at a hearing in the  
10 courthouse. In 1997, flooding Grand Forks caused evacuation of  
11 the city and displacement of the courthouse. His courts  
12 experience is described in a special edition of the Judge's  
13 Journal which has been distributed to all attendees.

14           Karen B. Milton, circuit executive for the U.S. Court  
15 of Appeals for the Second Circuit. Ms. Milton was the chief  
16 non-judicial officer for the Federal Court in downtown  
17 Manhattan on September 11 and is involved in a national effort  
18 by the Federal Courts to prepare continuity of operations  
19 plans. Samples of those federal plans are also included in the  
20 material.

21           Jack Thompson, administrator of the District Court of  
22 Harrington County, Houston, Texas. Houston was hit by Tropical  
23 Storm Allison on June 8, 2001. After 36 inches of rain,  
24 thousands were displaced, county records were destroyed, and  
25 the courthouse was floating. Mr. Thompson has produced a Power

1 Point presentation entitled Rain of Terror, which is available  
2 in your materials and is being shown in the resource room.

3           Judge David Russell, United States District Judge for  
4 the Western District of Oklahoma, was the Chief Judge of the  
5 Federal District in Oklahoma during the bombing of Oklahoma  
6 City on April 19, 1995. Judge Russell led his Court through  
7 that crisis and its aftermath.

8           Gregory Walters, Circuit executive, U.S. Court of  
9 Appeals for the Ninth Circuit in San Francisco. [inaudible]  
10 earthquake in October of 1989 measured 7.1 in the Richter Scale  
11 and caused massive destruction and dislocation in San  
12 Francisco. It was years before the Court could return  
13 [inaudible] headquarters.

14           Finally, Thomas Birkland, professor at the State  
15 University of New York at Albany whose area of research is  
16 natural disaster policy. He is a contributor to the Judge's  
17 Journal Special Issue which you got in the handouts. He has  
18 also produced a comprehensive bibliography of resource  
19 materials which has also been provided to you.

20           The first question we're going to discuss with the  
21 panel concerns the organization of leadership. How did you set  
22 up yourself up as a led in your team in the crisis? Where were  
23 you physically located? Did you gather a management team?  
24 With whom did you consult? Who made the decisions? I'd like  
25 to begin with Judge Russell from Oklahoma. Judge Russell?

1           JUDGE RUSSELL: Thank you. I would like to begin by  
2 thanking the organizers of this conference. I wish that we in  
3 Oklahoma City had the benefit of such a program before April  
4 19, 1995. I felt throughout that whole ordeal that virtually  
5 every step that we took that we were plowing new ground  
6 [inaudible] opening up the courthouse to forming death penalty  
7 qualified attorneys to represent defendants. It was certainly  
8 all new to me.

9           I should set the stage for Oklahoma City. I was the  
10 Chief Judge at the time and at about 9:00 that morning I was  
11 leaving Oklahoma City to come to Washington for a Chief Judge's  
12 meeting via Dallas. I left at 9:00. The bombing occurred at  
13 9:02. I was met in Dallas. I got off the plane and asked to  
14 call Washington. I knew nothing about what had gone on. I  
15 called Washington and they said, "Look up at the monitor in the  
16 Dallas Fort Worth Airport and see what's happening." He says,  
17 "The Oklahoma City Courthouse, Federal Courthouse, has been  
18 bombed." Well, I looked up and I didn't see the courthouse. I  
19 saw the Murrah Building, which happens to be directly across  
20 the street. So, I quickly got on a plane along with a gaggle  
21 of reporters and headed back to Oklahoma City, all of us  
22 thinking that the courthouse itself had been the subject of the  
23 bombing and of course upon arriving there found out it was the  
24 Murrah Building.

25           We went downtown and I'm sure those here have had, in

1 New York, had a similar feeling; it was just surreal when I saw  
2 both our Murrah Building and the courthouse and although it had  
3 not been bombed, had you not known that you would have thought  
4 itself was the subject of the bombing which had extensive  
5 damage. Most of the windows were blown out, the ceilings were  
6 caved in. Had you sat that morning, had you sat in my chair in  
7 the ceremonial courtroom, instead of seeing ceilings, you would  
8 see the sky. So, we had many [inaudible] to confront.

9 Obviously, the entire building had been evacuated and the  
10 employees dispersed. Fortunately we had no serious injuries in  
11 our court, but we had to confront what to do with the fact that  
12 we had an ongoing trial that morning. There was a jury in the  
13 jury box at the time of the bombing. Our clerk's office was  
14 completely shut down. There was, reiterating, extensive damage  
15 throughout the courthouse.

16           Our first sight of this as far as court was the next  
17 morning we held a judge's conference [inaudible] to decide kind  
18 of what course we would take. I worked along with Bob  
19 [inaudible]. He's the clerk of our court. We worked very  
20 closely together and determined that we would organize the  
21 court as quickly as possible. We were fortunate there. We had  
22 six District Judges [inaudible] very closely and I can tell you  
23 virtually every major decision that was made was made in  
24 consultation with my colleagues. But ultimately I had to make  
25 those decisions. We needed to kind of step by step. We were

1 fortunate to be able to open up. Actually it occurred on  
2 Wednesday and the following Tuesday we were open for business  
3 on a limited basis. That following Friday we swore in 180 new  
4 citizens.

5 JUDGE KEATING: Thank you. Mr. Thompson?

6 MR. THOMPSON: Let me just set the stage a little  
7 bit. I have to because I'm from Texas and ours is bigger than  
8 everybody's. Allison was a tropical storm that came to shore  
9 and hit the Houston area on Monday, June the 8th. She stayed  
10 around town for a few days and then went back into the gulf and  
11 pumped more water into our system. On June 11th, came back  
12 into town, which was a Friday, and dumped 36 inches of rain on  
13 the city within a 24 hour period. Being the geographics of the  
14 place is that we're on bios, I was on the west coast explaining  
15 bios and no one knew what bio was. So, do you know a creek or  
16 branch or a stream? But the bios, the level of the bios is  
17 determined by the tide. So, if the tide was high, the bios are  
18 going to stay high.

19 After the 36 inches of rain, all the bios were  
20 flooded. The court complex is in a seven block area downtown.  
21 There are seven building and there's 85 judicial officers in  
22 that area. There is a jail that has a population of about  
23 7,500. Personally, when the rains came and flooded the bios,  
24 the water came into the basements of the buildings. Now, being  
25 the government, they builds buildings as cheap as they can and

1 they put all the utilities, all the telecommunications, all the  
2 power systems are in the basement of the building. All seven  
3 of our buildings were shut down.

4           So, it became apparent that we had no place to work.  
5 The Chief Judge called and said, "Find a place." That was a  
6 little easy for him to say because he was out in the suburbs  
7 and didn't get a lot of the water. So, we went to town on a  
8 Saturday afternoon and tried to get downtown. All of our  
9 buildings were closed. The [unintelligible] people, the  
10 security was there, and nothing was open. There was no power  
11 in any of the buildings. So, I reported that to the powers  
12 that be. Find a place to work.

