



# The Law and Emergencies: Surveillance for Public Health—Related Legal Issues During Hurricanes Katrina and Rita

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Law influenced every aspect of the public health response to Hurricanes Katrina and Rita, from evacuation orders, to waivers of medical licensing requirements, to the clean-up

of public health threats on private property. We used public health surveillance of news reports to identify and characterize legal issues arising during the disaster response in 5

Gulf Coast states. Data collected from news reports of the events in real time were followed-up by interviews with selected state legal and emergency management officials.

Our analysis indicates the value of surveillance during and after emergency responses in identifying public health-related legal issues and helps to inform the strengthening of



legal preparedness frameworks for future disasters. (*Am J Public Health*. 2007;97:S73–S81. doi:10.2105/AJPH.2006.104240)

### THE NEWS THAT HURRICANE

Katrina was about to make landfall near New Orleans, La, on August 29, 2005, triggered a series of emergency orders from local, state, and federal jurisdictions intended to ensure the public's health and safety. As the scope of the catastrophe unfolded in the following days, more orders and declarations were issued, and other legal issues came into play as all levels of government attempted to rescue, shelter, and evacuate stranded residents and to share information and mobilize mutual aid across jurisdictional boundaries. In the disaster's aftermath, public health and emergency preparedness officials have attempted to understand the successes and failures of the legal frameworks governing the response to the events in the Gulf Coast.

Despite the large body of published articles and analysis regarding the epidemiology of disasters and other public health emergencies,<sup>1–4</sup> legal issues arising from or implicated during public health emergencies have not been well characterized. For example, such articles generally address the epidemiology of health effects associated with disasters, such as volcanoes, earthquakes, or tornadoes,<sup>5–8</sup> and identify public health response options through improved management of derivative problems, such as disease, malnutrition,

contaminated water, poor sanitation, mental health problems, and injury.<sup>9–12</sup> Although a limited number of articles have addressed legal issues in relation to bioterrorism and specific aspects of emergency legal preparedness,<sup>13–15</sup> the body of literature on the epidemiology of disasters largely has not examined the legal underpinnings of public health responses. However, such characterization can assist public health and emergency management officials in assessing the adequacy of laws for preparedness and response activities and in developing relevant educational, informational, and training resources.

Hurricanes Katrina and Rita, among the most severe, acute natural disasters and public health emergencies in US history, provided a unique opportunity to identify, assess, and characterize the spectrum of legal issues implicated during public health emergencies and to do so in an ongoing, prospective fashion. On recognition of the impending landfall of Hurricane Katrina on August 29, 2005, the Public Health Law Program of the Centers for Disease Control and Prevention (CDC) made preparations for ongoing surveillance of public health–related legal issues. Issues were monitored through the use of publicly accessible news sources and other information sources already used in the production of the weekly *CDC Public Health Law News*.<sup>16</sup> We report the findings of this ongoing, systematic surveillance effort for the 6-month period of late-August 2005 through February 2006,

as well as related information obtained from follow-up interviews with the principal state-level public health legal counsel and other officials in hurricane-affected states. The CDC decision to implement this prospective surveillance at the onset of this crisis was also based on lessons learned from the legal follow-up to the terrorist and anthrax attacks of fall 2001, including ongoing monitoring of the effects of the draft Model State Emergency Health Powers Act,<sup>17</sup> the 2003 severe acute respiratory syndrome epidemic,<sup>18</sup> and the national shortage of influenza vaccine during fall 2004.<sup>19</sup>

### METHODS

From August 31, 2005, through February 28, 2006, the CDC Public Health Law Program conducted systematic daily searches of news media reports mentioning legal issues related to Hurricane Katrina and Rita response efforts. Specifically, we conducted a daily search of the LexisNexis All News database. The search strategy was designed to identify every instance of the term *hurricane* in the same paragraph as the word *health*. Results were saved in electronic form in a folder labeled by date. The broad search parameters allowed us to identify news items that would have been missed had we included search terms such as *law* and *legal*, because many of the items relevant to these issues do not specifically use those terms. We then read each report to determine whether the content implicated a legal issue,

broadly defined as the use or enforcement of a law, the invocation of a law, or potential collateral issues implicating law, such as possible subsequent litigation involving seizure of property for public health use or protection. Reports related to public health emergency preparedness and planning implicating law also were collected.

