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# The Transformation That Fell Short

## Bush, Federalism, and Emergency Management

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The normal tendency of federal-state relations in the United States is toward centralization. Without actually displacing state governments, the federal government increasingly regulates or preempts, as well as aids with grants, what they do. Sometimes this process advances gradually and imperceptibly, but at other times there are large leaps in relatively short spans of time. The most radical, clearly, was the Civil War, with ensuing constitutional amendments, of which the Fourteenth would prove most momentous. Another leap took place in the 1960s, with the arrival of the civil rights movement and numerous laws and judicial acts, above all the Civil Rights Act of 1964 and the Supreme Court decisions that enforced school desegregation, together constituting the Second Reconstruction. The precedents set in the field of civil rights at this time opened the way to much enlarged federal interventions in other policy areas, notably including environmental protection and social regulation. Large leaps may be called “transformations” insofar as they revise the norms or long-standing practices and understandings of intergovernmental relations. They do not abolish state governments, which, being constitutionally protected (the very definition of federalism), resist abolition. But they significantly alter the terms on which the governments of the federal system interact.

1 The author thanks John Dinan, Michael Jackson, Richard Nathan, Patrick Roberts, and Carol Weissert for their help.

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The administration of President George W. Bush (2001-2008) had considerable potential for being a time of transformation, both because of the nature of the president and his presidency, including his well-advertised aversion to “small-ball,” and because of the twin tragedies of the terrorist attacks of 9/11 and Hurricane Katrina, which would have impelled even a timid administration toward strong centralizing initiatives. The Bush administration was not timid. In defense of the country, the presidency, and an incumbent wounded by a flawed response to Katrina, it heralded a transformation in the field of emergency management.

I will argue that at least in this one important area of public policy, a conventional federalism has survived the test of an aggressive presidency and the tragedies of its time. I will not attempt a more comprehensive analysis of the impact of the Bush presidency on federalism, which would have to include the president’s principal domestic achievement, the enactment of No Child Left Behind.<sup>2</sup> Nor will I explore why a Congress that was often criticized as supine in foreign affairs, national defense, and intelligence was more assertive here.

The emergency management regime that Bush inherited when he took office in January 2001 consisted of two parts — a civilian core and a military periphery. The actions of the administration between 2001 and 2006 undermined the core and pushed the military away from the periphery toward the core. Both thrusts were centralizing, and could have been transformative if they had endured. As of 2008, as the Bush administration was leaving office, it seemed clear that both had been moderated and even in some respects thwarted.

### **The Civilian Core**

The civilian core was half a century old in 2001. It dated from the Disaster Relief Act of 1950, P. L. 81-875. Prior to that time, Congress or the president had responded to domestic emergencies ad hoc, although some laws had authorized individual federal agencies to provide disaster relief. For example, in 1934 the Bureau of Public Roads was given authority to provide funding for highways and bridges damaged by natural disasters (FEMA 2007; May 1985, 20-22). The law of 1950 replaced ad hoc responses with a statutory procedure. The president was given authority to declare disasters, from which followed federal aid to the affected state and local governments. The resulting regime conformed to the dominant paradigm of intergovernmental relations in the United States. It was a regime of federal grant-giving, in which politicians in the national government benefitted from the giving and those at the state and local level benefitted from the receiving. Over half a century, it would mature as a deeply embedded case of goal displacement. Washington learned to ask first, not “Can

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2 For studies of Bush and federalism, see a special issue of *Publius*, 37, no. 3 (summer 2007).

we save lives?" or "How can we minimize suffering?" but "How quickly can we promise funds?" It is unsurprising that when the Bush administration was charged with failing to be sufficiently alert to Katrina, it replied that it had been unusually quick to declare an emergency, which made state and local governments eligible for aid (White House 2006, 27).

Like most such regimes, this one grew. Congress passed major disaster relief laws in 1969, 1974, 1988, and 2000, often in response to a major event. Thus, the act of 1969 followed Hurricane Camille and the 1974 act followed Hurricane Agnes (1972) and a series of tornadoes that struck six Midwestern states. Between major acts, it passed numerous lesser ones that incrementally expanded disaster relief programs (May 1985, 22-27). Whereas money initially went only to state and local governments, later it would go to individuals and households and some nonprofit organizations. (Small businesses and farmers are aided separately, with responsibility for the administration lodged in the Small Business Administration and Farm Service Agency.) Aid for individuals and households extends quite broadly, to include: temporary housing, repairs, replacement, permanent housing construction, medical, dental and funeral expenses, personal property and transportation, crisis counseling, disaster unemployment assistance, legal services, and case management assistance. And these are just the types of assistance administered by FEMA. Other kinds, such as food coupons and commodities, may be available from the Department of Agriculture, for example.