13           So, early on Monday morning I went back downtown and  
14 walked the streets. There was an old building that had been  
15 built around the turn of the century that had been a -- they  
16 had stored cotton in it and had later been converted into  
17 offices and we had one courtroom in that building. There was a  
18 light on in that building. I thought if there's a light on,  
19 there's power. So, I went to the light and there in this old  
20 building was one courtroom and two telephone lines. Somehow  
21 this building did not have a basement, so all the power was  
22 there, the telephone lines were working. So, we found a place,  
23 set up an office, and had two telephone lines. So, I called  
24 the chief and I said, "We're in business. We're on the second  
25 floor of a cotton exchange building, so we can -- and if you

1 have two telephone lines and they're on your desk, you have all  
2 the power to make the decisions about what's going to happen  
3 that day, or you think you do. But you can call and say,  
4 "We're in operation so we will get back to busy."

5           That was on a Monday morning. By Tuesday afternoon  
6 some of the courts were in operation in this particular room.  
7 We were under a federal court order and the defendant that was  
8 arrested had to be before a judge in 24 hours. That was a big  
9 concern of ours. We had a jail that had 7,500 people in it  
10 with no water, no power, no food. Remember, you're in Texas in  
11 June so you can imagine the environment of that particular  
12 facility. The sheriff was able to move these 7,500 inmates to  
13 another facility that had power, but that took about three  
14 days. There was a time there that we didn't know where these  
15 inmates were [unintelligible].

16           By Tuesday afternoon we had found places for the  
17 Criminal Division to work. We felt like that was important  
18 because of the federal order. We found places that the Family  
19 Division could work because there were people that needed child  
20 support payments and things like that. So, we found places for  
21 them. Then we found places for [unintelligible]. A little  
22 later in the following week there was a facility found for the  
23 Civil Division [unintelligible]. But it took about seven days  
24 and judges coming together and delegating [unintelligible] and  
25 office staff to find places. We were accustomed to working

1 together within the government because in Harris County we work  
2 with all of the external agencies that surround the courts on a  
3 regular basis to discuss any immediate issues. So, we already  
4 had a structured layer for planning and deciding how we would  
5 deal with this crisis.

6 JUDGE KEATING: Thank you. Karen?

7 MS. MILTON: Well, I guess I'm not going to go back  
8 through the events of September 11th because those of you who  
9 were in New York or anywhere in the world I think know about  
10 that. I wasn't here on the morning of September 11th. I was  
11 in Washington D.C. along with my Chief Judge. He was handling  
12 the meeting of the Judicial Conference of the United States  
13 which meets with the Chief Justice twice a year. I was with a  
14 fellow circuit executive, our meeting, to trail along with the  
15 Judicial Conference.

16 As we started the second day of our meeting, which  
17 was the day of Judicial Conference meeting, I received an  
18 emergency call from my office shortly before 9 a.m. Of course,  
19 the first call was wow, you can't be out of the office for two  
20 days without something going wrong. I got on the phone with my  
21 office and my deputy informed me that he was standing in my  
22 office, which was on the 29th floor of 40 Foley Square. 40  
23 Foley Square is the old Federal Courthouse located about four  
24 blocks north and east of here, and it's a 32 story building and  
25 my window faces south, which was towards the Trade Center. And

1 John said to me, "A plane has hit the first tower. We don't  
2 know much information but we can see that the tower is burning  
3 and people here are extremely upset. I'm thinking that maybe,  
4 you know, we should evacuate the building and not hold court  
5 this morning until we have more information and know what's  
6 happening." But he told me the marshal didn't want to take his  
7 say so about this and they said that he had to reach me in  
8 Washington D.C.

9 I told Don, I said, "I'm not with you. You think we  
10 should evacuate? Let's just do it." While he's on the phone  
11 with me he describes the second plane going into the tower,  
12 which until it turned, he thought was heading for our  
13 courthouse. We made the decision in a split second and said  
14 that we're closing and get everybody out and evacuate the  
15 building. If you think about this, for a non-judicial officer  
16 making decisions concerning Article 3 life tendered judges,  
17 that was probably pretty bold.

18 It turned out we did great that day and we evacuated  
19 everyone and basically our staff was out of the building before  
20 the first tower fell. But we didn't have, we found out  
21 [unintelligible] emergency plan to evacuate the building and  
22 there was some problem. People ended up in dead end  
23 stairwells, they ended up in the basement. They had some  
24 difficulty getting out of the building. We had no mechanism  
25 that we would know who was in the building or a public

1 courthouse and who had left the building.

2           My job after was to try to then get a hold of my  
3 Chief Judge who was with the Chief Justice. I finally got a  
4 hold of my Chief Judge after they canceled the meeting of the  
5 Judicial Conference and evacuated all of the judges from the  
6 Supreme Court building where they were meeting.

7           So then what happened next was okay, Karen, how are  
8 we getting out of Washington back home? So, my first job was  
9 to get those federal judges from our circuit who were in  
10 Washington to assist them to getting home, which means that I  
11 made plans with every marshal from Virginia to Maine and tried  
12 to assess the situation.

13           We had another problem. One of our senior judges who  
14 was supposed to be sitting that day who lived in Battery Park  
15 City, had been evacuated directly from home and no one knew  
16 where he was. I found that out about 10:00 that evening, got  
17 back on the phone and tried to find a marshal who could  
18 possibly give me some information. Given the situation in New  
19 York on the evening of September 11th, you can imagine just how  
20 chaotic things were. I rush home the next day. My first job  
21 is to check in with my chief, which I did. We agreed that we  
22 had to resume operation. That means hearing oral arguments,  
23 which is what the Court of Appeals does, as soon as possible.  
24 So, my job was to get into lower Manhattan, which was sealed  
25 off, find a marshal, find the General Services Administration

1 personnel, since they're our landlord. He agreed to open our  
2 building, which proved to be impossible because although the  
3 building was intact, lower Manhattan below 14th Street was  
4 sealed off. So, I had to find an alternate location. We of  
5 course had none of this in writing. So, we eventually created  
6 our [unintelligible] operations plan for September 2001 more or  
7 less, you know, by the seat of our pants as we went along with  
8 every day and every hour. We needed to bring different issues  
9 to light.

10           The moral of the story I got for us was that one, I  
11 had all of the home numbers of my judges and my staff, unlike  
12 some of my colleagues and unlike all of our judges, although  
13 they all had my number. So, I sort of became the central point  
14 for information. Then we went along, we divided up the  
15 territory. The Chief Judge's secretary, and he's located in  
16 New Haven, she took over the job of keeping all of our non-  
17 resident Judges who were not based in lower Manhattan informed  
18 of what was happening. We formed an impromptu telephone  
19 [unintelligible] whoever I could reach given the telephone  
20 communications which were so erratic in those early days. That  
21 person became my chief information officer for the day and his  
22 or her job was to reach out for everybody else. We kept having  
23 our personnel director call around to those staff people who we  
24 knew had not been doing well on the day of September 11th, the  
25 day of the evacuation, and tried to assure them that things

1 were under control.