We supplemented the LexisNexis searches with daily targeted searches of major online news sources such as *CNN*, *StateLine*, the *Wall Street Journal*, and the *Times-Picayune*, and monitored selected listservs and Internet Web logs (blogs) dedicated to the hurricane response efforts. We then sorted through all of the reports, using the same criteria applied to the LexisNexis search results, to identify items containing potential legal issues relevant to public health emergency planning and response.

Reports with contents not immediately related to public health law or emergency preparedness were excluded, including those focused solely on budget and funding, insurance law, private property not affecting public health, business finance issues, or other financial issues. Reports on mental health were excluded. We also excluded editorials, opinions, and letters; articles about politics; and speech and television program transcripts. Reports commenting on potential legal preparedness lessons learned were included, even if they concerned jurisdictions not immediately affected by the hurricanes.

During October through December 2005, we conducted



follow-up telephone interviews with a principal state-level public health legal counsel or emergency preparedness official (sometimes both) for each of the hurricane-affected jurisdictions (Alabama, Arkansas, Louisiana, Mississippi, and Texas and the cities of New Orleans, La, and Houston, Tex) to identify the major issues that they encountered and to review how law helped or hindered response efforts. We also sought to identify important preparedness and response issues of immediate relevance to state legal counsel and emergency preparedness officials and issues that may not have been heavily covered in the media.

## RESULTS

Public health–related legal issues identified through media reports and interviews were classified into 5 basic categories: declaration of emergencies, protection of people, management of property, mobilizing professional resources, and litigation and legal lessons learned. Subcategories included evacuation, evacuee services, communication and coordination between jurisdictions, and safety issues. Category topics were derived from several sources, including the Public Health Law Program public health emergency law course<sup>20</sup> and the Model State Emergency Health Powers Act.<sup>21</sup>

### News Reports

Of the 847 reports meeting our inclusion criteria, more than one half (471; 55.6%) addressed or implicated legal issues

predominantly in the category of “protection of people” (Table 1). Second most common (231; 27.2%) were those addressing “mobilizing professional resources.” The category “lessons and planning” accounted for 64 (7.6%) of the reports, “declaring emergency” for 65 (7.7%), and “property management, rights, clean-up” for 17 (2.0%). We further arrayed each report by 1 specific subcategory and by the principal political jurisdiction addressed in each report. Each news report was classified into only 1 subcategory and jurisdiction. Only select reports are cited in full in this article.

Reports relating to the protection of people were composed of more specific legal issues, including evacuation, evacuee services, health and safety promotion, and mortuary law and preparedness. Of these, a subset of reports on evacuation discussed sociological barriers to evacuation, including evacuees refusing to relocate to certain areas of the country, effectively refusing aid offered by other states.<sup>22,23</sup> Reports in the most common subcategory, “evacuee services,” addressed the opening of shelters to evacuees in affected states or neighbor states, the isolation of evacuees suffering from norovirus infection in shelters, and the waiver of prescription drug requirements.

These reports also encompassed the shifting priorities of hurricane and flood evacuees, beginning with the acute needs for shelter, food, and emergency medical care,<sup>24–26</sup> to more attenuated needs, such as long-term housing, the provision of welfare

services, and the opening of schools to displaced students.<sup>27–29</sup> For example, a September 1, 2005, report addressed the need to send 50 000 more Louisiana residents to shelters in Texas, where some shelters already were full to capacity.<sup>30</sup> A September 23 report discussed efforts by the Federal Emergency Management Agency to provide trailers for displaced residents during a shortage of appropriate sites for trailer parks.<sup>31</sup>

Reports within the category “mobilizing professional resources” addressed the role of the military, coordination between federal and state governmental agencies, communication between government agencies, assistance from states under the Emergency Management Assistance Compact (EMAC), and the court system. Within this category, more than one half of the reports (125 [54.4%] of 230) examined the functioning of EMAC among the hurricane-affected requesting states and the responding states and especially aid sent by jurisdictions outside of the hurricane-affected areas.

