AG Planning For State Emergencies

CASE STUDY

NATIONAL ASSOCIATION OF ATTORNEYS GENERAL
June 20-22, 2017
Big Sky, Montana

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“Plans are worthless, but planning is everything. …

…the very definition of "emergency" is that it is unexpected, therefore it is not going to happen the way you are planning.”

Must be in the planning process, not just in the plan.

Dwight Eisenhower, 1957
<table>
<thead>
<tr>
<th><strong>Katrina Myth</strong></th>
<th><strong>Katrina Reality</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Unpredictable ramifications</td>
<td>Predicted: Multiple sources</td>
</tr>
<tr>
<td>Katrina was <em>Cat-V</em> storm</td>
<td><em>Cat-III</em>, 2 larger hit US in 2005</td>
</tr>
<tr>
<td><em>New Orleans</em> ground zero</td>
<td><em>Mississippi</em> Coast ground zero</td>
</tr>
<tr>
<td>Levees overflowed</td>
<td>Levees broke, before overflows</td>
</tr>
<tr>
<td>Residents ignored evacuation</td>
<td>Residents <em>w/no means</em> to leave</td>
</tr>
<tr>
<td>State of Emergency late call</td>
<td>SoE early, <em>Evacuation late</em></td>
</tr>
<tr>
<td>Flooding below <em>sea level</em></td>
<td>Flooding below <em>levee level</em></td>
</tr>
<tr>
<td>Lack of resources</td>
<td>“Failure of initiative”</td>
</tr>
<tr>
<td>Hurricane Katrina was a natural disaster</td>
<td><em>Katrina</em> a natural phenomena, <em>man-made</em> disaster</td>
</tr>
</tbody>
</table>
“…but we had the standard hurricane coming in here…”

FEMA Director

“This is really one which I think was breathtaking in its surprise”

Secretary of Homeland Security

“This will be debated” N.O. Mayor about not using buses as in evacuation plans

“I am satisfied with the response…” President after the storm, before levee breach

Available Information:

- Ongoing:
  - Corps of Engineers
  - NWS prediction

- 2004
  - FEMA Exercise
  - “Gone with the Water” Nat. Geo. Magazine

- 2002
  - “Washing Away” Newspaper 5-part series

2001: FEMA likely disasters;
1. California earthquake
2. New Orleans Hurricane
3. NYC terrorist attack
# Hurricane Plan

## Typical Plan
- State National Guard personnel
- State National Guard equipment
- Interstate Compact
  - Neighbors provide quick response
  - Other regional states follow-on
  - Trust reimburse non-FEMA (25%)
  - Guard resources among states

## Katrina (2005)
- 40% deployed to Iraq
- Over 60% deployed or depleted
- Region support insufficient
  - AL, MS & TX home state response
  - Other hurricane forecasted
  - Cost unprecedented, who pays?
  - All states had war depletions

Implemented hurricane **plan**

Ignored **planning** indicators
“FAILURE OF INITIATIVE”

FEMA Exercise: Hurricane Pam (Sep 2004)
- Slow moving Hurricane
- 270 participating entities
  - (federal, region, state, & private)
- New Orleans totally flooded
  - Limited transportation
  - High percent not evacuated
  - Stranded on rooftops
  - Trapped by rising water
- Health services knocked out
- “Hazmat Gumbo” in streets
  - Floating coffins
  - Sub-surface tanks breached
  - Household hazardous waste
  - Visible sheen on water surface

Issues to address BEFORE 2005 hurricane season
To do list “Hasty plans”

1. Search and rescue
2. Rapid assessment teams
3. Medical evacuation
4. Sheltering/temp. housing
5. Commodity distribution
6. Debris removal
7. Unity of command

Other
- Buses (Massive city evacuation)
- Improve Inter-gov’t coordination
# New Orleans 2 week Timeline *(PBS Frontline)*

<table>
<thead>
<tr>
<th>Date</th>
<th>Emergency</th>
<th>Situation Update</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>-5</td>
<td>8/24</td>
<td>Tropical Depression</td>
<td></td>
</tr>
<tr>
<td>-4</td>
<td>8/25</td>
<td>Hurricane Cat I</td>
<td>Landfall north of Miami</td>
</tr>
<tr>
<td>-2</td>
<td>8/27</td>
<td>Hurricane Cat III</td>
<td>“Headed right for you”</td>
</tr>
<tr>
<td>-1</td>
<td>8/28</td>
<td>Hurricane Cat V</td>
<td>“human suffering incredible”</td>
</tr>
</tbody>
</table>