2           Through this [unintelligible] based in midtown, we  
3 resumed hearing oral argument on the Monday after September  
4 11th, September 17, and we found out that the Court of Appeal,  
5 although a wonderful courtroom a few blocks from here, we  
6 needed a room, we needed a table, we needed somebody with a  
7 watch or timer, we needed to get a hold of our litigant, our  
8 lawyer. That's basically what we needed in order to resume  
9 court, and that's what we did. We accepted timelines on a  
10 limited basis. We didn't have computers and we didn't have  
11 telephones, but we had a pen and we had to get paper, and  
12 that's how we accepted filing.

13           My first thing was to then get my key pass into the  
14 building so we could try to assess any structural damages.  
15 There were issues of the air quality. The building was filled  
16 with the soot from the Trade Center. We had to get it cleaned.  
17 We had no telecommunications and no computer communications.  
18 We hooked up with the District Court, our neighbor, and split  
19 the responsibilities. They took Telecomm, we took Data  
20 Communications and then just started getting creative.

21           Meanwhile, we kept trying to call people to make  
22 people know that general staff didn't have to report and  
23 [inaudible] called on as necessary to help out day by day as  
24 different things developed. We were able to resume oral  
25 argument in our courthouse on September 20th, the Friday

1 following -- of that week following the disaster mostly because  
2 the mayor began to allow, you know, general members of the  
3 public on a limited basis below Canal Street. But we still had  
4 no mail service, we still had Fed Ex, no UPS. Again, we found  
5 out that you can do [unintelligible] on a pretty minimal basis.

6 By the September 24th we were back open for business along  
7 with the Southern District of New York and we were in our  
8 courtroom, we were having the members of the public and the  
9 attorneys come to argue and all of our staff returned. I stood  
10 on the steps of the courthouse that day and greeted every  
11 returning member, either chamber staff, judges, or other staff  
12 [unintelligible] welcomed them back into the courthouse.

13 At 8:30 Judge Walker, in a general meeting of chamber  
14 judges and [unintelligible] anyone who worked in the building,  
15 welcomed them back to the United States Court of Appeals  
16 courthouse and we were back in business, albeit without  
17 computers and without telephones.

18 JUDGE KEATING: Thank you very much. Judge Medd?

19 JUDGE MEDD: Yes, I want to talk about two areas.  
20 First of all, Judge Jahnke was shot when I was a presiding  
21 judge in 1992. I was on the third floor and Judge Jahnke was  
22 shot one floor below me. When I heard he got shot, everybody  
23 locked themselves in their offices because we didn't know where  
24 the gunman was. I picked up the biggest coat hanger I could  
25 find and wandered down to the second floor to see what was

1 happening. I wandered in to see Judge Jahnke, who had been  
2 shot through the chest lying on the floor. It was fortunate in  
3 a sense a doctor was being sued for malpractice and he was in  
4 the building up on the third floor; Doctor Slocum [Ph.] who was  
5 actually a good friend of Judge Jahnke's and our court  
6 administrator got him out of the conference and brought him  
7 down and he kept Judge Jahnke alive while the ambulance was  
8 called.

9           One of the problems that I think is a problem that I  
10 see still going on today is a communication problem. The  
11 ambulance got there. They wouldn't come inside the building  
12 because they didn't know if the gunman was still in the  
13 building or if the gunman was out. The police got called, the  
14 sheriff got called, the ambulance was called and they couldn't  
15 communicate very well. I think that's the same problem that  
16 we're having today that various agencies can't communicate  
17 amongst each other.

18           I was a presiding judge and we formed a courthouse  
19 security committee and I was the chair. I think we had a broad  
20 base community. We had several county commissioners, one of  
21 them being Spud Murphy, and a number of other kind of  
22 commissioners, the sheriff, the state's attorney, the Bar  
23 president, the Corrections Center, the court administrator, an  
24 employee representative. I think the most crucial person on  
25 the security committee was really our citizen representative.

1 He was the president of the Chamber of Commerce, he was the  
2 president of a bank so he understood security. The important  
3 role that he fulfilled was he was able to articulate that it  
4 isn't security for necessarily the judges because there had  
5 been letters to the editor and talk shows that talked about why  
6 do these judges need security? Doesn't the 7-Eleven clerk who  
7 works to midnight, they need more security than the judges.  
8 What [unintelligible] was able to articulate was is that it's  
9 really not for judges, it's for the system. It's for the  
10 litigant, it's for the witnesses, it's for the juror's. It's  
11 for those people. The county commissioners did not respond  
12 immediately to a court security plan that we proposed. It  
13 actually took the election when another county commissioner got  
14 elected, [unintelligible], who helped [unintelligible] one year  
15 after Judge Jahnke got shot. We have a security plan with a  
16 metal detector at one entrance into the court facility, which  
17 was pretty much what the U.S. Marshal Service who did surveys  
18 for us had recommended.

19           The second issue is the flood of 1997. You'll start  
20 to think that Grand Forks is a disaster town. But in 1997 on  
21 April 18th -- well, to set the stage, Grand Forks was on the  
22 river. As many of you know, Minnesota is right across the  
23 river. The Red River is one of the few rivers that flows  
24 north. That winter of 1996 to '97 we got 100 inches of snow,  
25 which was our first clue that there was going to be flooding.

1 We built dikes to 52 feet and the Army Corps. engineer said it  
2 would come out to 49 feet. Well, it actually pressed it at 54  
3 feet, two feet higher than the dikes. So, on Saturday the  
4 sirens went off as the river was overflowing and flooding the  
5 town. There was orders came out from the mayor to evacuate.  
6 So, everyone evacuated. Everyone in the city scattered. The  
7 prisoners who were in jail were first taken to a gym and then  
8 scattered to various jails around the state. The employees  
9 scattered, the judges scattered.

10           So, the first issue was to get communicating with  
11 these people to get them back. The court services remained  
12 open and on Monday one of our judges who live in a rural area,  
13 Judge [unintelligible] maintained judicial services, open and  
14 available. He established a clerk [unintelligible] 30 miles to  
15 the west [unintelligible] and then a store front across the  
16 street. There was a problem because many of the records were--  
17 where are they kept? They're kept in the basement, and many of  
18 our records were flooded. We were out of our courthouse from  
19 April 19th until August. We didn't get back into the  
20 courthouse for four months because of utilities being flooded,  
21 and so forth. The courts continued to function in basically a  
22 port of exile until that time.

23           JUDGE KEATING: Thank you. Judge Lippman?

24           JUDGE LIPPMAN: In New York we have a massive court  
25 complex right near ground zero. We also had a courthouse

1 located in the World Trade Center Complex. That day, 9/11, the  
2 leadership of the court system, including the Chief Judge and  
3 myself, and almost all of the administrative judges were up in  
4 Albany for an access to justice conference on that morning,  
5 like some of the others. When the first plane hit there was  
6 speculation that gee, it was some kind of little plane that had  
7 wandered into one of the towers. The next thing we knew I was  
8 on the phone with one of our people at our headquarters which  
9 are the Office of Court Administration, which are a few blocks  
10 from ground zero. The person I was talking to said that the  
11 building which we were in was actually shaking. We knew from  
12 that moment on that something extraordinary was happening.