Many volunteers deployed by their home states were able to provide help without complication.<sup>32,33</sup> However, for others, particularly medical volunteers, assistance was hindered by confusion about the potential for legal liability when licensed professionals from one state attempt to offer assistance in another state. Examples included constraints felt by medical professionals in Mississippi who attempted to aid victims but were

stopped by state officials because of licensure concerns<sup>34</sup> and a physician from out-of-state who was unable to write prescriptions because of Red Cross licensing concerns but who solved the problem by working with a local doctor who signed his prescriptions.<sup>35</sup> News reports also documented the problem of medical professionals who were not deployed by their home states (and, thus, were not covered by EMAC’s liability protections) or who otherwise faced licensing issues that prevented them from rendering aid in the Gulf states.<sup>36,37</sup>

News reports of mandatory evacuations and stay-away orders, primarily involving New Orleans, accounted for 50.8% of reports in the category “declaring emergency.” Because of the nature of the crisis in New Orleans in particular, with an initial event (Hurricane Katrina) being followed by a secondary event (breach of the levee system), mandatory evacuation orders were issued twice: before the hurricane’s landfall and after the flooding. Mandatory evacuation became a quandary for local officials after the flooding of New Orleans, when residents who survived the storm in their homes were asked to comply with the order. Although New Orleans officials directed National Guard troops to remove residents, they did so without using force, and some residents declined to leave, even in the face of the impending Hurricane Rita.<sup>38–40</sup>

Within the category “lessons and planning,” the subcategory of lessons learned in other



**TABLE 1—Public Health–Related Legal Categories and Issues Reported by the Media Following the 2005 Hurricane Disasters, by Jurisdiction: August 2005–February 2006**

Legal Issue	Alabama	Arkansas	New Orleans, La	Louisiana	Mississippi	Houston, Tex	Texas	Gulf Coast	All other jurisdictions	Total
<b>Protection of people (n = 471)</b>										
Evacuee services										
General	2	5	5	13	6	8	22	15	85	161
Electronic records	-	-	-	1	1	1	-	9	1	13
Health and safety	2	1	39	15	8	2	2	46	3	118
Evacuation										
General	1	-	33	4	2	7	14	10	2	73
Special populations	3	1	24	4	2	-	5	4	7	50
Pets	-	-	-	-	-	-	1	1	1	3
Crime, fraud, tracking sex offenders	-	-	14	6	1	1	-	1	7	30
Mortuary law and preparedness	-	-	6	8	2	-	-	2	-	18
Price gouging	-	-	-	-	-	-	-	-	5	5
<b>Mobilizing professional resources (n = 230)</b>										
Mutual aid: EMAC	3	-	-	7	2	-	1	12	100	125
Interjurisdictional coordination	-	-	7	1	3	1	1	31	16	60
Role of the military	-	-	6	1	-	-	2	2	9	20
Communication	-	-	5	1	2	-	-	5	3	16
Court system	-	-	6	2	-	-	-	1	-	9
<b>Declaration of emergency (n = 65)</b>										
Mandatory evacuation, stay-away orders	-	-	28	1	-	1	-	3	-	33
Emergency declarations, waivers, powers, orders	1	1	-	4	2	-	3	7	14	32
<b>Lessons and Planning (n = 64)</b>										
Lessons (including planned legislation)	-	-	4	1	2	1	2	2	48	60
Litigation	-	-	2	-	-	-	-	1	1	4
<b>Management of property (n = 17)</b>										
Property management, rights, clean-up	3	-	8	2	3	-	-	1	-	17
<b>Total</b>	<b>15</b>	<b>8</b>	<b>187</b>	<b>71</b>	<b>36</b>	<b>22</b>	<b>53</b>	<b>153</b>	<b>302</b>	<b>847</b>

Note. EMAC = Emergency Management Assistance Compact.