Whereas disasters were initially defined strictly, here too the categories grew to include snowstorms as well as floods, fires, and hurricanes, and even the influx of Cuban refugees. But perhaps the most obvious indicator of growth was the rising number of declarations.<sup>3</sup> Whereas President Eisenhower in eight years declared 106 disasters, President Clinton declared 379, including a record-setting 75 in the election year of 1996 (FEMA 2009). Spending also rose, of course — from \$816 million in 1974 to \$4.5 billion in 1994, in constant dollars. Whereas the Reagan administration in eight years spent \$3,079,000,000 in disaster relief funds, the Clinton administration spent eight times that amount — \$24,513,000,000 (Bea 2005).

At the request of state officials, who in 1974 organized as the National Emergency Management Association (NEMA), a single federal agency — the Federal Emergency Management Agency (FEMA) — emerged as the critical organization in this regime.

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3 Since 1988 the law has distinguished between "emergencies" and "major disasters." The former designation permits a limited amount of aid (\$5 million per declaration as of 2005) for a limited range of activities. The latter is much broader and the expenditure is not capped. Major disaster declarations have far exceeded emergencies except that in 2005, following Katrina. President Bush used emergency declarations to aid states that received evacuees, causing their number to rise sharply. Nearly all states qualified.

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This was a reversal of the usual pattern, according to which in the early years of grant programs Congress required state governments to create “single state agencies” to improve accountability. State officials hoped for greater responsiveness and accountability with one federal agency, and President Carter in 1979 gave them FEMA with a reorganization plan and then an executive order. Functions were lodged in FEMA that had previously been dispersed among a large number of federal executive agencies.

Although this regime grew, it did not thrive until the 1990s. As long as the Cold War lasted, it was hampered by tension between civil defense and natural disasters as objects of preparedness. Moreover, as a coordinator of other federal agencies during emergencies, FEMA had a very hard job, and natural disasters invariably left in their wake not just the debris of the disaster itself but a trail of acerbic comments by local officials and disappointed members of Congress. “They were more concerned with scoring well on agency performance reviews than on meeting the needs of suffering individuals,” Representative Tom Ridge of Pennsylvania said in 1988, recalling a tornado that killed 65 residents of his state in 1985 (Congressional Quarterly 1990, 495). After Hurricane Hugo in 1989, Senator Ernest Hollings of South Carolina pronounced FEMA “the sorriest bunch of bureaucratic jackasses [he’d] ever known.” Three days after Hurricane Andrew hit South Florida in 1992, the Dade County Director of Emergency Preparedness held a press conference to ask: “Where the hell is the cavalry on this one? We need food. We need water. We need people. For God’s sake, where are they?” Rather than leave his FEMA director in charge, the elder George Bush quickly cast him aside and replaced him with Secretary of Transportation Andrew Card (Roberts 2006, 65).

Emergency managers now look back on the Clinton presidency as years of fame and glory. The validity of this rosy view is open to challenge. In 2007 the Bush administration’s undersecretary of Homeland Security, Michael P. Jackson, told the Congress:

After considerable review, and with experience working for three Presidents, I have personally concluded that FEMA has for decades been inadequately staffed and not properly structured to respond to a truly catastrophic emergency. Our recent failures had, in short, a long incubation. Indeed, it is a delusion to think that FEMA ever had a “Camelot Era” in which it was structured to succeed with regard to events of the magnitude of Katrina (Jackson 2007).

Nevertheless, it is true that FEMA underwent an improvement at least in morale and reputation during the Clinton presidency and a subsequent decline in the early years of the Bush presidency. The credit for the improvement generally goes to James Lee Witt, who was Clinton’s FEMA director and an exceptionally skillful leader. Gifted both as a politician and an administrator, Witt was granted cabinet status and enjoyed good relations

with staff members, state and local officials, and members of Congress (Khademian 2002). The White House allowed him to influence the choice of his own subordinates, which resulted in the selection of more than the usual number of appointees with emergency management experience, as distinct from patronage appointments (Lewis 2008, 153). In Congressional testimony, he promoted mitigation grants — prophylactic grants, for such purposes as hardening buildings and removing people from flood plains — as the cornerstone of emergency management, which considerably enlarged the potential for grant giving. Congress responded with amendments in 2000 that offered more generous aid to states that “enhanced” their emergency planning with an increased commitment to mitigation (Cooper and Block 2006, 59-70; FEMA 2007).