13           To some degree having the leadership all together up  
14 in Albany was a blessing because there was very good  
15 communication right there. The Chief Judge and I talked. We  
16 immediately felt that if at all possible, there was a practical  
17 and symbolic -- great practical and symbolic value to keeping  
18 the courts open within the constraints of obviously protecting  
19 our people and the people coming to the courts every day. I  
20 had a meeting with the administrative Judges and we went over  
21 the situation. We told them that was the goal of the Chief  
22 Judge and myself. We set a tentative plan in place based on  
23 developments to keep the courts open that day. Those  
24 instructions again, because we did have and we do have a very  
25 centralized court system with the administrative judges and the

1 centralized security command throughout the state. We were  
2 able to go over the situation, give those instructions and get  
3 the word out despite the difficulty in reaching people through  
4 cell phones, through people [unintelligible] as to what our  
5 plans were. Everyone headed back down state particularly to  
6 their [unintelligible] locations. As Karen mentioned, there  
7 was very little phone service, data was interrupted, no  
8 vehicular traffic, questions about the air quality, questions  
9 about the integrity of the buildings. We had eight of the  
10 courts in the immediate vicinity of the World Trade and the one  
11 again right at ground zero, and our administrative  
12 headquarters. We did close the administrative headquarters  
13 where the building again had a question as to its integrity.

14           We were immediately in contact with the mayor's  
15 office, the governor's office, the federal and state and city  
16 law enforcement people, the PD. We did keep the courts open  
17 that day in general to 3:00. Again, we tried to get a  
18 comprehensive approach yet have a flexibility of what to do in  
19 immediate courthouses with a local administrator having the  
20 discretion to do what they thought was appropriate within the  
21 general plan.

22           The Chief Judge and I, what happened is the courts in  
23 the immediate vicinity of World Trade were open that day and  
24 then closed Wednesday, Thursday, and Friday in consultation  
25 with particular the Mayor's Office and the PD. We opened the

1 rest of New York City. They were closed till Monday and we  
2 opened on Thursday the rest of New York City, and the rest of  
3 the state stayed open the entire time. The Chief Judge and I  
4 went to visit all our downtown courthouses on that Saturday to  
5 see the shape of the buildings. We found people that were  
6 still closed to traffic downtown. We found many of our  
7 administrators, court staff preparing just in case we could  
8 open the building. We had a war room in my chambers just north  
9 of the city in White Plains where the security command people  
10 were in touch with people all over the state. We had a meeting  
11 of the administrative judges, particularly from around the city  
12 and metropolitan area. They made a recommendation to me, the  
13 chief and I talked about it, that they wanted to open the  
14 courts at the earliest possible time with or without phones.  
15 These are major, major courthouses with thousands of employees,  
16 hundreds of judges.

17           After the chief and I visited the courthouses on  
18 Saturday, saw our people getting ready, consulted with the  
19 mayor's office, the PD, we made a decision to go forward and we  
20 were open for business on that Monday immediately -- we opened  
21 the day of the attack, closed for a few days, and that Monday  
22 we opened the New York City, New York County courthouses that  
23 were so close to ground zero. Jurors immediately flocked to  
24 the courthouses wanting to serve. Everybody wanted to do  
25 something. We had the same situation of people coming in

1 traumatized. We had one added thing that I'd mention right now  
2 that I think was a traumatic experience for the courts. Three  
3 of our court officers had gone down to help to evacuate our  
4 people from 5 World Trade Center and all of our people in the  
5 Court of Claims at that location were evacuated safely, stayed  
6 to join in the general rescue effort and were missing at that  
7 point in the first few days. That's kind of a traumatic impact  
8 on our whole court family and certainly colored everything that  
9 we did, the chief and I. The day after we opened the  
10 courthouse we were able to go down to ground zero, see the last  
11 point at which our court officers had been seen. Again, the  
12 white ash was kind of all over the place. This was kind of a  
13 framework that very much formed our decisions because we  
14 realized we're not just dealing with the kinds of operation  
15 decisions we make, but clearly are dealing with issues so close  
16 to the line in terms of people's lives and futures. We were  
17 very pleased, proud, and determined to open the courthouses, to  
18 keep them open, but these decisions were certainly a balancing  
19 act.

20           Certainly, what we feel helped us while the ultimate  
21 decisions were made by the Chief Judge and myself, we very much  
22 to us -- the lesson of that day, to see some of that played out  
23 in the [unintelligible] that I had thought about those first  
24 days, having a command structure and being able to communicate  
25 to that command structure is just so vital. To make decisions,

1 have them followed in some kind of cohesive way that makes some  
2 sense is critical. So, that's --

3 JUDGE KEATING: Judge Lippman, before we speak to  
4 Doctor Walters, I wanted to ask you this. People say  
5 [inaudible] leaders to remain visible. During this period of  
6 time how did you do that? Did you and the Chief Judge just  
7 stay out with the public?

8 JUDGE LIPPMAN: You know, I think it was a  
9 combination. What's very interesting is we were having, as  
10 some of the administrative judges who are here know, constant  
11 meetings all the time trying to get again a coherent strategy  
12 dealing with all of the emerging crazy issues that were coming  
13 up. But at the same time sort of in the bunker trying to  
14 gather the information, factor it in, make intelligent  
15 decisions, but we made it our business, the Chief Judge,  
16 myself, the deputies, the administrative judges, to be out in  
17 the courthouses whether it be joining people for lunch, holding  
18 meetings with the staff, being on the steps of the courthouses  
19 in the mornings, constantly visible but yet at the same time,  
20 not just wandering around aimlessly saying here we are. Trying  
21 to have a strategy to make intelligent decisions and at the  
22 same time showing the flag. So important, especially in a  
23 situation where there is loss of life as we [unintelligible] we  
24 found, all the loss of life that we knew about and the people  
25 who were missing ultimately within our family. We had over 70

1 members of the court family who lost loved ones, sons,  
2 daughters, mothers, mother-in-laws, aunts, uncles in the  
3 tragedy. It's so important to be out there letting our people  
4 know that we're all in this together and yet having an  
5 organized approach to making the right decisions.

6 I will say just one more thing about it and the  
7 building. When you talk about entities, institutional entities  
8 as families, events like that bring it home so clearly. I'll  
9 give you the example of the court officers who were missing.  
10 We have state paid security, particularly in the down state  
11 area and in New York City. They're all court employees. When  
12 we were making these rounds, showing the flag, being visible,  
13 you couldn't walk into those courthouses and see the security  
14 people in their uniform without coming over to them and hugging  
15 them and looking them in their eyes as you never did before.  
16 You cannot take people for granted, and these kinds of  
17 instances make it so graphically apparent to you that we're all  
18 in this together and that is what jumped out at us in being  
19 visible. It's not only seeing them but seeing them and feeling  
20 them and understanding what this is all about.

21 JUDGE KEATING: [inaudible] rest of the panel.  
22 [inaudible] Dr. Walters.

23 DR. WALTERS: Thank you. Good morning. It was a  
24 beautiful October evening in San Francisco in 1989. The San  
25 Francisco Giants were playing the Oakland A's in the World

1 Series. A little after 5:00 when [unintelligible] earthquake  
2 hit and under seven seconds we lost the courthouse which was  
3 the headquarters for the Ninth Circuit for eight years and \$100  
4 million. Just in case you've ever not been in an earthquake,  
5 seven seconds seems like an eternity. But that led to our  
6 primary problem. We didn't know where anybody was. Right  
7 after 5:00 we did not know who was in the building. We knew  
8 the building was severely damaged but we didn't know who was in  
9 there or where they were. We did not have any way to find out.