jurisdictions accounted for 48 (75%) of all reports and included such topics as new or proposed legislation, rules, procedures, and protocols. Because the intrastate, interstate, and federal responses to hurricanes Katrina and Rita were so well documented, jurisdictions outside of the affected areas were easily able to assess their own levels of emergency preparedness. After the disaster, many jurisdictions began reviewing and updating their own laws and

plans, including plans to evacuate vulnerable populations, such as nursing home residents,<sup>41</sup> and addressing the unexpected problem of people refusing to evacuate without their pets.<sup>42</sup> Many news reports highlighted efforts by state officials to review disaster preparedness plans.<sup>43–45</sup>

The category “property management, rights, and clean-up” represented 2% of the total sample, with reports focusing on property management issues that directly or potentially affected

the public’s health. These reports included documentation of a legal challenge by some homeowners, when New Orleans officials attempted to demolish homes deemed a threat to health and safety.<sup>46–48</sup>

### Interviews

Our interviews of state officials identified legal issues generally consistent with those identified by the news reports, as well as issues not extensively reported on by the news and practitioner

insights not covered in the press. Table 2 summarizes information obtained from the officials we interviewed, arranged to correspond with the main categories used in Table 1; the identifying information for the reporting jurisdiction has been removed. However, these practitioner data indicate a divergence on some legal and preparedness issues. For example, one official reported that “EMAC worked well and was of no concern,” whereas another indicated that “issues



**TABLE 2—Public Health–Related Legal Issues Identified During the 2005 Hurricane Disasters as Identified by Legal Counsel and Other Officials: October–December, 2005**

Major Category	Identified Legal and Emergency Preparedness–Related Issues
Protection of people	
Evacuee services	<ul style="list-style-type: none"> <li>• Disaster declarations in neighbor state complicated the process of housing Louisiana evacuees</li> <li>• Services coordinated by nongovernmental organizations and local health units</li> <li>• City, Red Cross, and county responsible for large public shelters</li> <li>• Although city does not provide WIC and or aid to families with dependent children, officials facilitated provision of federal services (including Federal Emergency Management Agency aid) to evacuees</li> </ul>
Health and safety	<ul style="list-style-type: none"> <li>• Governor issued Executive Order to allocate funds to buy pharmaceuticals</li> <li>• Pharmacies filled prescriptions without actual prescriptions or records and ones written by out-of-state doctors</li> </ul>
Evacuation: general	<ul style="list-style-type: none"> <li>• Access and availability of gasoline resources for evacuees must be identified before evacuation</li> <li>• Many residents had anxiety about housing evacuees from certain locations because of a belief they might be dangerous</li> </ul>
Evacuation: pets	<ul style="list-style-type: none"> <li>• Government liability when evacuees refuse to leave their pets</li> <li>• Jurisdiction provided shelter for 500 dogs of unknown vaccination status but had concerns regarding zoonotic disease and cotransportation and colocation with humans</li> </ul>
Mortuary law and preparedness	<ul style="list-style-type: none"> <li>• Pending bill would mandate state and local governments to prepare plans for sheltering dogs</li> <li>• Emergency planning law allows the state to take over the function of the coroner</li> <li>• Federal Emergency Management Agency Disaster Mortuary Operational Response Team wanted 1 point of contact in state and to establish 1 central morgue</li> <li>• Bodies floated out of mausoleums with storm surge</li> <li>• National news media request for global positioning system information on locations of human remains conflicted with state law requiring notification of next-of-kin first before releasing information to the public</li> </ul>
Mobilizing professional resources	
EMAC and mutual aid	<ul style="list-style-type: none"> <li>• Governor's state of emergency declaration meant credentialing requirements for health care workers were waived</li> <li>• Licensing boards handled issues, including the utilization of out-of-state licensed healthcare professionals</li> <li>• Physicians, emergency management technicians, and paramedics and organizations examining nursing model to develop mutual aid compacts</li> <li>• One jurisdiction used professionals with out-of-state licenses; another waived all licensing requirements</li> <li>• EMAC worked well—of no concern</li> <li>• Federal Emergency Management Agency and other federal agencies assisted with housing evacuees and medical care</li> <li>• Executive Orders were prepared ahead of time to allow out-of-state medical professionals to work in state</li> <li>• “Self-dispatched resources” expected the receiving jurisdictions to provide food, supplies, and housing</li> <li>• Questions about liability for health-care professionals were often answered by EMAC and state law, but a patchwork of regulations made answer to questions difficult in some cases</li> </ul>
Interjurisdictional coordination	<ul style="list-style-type: none"> <li>• Confusion about authority and hierarchy among Army National Guard, city police, and health departments posed issues at shelters</li> <li>• Coordination and communication with Federal Emergency Management Agency difficult because of differences in the assessment of urgent needs and incompatible technologies</li> <li>• Excellent coordination with DHHS and officials on location in hurricane-affected states</li> <li>• Officials in constant contact with state health officers in neighbor states</li> <li>• Mayor and county judge appeared at press conferences to show united front between jurisdictions</li> </ul>
Communication	<ul style="list-style-type: none"> <li>• Communication done well, despite breakdown of communication between 2 neighbor states</li> <li>• No working modes of communication for state officials, and no sharing of communication resources between Army and state</li> </ul>
Declaration of emergency	
Mandatory evacuation	<ul style="list-style-type: none"> <li>• Confusion over meaning and enforcement of mandatory evacuation</li> <li>• Confusion over the reason behind issuing “mandatory” evacuation without a means of enforcement</li> <li>• Licensed nursing homes required to evacuate</li> </ul>