Mayor blames attorney opinion @ mandatory evacuation

- 8/29 Cat III hits Miss “City avoids direct hit” 30k at Dome, I-10 shut down
- 8/30 1 breach, 2 fail: City begins low level flood 3 day supplies for 15k run low
- 8/31 Evac hospitals 50-100k still in city Flooding surrounds Dome
- 9/1 Buses evac Dome Conditions Deteriorating DoD Joint TF formed in MS
- 9/2 Flooding Air Force 1 overflight EMAC Guard troops arrive
- 9/3 Flooding 25k at Convention Center Active Duty troops arrive
- 9/4 Flooding - Gangs of armed criminals 16k police and military patrols
- 9/5 Water receded - 1 -2 feet Breach repair, some electricity
- 9/6 Contamination 5-10k still in city Mayor: “TOTAL EVACUATION”

Hurricane Response Properly Executed
Katrina-type EMAC and Refugee Impact

Top 9 Displacement Disasters
350 mile displacement zone
State Government impact

Superdome to Astrodome
25,000 refugees @ 350 miles
Lessons Learned - Proactive

- “In the plan” does not equate to planning
  - Attend EMD events: anticipate role issues
  - Relationship w/Guard JAG officers
- Legislative session review
  - De-conflict laws passed w/out regard to crisis planning
- Don’t prepare for likely scenario;
  - plan worst case and dial back
  - Assume Mother Nature & Murphy’s law collusion
- Plan your office to be displaced (& resource poor)
Lessons Learned - Opinions

- Evacuation ("Mandatory"; Enforcement of orders)
- Deputizing (Authority to deputize, and limits of authorization)
- Sovereign Immunity (limits such as tort claims acts)
- National Guard ("federal" personnel [technician/AGR])
- EMAC issues (non-standard provisions, distant states)
- Curfews (Authority, enforcement, limits)
- Fiscal (Issues while legislature not in session; stealing budgets)
- Displaced Persons (Evacuees & government services)
- Price Gouging (Out of state contractors, "Reasonable")
Blaming the Lawyers

• Evacuation:
  – mayor cited *lack of insurance liability* for buses
  – *No permanent agreements* with NGOs for transportation

• Response:
  – DHS urged EMS external resources to *await lawful dispatch*
  – 50 requested & responding aircraft deemed "*unauthorized*"
  – *Authority issue unresolved*: FEMA or Homeland Security
  – Governor *requested NGB instead of EMAC*

• Relief
  – *Doctors* sat idle b/c concern for *legal liability*
  – Private hospital relief *supplies confiscated* by FEMA
  – 2000 firefighters in staging area *held*
    • sexual harassment training
    • community relations training.
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<table>
<thead>
<tr>
<th>Month</th>
<th>Deployment Name</th>
<th>Landfall Category</th>
<th>States</th>
</tr>
</thead>
<tbody>
<tr>
<td>JUN</td>
<td>ARLENE</td>
<td>I</td>
<td>FL</td>
</tr>
<tr>
<td>JUL</td>
<td>CINDY</td>
<td>I</td>
<td>LA</td>
</tr>
<tr>
<td>JUL</td>
<td>DENNIS</td>
<td>V</td>
<td>FL</td>
</tr>
<tr>
<td>AUG</td>
<td>KATRINA</td>
<td>III</td>
<td>LA, MS, AL</td>
</tr>
<tr>
<td>SEP</td>
<td>OPHELIA</td>
<td>I</td>
<td>NC</td>
</tr>
<tr>
<td>SEP</td>
<td>RITA</td>
<td>V</td>
<td>TX, LA</td>
</tr>
<tr>
<td>OCT</td>
<td>WILMA</td>
<td>III</td>
<td>FL</td>
</tr>
</tbody>
</table>

No major US hurricane since (Cat III+) since Wilma (11+ years)
## Foreseeable Results

<table>
<thead>
<tr>
<th>Pre-Katrina</th>
<th>Post Katrina</th>
</tr>
</thead>
<tbody>
<tr>
<td>23 Hospitals in Orleans Parish</td>
<td>1.1 million displaced</td>
</tr>
<tr>
<td>11 Hospitals in Jefferson Parish</td>
<td>1 US medical ship</td>
</tr>
<tr>
<td>53 Nursing homes in 4 parishes</td>
<td>5 Hospitals in Jefferson Parish</td>
</tr>
<tr>
<td>3,679 beds</td>
<td>270 beds</td>
</tr>
<tr>
<td>2,108 beds</td>
<td>1,068 beds</td>
</tr>
<tr>
<td>6 Operational N/H in 4 parishes</td>
<td>6 Operational N/H in 4 parishes</td>
</tr>
</tbody>
</table>
Lessons Learned

If a building of historical significance; or
If a significant location; or
Subject to political in-fighting; or
High profile issue for litigation:

(Like a state capitol complex)

Do not expect to re-occupy damaged facilities timely!
Hurricane Hugo
The Unforgiving Bureaucracy

Charleston County Courthouse     1753
Colonial State Capitol           1786
Updates abandoned original design 1792-1989

Hurricane Hugo 1989
  Multi-year study, Raze or renovate
  Multi-year design, which era to model
  Litigation over design concept
  Delay for finding historic objects
    12 years,  $733 per sq ft.

Reoccupied 2001