10 That turned out to be the most pressing problem we had the  
11 entire time. We were simply unable to determine where our  
12 staff was. They were scattered throughout the Bay area. We  
13 spent several days trying to track down people to find out  
14 where they were and eventually found them all and everybody was  
15 fine and we were extremely grateful for that.

16 But the communication system, as you've heard, is the  
17 absolute key to this problem. I can't tell you how difficult  
18 it was deal without phones, without any ability -- this is  
19 1989, so we didn't have cell phones or the internet or the web  
20 or any of that. We really had no capability to find out what  
21 was going on with our people. That was the overwhelming  
22 problem.

23 The other problem that I will get right to is that we  
24 had to determine right off the bat who was in charge of this  
25 situation. The Ninth Circuit covers nine states and is also

1 headquartered in San Francisco. There's only four resident  
2 judges there. The Chief Judge is not one of those. The Chief  
3 Judge was a resident in Pasadena but was also out of the  
4 country at the time and unavailable. So, what we had to deal  
5 with was kind of a situation where we were unsure who was going  
6 to make the calls on what to do. The General Services  
7 Administration, as Karen indicated, is our landlord. They  
8 thought they were in charge. I thought I was in charge. Every  
9 single one of the four judges thought they were in charge. It  
10 made for kind of intense few days where everyone figured out  
11 who was actually in charge and it turned out to be nobody.

12           But what we did was quite remarkable, truthfully, and  
13 I'm proud of it. We were able to within the course of a week  
14 we put the court back together. We found ourselves living in  
15 seven different buildings. We had court going up and running  
16 within the month. We never missed a single sitting of the  
17 Court of Appeals during that time. We went out on the street  
18 looking for 150,000 square feet of space in San Francisco at  
19 that time, competing with an enormous number of other people  
20 that were displaced, and successfully pulled it off although it  
21 was a major disruption to the court over a long time.

22           I think the judges and the attorneys thought it was  
23 pretty a seamless operation but trust me, it was not. It was a  
24 very complicated internal process that we went through. We all  
25 worked very hard. An enormous number of people worked very

1 hard on it.

2           But the thing that I would stress at this point is  
3 that there are many aspects of this that you do not notice for  
4 some number of years, and it's the psychological stress that it  
5 puts on the people that are associated with us. We can go into  
6 that later, but it's an important part and something we need to  
7 pay attention to.

8           JUDGE KEATING: Thank you very much. I'd like to  
9 kind of revisit the whole issue of communication and visibility  
10 in a crisis like this. Judge Russell, I'd appreciate your  
11 thinking on this.

12           JUDGE RUSSELL: I think the single most important  
13 decision that you could make in a crisis such as we're  
14 discussing today is communication. I know in the case of  
15 Oklahoma City our people from, what you would imagine, the  
16 strongest people of the court and the lesser were traumatized  
17 at this event. Every one of us for several weeks after the  
18 19th had made decisions on which funerals to go to that day.

19           The most important thing we did was to communicate  
20 with everyone in the courthouse and let them feel that they  
21 were part of the decision making process and knew exactly what  
22 was going on. I mentioned it occurred on Wednesday and on the  
23 Saturday we organized a meeting of the entire court with  
24 psychologists, with clergy, with the FBI to brief everyone. We  
25 made an attempt for the entire length of this process to keep

1 everyone as much informed as possible. There was certainly a  
2 feeling of isolation that the guys at the top know all the  
3 secrets and perhaps that's being kept from us for one reason or  
4 another and we really tried to eliminate that problem. I think  
5 at least to that extent we were successful.

6 JUDGE KEATING: Does anybody else on the panel have  
7 anything?

8 JUDGE LIPPMAN: I think it's not only important to  
9 communicate within the court family because it's, you know,  
10 apparent for instance in New York we were constantly meeting  
11 with the [unintelligible], which I think is critical. The  
12 leaders of the respective Bar Associations statewide and  
13 citywide, the major Bars, constant contact. We had 17,000  
14 lawyers who were in the original frozen zone between 14th  
15 Street and the Battery; 1,400 lawyers who were in the World  
16 Trade Center itself. The dislocation, people not being able to  
17 get to their office. People's files, lawyer's files had been  
18 destroyed. How do you go about your business in the courts  
19 where lawyers, even when you open, where lawyers just can't  
20 function in the normal way? The police tied up its security  
21 functions on the criminal side, unable to testify in the court,  
22 having communication with the Bar, with the P.D., with so many  
23 different entities that interact with the court. We had  
24 someone stationed at the city's emergency preparedness center  
25 where the major information was coming in from around the city

1 so we would know what's happening.

2           So, I think communication with all of the  
3 institutions that you interact with and then ultimately with  
4 the public; what do juries do, how do employees know whether to  
5 come into the courthouse or not. Get in the middle of all of  
6 the things that are happening. The courts are not necessarily  
7 the number one priority of the news stations or the radio.  
8 Getting the message out, getting alternative ways to get your  
9 message out, communicate, web sites, hot line numbers, phones  
10 that work where people can call to get the information and  
11 getting people those numbers on the bottom of the screen on the  
12 television. When we give our information, we try to get them  
13 to give a phone number, a functioning phone number, that would  
14 give the information that the public needed to deal with the  
15 court. So, there's so many kinds of communication that I think  
16 are critical.

17           JUDGE KEATING: Professor Birkland, you studied  
18 disasters on a number of levels. What comes to your mind in  
19 those things in the way the courts have responded to a number  
20 of various [unintelligible]?

21           PROF. BIRKLAND: [unintelligible]. A number of  
22 things. First, the importance of leadership as we've seen here  
23 is absolutely crucial. I'll give you a couple of examples  
24 [unintelligible]. In the broad world of emergency management,  
25 [unintelligible] was the head of the Federal Emergency

1 Management Agency under the Clinton administration, and he was  
2 a disaster professional and he performed the same function in  
3 Arkansas. After the [unintelligible] in 1992 was recognized at  
4 the federal level that he needed a real strong, solid, almost  
5 personal leadership at the top, and that's what we had for  
6 eight years anyway. So, [unintelligible] how much of a  
7 difference to an organization that deals with the continuancy  
8 of crisis and things like that that personal leadership makes.

9           I think we've heard examples here of people that  
10 perhaps were not designated the leaders before an event, but  
11 people who assumed the mantle of leadership in the heat of the  
12 crisis, in the midst of 9/11, in the midst of a bombing or a  
13 flood. There are people that you need to have around who are  
14 willing to take the reins and really be in the process. Now,  
15 that can be enhanced by planning. I think one of the things we  
16 also heard this morning is that people had to do a lot of on  
17 the fly planning. The response we'll get back home is well how  
18 can we plan for something as big as 9/11? Well, we're not  
19 going to really plan for only 9/11. I think one of the themes,  
20 this is slight facetious, is don't put your records in the  
21 basement. This comes up over and over again in business  
22 continuity planning, operations planning at any level of  
23 government, certainly the judicial branch, and yet that's the  
24 most obvious place to stick, you know, all manner of legal  
25 records and administrative records. So, that's a lesson that

1 we learned. You have to have leaders and plans to decide such  
2 mundane things as where you're going to put those things.