*Continued*



TABLE 2—Continued

Public health emergency declaration	<ul style="list-style-type: none"> <li>• At least 1 jurisdiction had no mechanism for declaring public health emergency as required to trigger federal assistance</li> <li>• State health officer has no emergency powers, cannot issue waivers of hospital requirements, cannot waive rules requiring prescriptions for drugs, and so on</li> <li>• Health department made decisions without express authority</li> </ul>
Emergency waivers, powers, orders	<ul style="list-style-type: none"> <li>• When a resident refused to leave, officials sometimes procured necessary items for them such as generators or tents in any way they could</li> <li>• Health agency requested the governor to create a law appropriating money by emergency orders</li> <li>• Federal Emergency Medical Treatment and Active Labor Act waiver for 72 hours was too short for some jurisdictions; some hospitals were still not operational after 72 hours and 1 turned away an ambulance, in violation of federal law</li> </ul>
Past lessons and future planning	<ul style="list-style-type: none"> <li>• The jurisdiction learned that predisaster training and planning were effective, as were waivers issued ahead of the crisis.</li> <li>• Jurisdiction is currently working to create legislation to grant broad authority to the state to Health Officer to protect the public's health in the event of a declared emergency</li> <li>• Jurisdiction is working to create legislation to give local authority to waive rules without the Administrative Procedures Act</li> <li>• Legislation is being considered for licensing out-of-state medical professionals</li> </ul>
Management of property	<ul style="list-style-type: none"> <li>• The military cannot legally go onto private property to clean or remove debris</li> <li>• Health department allowed removal of debris on private property if debris could be considered public health hazard</li> <li>• Rule prohibiting county property from being taken onto private property waived for debris removal</li> <li>• Where officials were not specifically authorized to issue waivers, they did so on the basis of a cost/benefit analysis</li> <li>• Homeowners contacted when possible, but if it was necessary to remove debris without notice, officials indicated location of removed property on maps</li> </ul>

Note. EMAC = Emergency Management Assistance Compact; DHHS = Department of Health and Human Services; WIC = The Special Supplement Nutrition Program for Women, Infants, and Children.

came up under EMAC with regard to liability,” and a third noted, “We did not need mutual aid agreements” (Table 2).

Among the most salient issues not extensively reported in the media were specific issues related to mandatory evacuation orders. Although media reports covered problems associated with evacuation (e.g., gridlock and scarce resources), relatively few (33; 3.9%) covered the topic of mandatory evacuation. Some of the officials interviewed provided a firsthand perspective on the challenges of declaring such orders, noting a general misunderstanding of the term *evacuation*. For example, one interviewee stated that, “People don’t understand what it means to say we are going to evacuate. Does it mean patrols will come and enforce it and shoot if they have to? Does it

mean we suggest you get out?” The interviewees also indicated confusion over the meaning and enforcement of “mandatory evacuation” and raised questions about the use of issuing mandatory evacuation orders without a means of enforcement.