3           But the one thing that also [unintelligible]  
4 everything this morning was communication. Judge Lippman  
5 mentioned all of the different ways that they decided to  
6 communicate, and some more successful than others, with the  
7 court's litigants, with everybody who has a stake in the  
8 operating of the courts, which is to say everybody. Not just  
9 the immediate parties. Just knowing the courts are up and  
10 running is really important to the public at large as we've  
11 heard this morning. The administration of justice is so  
12 fundamental to our system of government that just seeing the  
13 crawl across the TV, oh look, the courts are open. Okay. You  
14 know, the system works in a gross way. You might not have all  
15 your computers running, but the courts are open and that's  
16 important.

17           But even low tech, I mean I think there's a tendency  
18 these days to go high tech. I have my calendar all high tech.  
19 What happens when the batteries run out? I don't have a  
20 calendar. Same thing that happens on a broader scale when your  
21 basement floods, you don't have any electricity. You've got to  
22 think of ways to communicate with your staff. Low tech things  
23 like [unintelligible] as Karen mentioned. Things such as the  
24 web. The web was found out for 9/11 to be a remarkably  
25 resilient method of communication whereas landline telecoms and

1 particularly cell phones in lower Manhattan were really  
2 impacted by the event. You're going to have the same  
3 experiences in tornados, floods, snow storms, all that sort of  
4 [unintelligible]. But the communication system, again, only  
5 works if someone is there to lead it and manage it and try to,  
6 you know, predict in advance how you're going to communicate  
7 with people, who's going to do it and how you're going to look  
8 at the plan after you've begun to implement it.

9           I can't say enough about leadership. If everybody is  
10 a leader, then nobody is a leader. You have to sit down I  
11 think and think of who is going to be the point person to go to  
12 help bring together a fairly complex organization together.

13           JUDGE KEATING: Thank you. What I would like to do  
14 at this point in time, before we ask [unintelligible], is to  
15 see if we have any questions from the audience for the panel,  
16 or Professor Birkland. We have people with microphones out  
17 there, so if you would like to ask a particular or  
18 [unintelligible] question of anybody, now would be a great  
19 time.

20           AUDIENCE SPEAKER: One question. One issue I didn't  
21 hear, is there any concern to be given to the dollars when you  
22 make decisions? In other words, everybody is impacted by your  
23 budget. State level, we're limited. Now, how do you make  
24 these decisions but at the same time [unintelligible] what this  
25 whole concept? I beg your pardon. That's my question. Nobody

1 seemed to answer that at all.

2           JUDGE LIPPMAN: I think that's a relevant question.  
3 I'll give you something right on point. We immediately decided  
4 that it was necessary to provide 24-hour security to our  
5 buildings particularly in the Manhattan area near ground zero,  
6 but also around the city and about the Metropolitan area. In  
7 making that decision, we realized that there would be  
8 considerable extra costs that was not necessarily in our  
9 budget. In fact, the bottom line was that it cost us \$20  
10 million extra in security expenditures as a direct outgrowth of  
11 the enhanced security throughout the system. Not only the 24-  
12 hour security on the buildings. More magnetometers, x-ray  
13 machines, making more and more people go through that kind of  
14 security clearance cost money. People are checking people into  
15 the building. They can't be up in the courtroom in the parts.  
16 All of these things translate into dollars and the bottom  
17 line, in answer to your question, is when it comes to human  
18 lives, our decision was to err on the side of doing exactly  
19 what we had to do to protect the people coming to our courts  
20 every day knowing that there would come a time during the  
21 fiscal year that we would have to account for those dollars.

22           What we did find, and I think it's very helpful, is  
23 that number one, we were able to take other measures that  
24 didn't have to do with life-saving issues to make up the  
25 dollars, but in the immediate budget after that, in presenting

1 [unintelligible] legislature, they were -- the one issue that  
2 they were very, very understanding in terms of our expenditures  
3 during the year before and our requests for the coming. After  
4 that experience we asked for between I think it was \$215  
5 million alone for security the next year. A few months after  
6 9/11 we had to testify on the budget, there was nothing other  
7 than total support for those security requests.

8           So, the short answer is when it comes to human lives  
9 I think we put our dollars first and then everything else we're  
10 going to have to accommodate, but it definitely factors to  
11 every decision we make.

12           AUDIENCE SPEAKER: Thank you.

13           DR. WALTERS: [unintelligible]. During the first  
14 flush after an event like this there's considerable amount of  
15 support for your money. We had no problem whatsoever getting  
16 Congress to agree to rebuild our courthouse, to provide us with  
17 computers, to provide us with all that infrastructure we  
18 needed. But my piece of information here is that's a very  
19 short window of opportunity. The rule bound bureaucratic  
20 processes begin to slide back into place very quickly. Within  
21 a matter of a year you're starting to deal with the exact same  
22 set of rules you had before.

23           PROF. BIRKLAND: It's interesting that Dr. Walters  
24 mentioned the term window of opportunity because it's a term of  
25 art in my profession when we talk about how these events really

1 do open up windows of opportunity for [unintelligible]. I'm  
2 not saying that once you find a silver lining in a dark cloud  
3 or go out looking for them. I mean I think that's become  
4 something a little morbid. But you do have to use advances  
5 that come along and make your case.

6           I'll give you an example. Back in the early '90s  
7 [unintelligible] courts had for years gone to the county  
8 commissioners and said, "Look, we need more security in the  
9 courtroom." It wasn't until there was a shooting -- it was a  
10 jilted husband I think shot his ex-wife and a friend. Now, the  
11 details are a little fuzzy but the long and the short of it is  
12 a little more attention was paid to the issue of courthouse  
13 security after that event than before. You really have to use  
14 [unintelligible] events to say look, this can happen again, and  
15 learning about what happened at the North Dakota courts. The  
16 story is very similar in North Dakota to what happened  
17 [unintelligible] where it was still, "Well, we don't really  
18 know if it's really that necessary. These are low probability  
19 events," things like that. But a low probability event becomes  
20 a probability of one if it happens. The consequences are so  
21 high that it's important to come out and almost to explain it  
22 to political leaders and people who hold the purse strings and  
23 say, "Sure it's expensive to do this but consider the  
24 alternative."

25           And finally, some of the things that we talked about

1 today are not expensive. Trying to figure out where the blind  
2 stairwells are, figuring out who's going to call whom if  
3 there's a big snowstorm, for example, or a hurricane, or  
4 something like that. Those are really important early steps  
5 you can take that will require some [unintelligible] time and  
6 resource but really aren't that expensive in the big picture.

7 JUDGE KEATING: Judge Medd?

8 JUDGE MEDD: One of the things that happened after  
9 the shooting was that in State Courts System many times the  
10 local counties are responsible for the facilities and the state  
11 is responsible for salaries. So, it's split and so you  
12 encounter some of that.

13 What we did and the county commissioners had to fund  
14 the sheriff's deputies, those sorts of things, but the state  
15 came through with a program where they would share expenses for  
16 [unintelligible]. So, it did get to be a cost sharing issue.

17 JUDGE KEATING: Any other questions? Yes?

18 AUDIENCE SPEAKER: With the state of Washington D.C.,  
19 you had mentioned -- there was a mention of moving prisoners  
20 from one detention facility to another. It seems to me that  
21 for at least the trial courts the one unique responsibility  
22 that we have that's different from any other agency that serves  
23 the public is that on any given day most of our courthouses  
24 will have a significant number of people who are incarcerated  
25 and in custody and they will not be in one easy to manage area.

1 They may be spread throughout the building.

2 I wondered if any of the panelists had thoughts or  
3 drew any conclusions about that responsibility in the event of  
4 a sudden disaster striking a [unintelligible]?

5 MS. MILTON: We're not -- the Court of Appeals of  
6 course does not have to worry about incarcerated prisoners but  
7 we share our building with the District Court, which is the  
8 trial court in the federal system, and they do have criminal  
9 trials ongoing. The District Court also is housed in the  
10 building right next door to us. But connected to the old  
11 [unintelligible] courthouse is the Metropolitan Correction  
12 Center. It's connected by a bridge, and that's how they bring  
13 prisoners over from the MCC into the courthouse.

14 In the Federal Court System, it's the responsibility  
15 of the United States Marshal Service to provide security with  
16 respect to prisoners and to bring prisoners to the courtroom  
17 and remove them. On that day, that's what the marshals were  
18 doing in those cases where they did have incarcerated prisoners  
19 already produced from the MCC in the courthouses. But what  
20 this has -- going with Dr. Birkland's thought, what this has  
21 done I think in the Federal Court System, unlike the New York  
22 State Court System which is a unified court system, the Federal  
23 Court System is not a unified court system. In fact, the chief  
24 judges in the Federal Court is really the first  
25 [unintelligible]. The chief really rules, if you want to use

1 that term, through moral persuasion. You know, and it's  
2 persuading his or her colleagues to go along with whatever the  
3 common goal is.

4 I think the thing that for us, especially here, and  
5 I think nationwide in the Federal Court, once September 11  
6 crystallized for us, and this is our window of opportunity to  
7 make all of us, the court administrators and the judges, aware  
8 of the need for better security and better communications with  
9 our security maven, which for us are the marshals, as well as  
10 the Federal Protective Service of the GFA. It has enhanced, I  
11 think, the court having active, proactive security and safe  
12 committees in courts where they didn't have that before  
13 September 11. [unintelligible]. We now have an emergency  
14 protocol in place that says who is in charge, so to speak, you  
15 know, who are the marshals to communicate with first and who's  
16 going to make the decision and what are we going to do about  
17 prisoners and who's responsible for jurors when something  
18 happens. You know, what do we want the presider to say in the  
19 event there's going to be an evacuation. We now have a revised  
20 emergency occupancy plan that details out this information. We  
21 train people how to get of the building. We train people what  
22 to do in fire drills. We have wardens who are actually living  
23 employees currently employed in the court system who actually  
24 have necessary equipment and have been trained as to how to  
25 handle these things.

1           So, we're not planning for another September 11th. I  
2 think the steps that we are taking both locally and nationwide,  
3 you know, will help the court to deal with the next crisis, you  
4 know, whatever that crisis will be.

5           JUDGE LIPPMAN: One other point I have to make.  
6 Arraignments are a critical issue in maintaining all civil  
7 order in a situation such as 9/11. The first thing, literally  
8 the first thing we confronted is talking to the City of New  
9 York about where we were going to arraign people for the very  
10 reason it was very difficult to deliver prisoners into areas  
11 with no services, no rap sheets, no ability to move people in  
12 and out. What we did is immediately we made arrangements to  
13 arraign people outside the frozen zone. I think that's  
14 something that will come up in emergencies.

15           It's critical, again, to retain order in the streets,  
16 that people understand that the Justice System functions  
17 regardless of the health of one particular building.

18           MR. THOMPSON: One of the problems that we had in the  
19 arraignment situation were we found the space that the sheriff  
20 could bring his 24-hour arrestees to and we found a space where  
21 the judge could go and conduct his arraignments. The sheriff  
22 would not let the attorneys for those being arraigned into the  
23 jail facility because that was a secured facility and it was  
24 not open to public use. We had to deal with that for awhile to  
25 make sure the facility where people were being arraigned was a

1 comfortable facility so that families and attorneys could come  
2 in.

3           JUDGE RUSSELL: We had tremendous security concerns  
4 following the bombing. We weren't certain at all that the  
5 bombings were over with even after the arrest of Tim McVeigh  
6 and Terry Nichols. We didn't know how extensive a conspiracy  
7 there might be. So, we had concerns about bringing  
8 particularly Nichols and McVeigh to the courthouse building  
9 [inaudible] for our own security and their security. So, we  
10 ended up having their arraignment at the military base near  
11 Oklahoma City. Fortunately we were able to open up the  
12 courthouse quickly enough thereafter that we didn't have  
13 problems [unintelligible].

14           JUDGE KEATING: Thank you. Question?

15           AUDIENCE SPEAKER: One of the themes that I've heard  
16 from the panelists was the importance and the value of keeping  
17 the courts open, understandably. How do you reconcile that  
18 with judiciary employees who I assume are very anxious to get  
19 home to their families, that are very distracted or wondering  
20 what has happened to relatives and so forth?

21           JUDGE MEDD: That was a big issue with us because  
22 employees' homes were flooded, they needed to get home  
23 [unintelligible]. Some people just basements, and some folks  
24 the first level of their homes were flooded. So, it was a big  
25 concern. Basically it involved number one, having the

1 employees call in so they could talk to the clerk and the court  
2 administrator and then correlate with them. Some of them would  
3 be [unintelligible]. Some of them weren't affected by the  
4 flood. But you really have [unintelligible] to give them time  
5 off. One of the things that happened was the dress code became  
6 very informal because if you were at home and you had to be in  
7 your blue jeans and crummy shoes because your home was flooded,  
8 so when you came into work it wasn't suit and tie. So, it did  
9 change the system.

10           But one of the things that happened, some employees  
11 had to pretty much stay home and take care of the home. So,  
12 they got paid too. The ones that worked full time actually the  
13 county ended up paying them time and a half because they stayed  
14 and worked.

15           MS. MILTON: One thing. We did something similar.  
16 We used our informal phone tree and we asked all of our  
17 managers to keep calling their staff. Then we tried to get a  
18 sense of who was still traumatized, who was having problems.  
19 We were very fortunate. I think out of 150 employees we had  
20 only two who lost relatives in the trade towers. That doesn't  
21 mean that we didn't have a fair number of people who were  
22 extremely traumatized over this event.