Related issues identified by the interviews were the reluctance of some people to leave their homes without their pets, complicating evacuation procedures, and concerns about government liability when such evacuees refused to leave, the potential difficulties associated with the co-transportation and colocation of people and animals in shelters, epizootic and zoonotic diseases, and the handling of exotic animals. Two officials stated that their jurisdictions would examine a legal or planning solution for the evacuation of pets.

## DISCUSSION

Our findings illustrate how the core principles of public health surveillance can be adapted when conducting real-time monitoring to provide timely characterization of public health–related legal issues arising during disasters and other acute public health events. Surveillance for public health–related legal issues during the hurricane disasters of 2005 identified 5 categories of legal issues that challenged public health, emergency management, and other community sectors. These categories tracked and reflected the temporal phases of progression of the disasters, including the requirements to declare emergencies (preparation phase); protect people (acute event); mobilize professional resources (acute event

and immediate aftermath); address property management, rights, and clean-up (immediate aftermath); and apply lessons learned through planning for the future (postevent evaluation). These public health– and disaster-related legal issues have not been comprehensively addressed in previous reports examining public health emergency or disaster epidemiology.

Our surveillance identified the enforcement of mandatory evacuation orders as a particularly salient and challenging legal issue that contributed to a cascade of complications in the public health and emergency response efforts in the Gulf region. Of the final death toll for Hurricanes Katrina and Rita, including 1464 deaths in Louisiana,<sup>49</sup> the majority of fatalities involved persons who did not or could not



evacuate ahead of the storms or flooding, underscoring the importance of evacuation efforts.<sup>50</sup>

Only jurisdictions in Mississippi and Louisiana issued mandatory evacuation orders during the hurricanes.<sup>51</sup> One important practical issue that we identified concerned enforcement of mandatory evacuation orders, which illustrated the difficulty of implementing emergency laws. Because of limitations in the power of tabletop exercises and other simulations to predict legal and operational issues that will arise in an actual event, the 2005 hurricane disasters were highly instructive for planners and lawmakers. The consequences for population groups that failed or were unable to follow evacuation orders had never been so devastating and widespread. Thus, the findings of our study highlight the possible need for clarity in enforcement and implementation mechanisms in some jurisdictions, as well as the need for consideration of liability issues and constitutional protections associated with evacuation.

Our findings also indicate that the reluctance of some persons to comply with evacuation orders because they had pets was an unforeseen sociological aspect of evacuation. Interviewed officials had not faced an evacuation of this magnitude previously, and the decision of many people to remain in harm's way rather than move to safety without their pets was unanticipated. Thus, this disaster illustrated the importance of including pets in evacuation plans to prevent the loss of human life. Legislation to address

the issue has been enacted by legislatures or enacted in many jurisdictions.<sup>52</sup> Another sociological impediment to evacuation procedures was the reluctance of some communities to accept evacuees from perceived high crime areas and the reluctance of evacuees to be relocated to places too distant or different from the places that they had vacated. Emergency planners might consider the impact of these issues on the efficiency of the evacuation process and incorporate these sociological concerns and factors into planning efforts.

Issues involving mutual aid and licensing were the second most common topic identified by this surveillance effort. EMAC is a congressionally ratified mutual aid agreement and partnership that enables a disaster-affected state to request and receive timely assistance from other member states.<sup>53</sup> EMAC addresses important issues involved in mutual aid situations, including liability, reimbursement, and professional licensing. Before Hurricanes Katrina and Rita, most disaster-response efforts in the United States focused on a locus of need confined to 1 state or city. By contrast, the scope of this disaster was such that multiple jurisdictions required aid and many rendered aid, with the consequent implication of many laws and agreements. In most of the affected jurisdictions, EMAC appeared either to work well or did not present any major problems.

The interviewed state officials also indicated concern about the issues of licensing, credentialing, and privileging medical

professionals. Most reported that emergency orders gave them authority to waive credentialing requirements to a great extent, and most deferred to licensing boards to handle licensing issues. In 2 jurisdictions, state nursing boards had in place an effective system for temporary licensing procedures. One official suggested a national licensing database as a possible solution to enable medical and other professionals to work in other states as needed. Officials in some states reported working to address and clarify these issues through legislation. The Health Resources and Services Administration, with research assistance from the Center for Law and the Public's Health at Georgetown and Johns Hopkins University, also is working to establish the Emergency System for Advance Registration of Volunteer Health Professionals in all 50 states.<sup>54</sup>

After the hurricane disasters, reports analyzing the effectiveness of federal, state, and local emergency preparedness planning efforts were issued by several key organizations and entities, including the American Bar Association Hurricane Katrina Task Force Subcommittee,<sup>55</sup> the National Governors Association Center for Best Practices,<sup>56</sup> and the Congressional Research Service,<sup>57</sup> an arm of the Library of Congress. The American Bar Association report, which was not derived from analysis of unfolding or real-time data, examined disaster planning in relation to several component parts (e.g., federalism and constitutional

challenges; state, local, and first responder issues; *posse comitatus* (the persons on whom a peace officer is empowered to call for assistance in enforcing laws and keeping peace) and military involvement; and private-sector integration). The American Bar Association also reviewed the applicability of laws and regulations to the federal, state, and local response to the disaster, including, for example, federal authority to facilitate the use of the military in relief efforts and authority actually used in New Orleans in the hurricane's immediate aftermath.<sup>58</sup> News articles helped to inform the analysis but were not collected in real-time or by prospective design.

The National Governors Association's issue brief, which examined the EMAC system and associated legal issues (e.g., license and credential portability),<sup>59</sup> did not use specific examples from the Gulf states. The Congressional Research Service comprehensive report, titled "2005 Gulf Coast Hurricanes: The Public Health and Medical Response," drew from some news stories to describe the implication of legal issues during disasters but was not derived primarily from a prospective surveillance system.<sup>60</sup> Finally, other organizations reported on federal and state authorities for emergency declarations and ensuing state actions.<sup>61–64</sup>

Although our surveillance effort identified a spectrum of legal issues relevant to public health emergency planning, the findings are subject to at least 3 limitations. First, we relied primarily



on published news media reports, which are likely to focus on major story topics rather than on potentially important nuances. Second, and related, many of the news items were published at the height of the disasters' immediate aftermath and may have reflected some degree of sensationalism. Finally, interviews with officials in the affected areas were conducted largely at a time when some still were involved actively in response efforts and may not have been able to identify or assess legal issues in the total public health emergency preparedness context.

We have described the CDC's implementation of prospective, news report–based surveillance of public health–related legal issues associated with the 2005 hurricane disasters. Monitoring and assessment of public health aspects of previous emergencies have, in general, made only limited use of information presented in news reports. Analyses that have used news coverage have tended to focus on the coverage itself and examined the role of the media in preparing the public for or mitigating the effects of a disaster (e.g., the relationship between type of disaster and the portrayal and coverage of the disaster's victims).<sup>65–68</sup> Our surveillance effort identified specific legal issues requiring further analysis including, and especially issues related to, evacuation and mutual aid, where uncertainty about procedures is of concern to some policymakers and their legal counsel. The approach used for this surveillance effort, as well as many of the key findings,

should be useful in informing public health officials, emergency management agencies, policymakers and lawmakers, and others with responsibilities for preparedness for public health emergencies. ■

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**Note.** *The findings and conclusions in this report are those of the authors and do not necessarily represent the views of the Centers for Disease Control and Prevention.*

*The article is not intended to provide a legal interpretation or opinion about individual state statutes or regulations, nor does it constitute legal advice. Readers who seek legal interpretation or advice on state or local law should consult a qualified attorney in the relevant jurisdiction.*

### Contributors

R.I. Weiss assisted with data collection and led the writing. K.L. McKie assisted with data collection and writing. R.A. Goodman originated the study and supervised all aspects of its implementation.

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