23           Also, at the Circuit Court we had judges on our staff  
24 who are not based in New York City. You know, they're based in  
25 Burlington, Vermont, Syracuse, New York. They were with us

1 that day. Some of their staff were particularly traumatized.  
2 We're also very fortunate in Federal Court that  
3 [unintelligible] Probation Department that some of these  
4 offices have what they call critical incident stress management  
5 teams. We have one in the Southern District of New York. We  
6 also are very fortunate having the Federal Judicial Center. We  
7 had Dr. Mark Maggio who also is professionally trained in  
8 helping people deal with this kind of trauma. So, before we  
9 reopened the court, I and my personnel director and the  
10 [unintelligible] met with the probation officers who were part  
11 of this team and we discussed just some of those issues. They  
12 were very helpful because they said to me what are you going to  
13 say on Monday morning when you reopen the court? You know, how  
14 are you going to deal with the fact that some people, and we  
15 knew this, were very unhappy about the lack of -- what they  
16 perceived as a lack of coordination, the fact that no one was  
17 in charge, you know, to want to make decisions. We had  
18 managers who were in hysterics that day and left the staff in  
19 the building. How are you going to deal with that?

20           The way we dealt with it was on the day we reopened  
21 we had our EAC, our emergency admission counselor, available.  
22 One who had helped people in the trauma in Oklahoma City. We  
23 had different teams from the District of Maryland, from  
24 [unintelligible] New York, from Northern New York. They were  
25 there and they came to us for that first week and we basically

1 had groups and individual counseling sessions for the asking.  
2 Everybody's leave was forgiven. You know, if we were closed,  
3 we didn't charge anybody leave. People who were on vacation,  
4 you know, whose vacations were disrupted, we just wiped the  
5 slate clean. Wherever you were on September 10th, that's where  
6 you were on September 24th.

7           For the key staff, we told people thank you for your  
8 offer. We don't need 150 people coming in. But the key staff  
9 who came in while the courts were closed to help us get ready  
10 for reopening the building, we gave them comp time, you know,  
11 and tracked it that way, even if they weren't entitled to comp  
12 time under the federal system. I think that went a long way to  
13 try to help people deal with it. We had employees who couldn't  
14 come back in the building. We met them outside of the building  
15 and walked them in for as long as it took. Out of all of this  
16 we had one employee who chose not to return to work after all  
17 was said and done.

18           JUDGE LIPPMAN: Another balance I think that you  
19 have to make on a particular day of whatever the emergency is,  
20 the balances -- and we basically were guided by what the  
21 employee wants to do. But the streets were filled with people.  
22 The air was unsafe. There was chaos. [unintelligible] good  
23 thing to say okay, go. You want to go? Go. There was no  
24 transportation. So, you really had to balance and weigh those  
25 things. Obviously, sensitivity to the individual was critical,

1 but, you know, what's going on out there? Again, having a  
2 coherent strategy and then within that working with the  
3 individual person.

4           Then one other point about the families and  
5 psychological counseling. I think it's also important that the  
6 other members of the court system see that you are sensitive to  
7 the families. For instance, we had the three court officers  
8 who were missing. We had our security people with them  
9 virtually 24 hours a day for a long period of time because it  
10 was important to us and it was important to the rest of the  
11 court family that they saw that this is the way we treated our  
12 people. So, I think there are so many issues relating to  
13 what's in the heads of your employees and people who are a part  
14 of your family, what's real, and what just has to be dealt with  
15 [unintelligible].

16           DR. WALTERS: Well, I do think it's essentially  
17 important to show the flag in the short term, open the court as  
18 soon as you can if in fact in a very visible way. But the way  
19 you treat your employees, the way you handle that process has  
20 more long term implications for the health of your court, the  
21 health of your organization more than anything I can think of.  
22 The psychological impact of these things [unintelligible] take  
23 many, many years to get over and they just need help.

24           AUDIENCE SPEAKER: I have a question for the forum.  
25 I remember sitting on my bench in Portland, Oregon and in the

1 State of Washington -- I can't remember the date exactly, there  
2 was an earthquake [unintelligible] experience. We all  
3 evacuated. I had the jurors relieved and we evacuated. But I  
4 became mindful of our directions to everyone to go back into  
5 the courthouse which is what we did about an hour and a half  
6 later when I later heard that in the incident of last year in  
7 New York there were people who were advised that they could go  
8 back in the towers. I wondered how we would all make a  
9 decision immediately whether it was safe or not safe to go back  
10 into the courthouse.

11 DR. WALTERS: Well, I think that I can speak to that  
12 both from the San Francisco experience and actually the Seattle  
13 experience [unintelligible]. That courthouse is a federal  
14 courthouse [inaudible] year, year and a half ago now. The  
15 decision is a difficult one and particularly in an earthquake  
16 because you do not know how safe that building is and you don't  
17 know that for some time. In San Francisco it took us almost  
18 three or four months before we were able to determine that the  
19 building could be returned to.

20 In Seattle it was about two or three days. What  
21 happens in an earthquake is every structural and scientific  
22 engineer on the planet suddenly becomes the most popular person  
23 around and you can't people to go in and certify the building.  
24 The judges [unintelligible] very much wanted to be in that  
25 building. They did not want to leave the building. We had to

1 essentially have the General Services Administration and the  
2 engineers do what they call red tag the building, certify it as  
3 unoccupiable before the judges would leave the building. So,  
4 it's a difficult time.

5           AUDIENCE SPEAKER: I'm going to switch to a  
6 procedural area. The system is so tied to deadlines, filing  
7 deadlines, statute of limitations. Now you have a system  
8 that's completely down. Can you share with us any experience  
9 you had with how you dealt with the deadlines and how you  
10 communicated any orders that were issued? And then the  
11 aftermath, any problems that came up.

12           JUDGE RUSSELL: Well, we specifically dealt with that  
13 issue and the day of and the day after the bombing, six of us,  
14 six Federal Judges agreed that since we had the legal authority  
15 to do so, we could extend the statute of limitations so long as  
16 the courthouse was closed. Now, it never arose whether or not  
17 we had that authority or not. No one ever questioned it. I'm  
18 satisfied we did.

19           JUDGE MEDD: That was our experience too in North  
20 Dakota. The Supreme Court extended [unintelligible] and  
21 extended the statute of limitations.

22           JUDGE LIPPMAN: In New York we kept in touch with the  
23 governor's office who issued a number of executive orders to do  
24 similar things. We also had added issues with the victims and  
25 receiving from Surrogate's Courts also with -- again, I think

1 it goes towards the communication between the different  
2 branches of government. In this case, the government within a  
3 day, they were on the phone to us. What makes sense? What  
4 are the problems with the limitations and all kinds of issues.

5 JUDGE KEATING: Okay. We're coming up on the break.  
6 Refreshments are going to be served both on the second and the  
7 third floor foyers. It would be appreciated if you could get  
8 your coffee break at the floor where the next breakout session  
9 is. I'm going to tell you where they are. The Aftermath:  
10 Court Administration and Practice Issues is in the Financial  
11 Center 1 room. That's on the second floor. Getting the Word  
12 Out: Communication, Coordination, Collaboration is in Financial  
13 Center 2. That's on the second floor. The Bar Response: Legal  
14 Assistance For Victims and Families is in the Empire Room on  
15 the third floor.

16 Lunch is going to be served back here in this room at  
17 11:45. As I said, the guest speaker will be [unintelligible].  
18 Thank you very much and thank you, panel.

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