Witt also achieved more speed than his predecessors in distributing money. FEMA used its discretion boldly in the Witt years. In testimony before Congress in 2007, a veteran of Witt’s FEMA — who later became a vice president and partner in his private consulting firm on emergency management — recalled with pride the aggressiveness with which the agency interpreted the law. He claimed that FEMA after Katrina was assuming that nothing could be done that was not specifically authorized, whereas the FEMA that he served had been prepared to do whatever seemed desirable if it was not explicitly prohibited (Merritt 2007).

Witt’s FEMA was helped also by the fact that the end of the Cold War temporarily put an end to the persistent tension between civil defense and disaster relief, and still more fortuitously by the fact that after Andrew, the 1990s saw no devastating hurricane — no Camille, no Katrina. The biggest disasters were a snowstorm in New England in 1993, a major flood in the Midwest in 1993, and an earthquake at Northridge, CA, in 1994. Finally, this was a time of spreading professionalism. In the 1980s, FEMA began cultivating relations with graduate schools of public affairs and administration, and in 1995 it established a higher education project to foster college and university programs for training emergency managers. An intergovernmental bond of shared professional identity and experience, which is characteristic of grant regimes, thus took root in emergency management, providing a foundation broader than narrow self-interest (Bonser 1988, vii-viii; Roberts 2006, 65-67). Although Witt had been Clinton’s director of emergency management in Arkansas, it would be a stretch to say that he otherwise brought professional credentials to the job. A high school dropout, he began as a building contractor and went into politics as the elected judge (chief executive) of Yell County, Arkansas. He was no less political than Bush’s FEMA directors, but, having far more skill than the ill-fated Michael Brown, who headed FEMA when Katrina struck, he was not called a hack. Under Witt’s leadership, FEMA ceased to be a congressional punching bag and was instead embraced as a political asset.

The Reagan administration had attempted to apply a brake on the growth of disaster relief. Under Reagan, the upward trend in disaster declarations was temporarily interrupted (Sylvester 2007, 124), and beginning in 1981 the administration required a 25 percent state and local matching share in what had been a more generous federal grant. Even before Reagan's arrival, FEMA had instituted 75-25 sharing in 1980 in negotiations with Washington State following the eruption of Mount Saint Helens (May 1985, 77). Also during the 1980s, a Republican Senate expressed concern about the use of disaster authority for responding to emergencies that were not "natural," such as an influx of Cuban refugees, and this gave impetus to major amendments in 1988 (FEMA 2007). The Robert T. Stafford Disaster Relief and Emergency Assistance Act, which passed then, clarified the categories of disaster and disaster aid. It is often regarded as the statutory foundation of today's regime, and it solidified the underlying principle: grants-in-aid from the federal government to state and local governments.

The incoming Republicans of 2001, who at the time professed fiscal responsibility, may well have viewed Clinton's FEMA with a jaundiced eye for the spending, which journalists and scholars alike had recognized to be political in the sense that it sought to cultivate electoral support (Roberts 2006, 71-72). However, there is no reason to suppose that they intended to do away with it. Bush in his first year in office declared exactly the same number of disasters, 45, as Clinton had declared in his last year. And Bush's disaster declarations bore the same patina of pork. They were accompanied by White House press releases that named the beneficiaries. For example, very early in his administration, President Bush issued an emergency declaration for a snowstorm in Maine that made the counties of Cumberland, Lincoln, Sagadahoc, and York eligible for federal funds. Shortly thereafter, he added the counties of Androscoggin and Oxford (White House 2001). The following month, he found that a major disaster existed in Kansas as a result of severe storms, hail, flooding, and tornadoes. Affected individuals and local governments in Barton County became eligible for federal funds, and were advised to call a toll-free number that would be open from 8 A.M. to 6 P.M. for seven days a week until further notice (White House 2001).

Bush's first FEMA director was not an inferior appointment, even if not a professional emergency manager. He was Joe M. Allbaugh, who had run Bush's successful campaigns for governor and president, and had been his chief of staff in Texas. The press viewed him as one of a troika, along with Karl Rove and Karen Hughes, upon whom Bush depended. Whereas Witt was smooth and charming, Allbaugh was abrasive, which may have been a drawback but Allbaugh equally enjoyed access to his president. FEMA's performance in the attacks of 9/11 was judged favorably, nor was it much criticized during a series of four hurricanes in Florida in August and September 2004 (Lewis 2008; Harrahd, 160-161, 174-175). But by 2004-05, the middle of the Bush

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administration, it was “in a steep and obvious death spin” after having been folded into the Department of Homeland Security (DHS), newly created with the primary mission of preventing terrorism (Cooper and Block 2006, 91; U.S. Senate 2006, 211-231; Lewis 2008, 157-165). Allbaugh quit and was succeeded by Brown, who was not quite as feckless as he was later made to seem, but certainly was a maladroit infighter on FEMA’s behalf as the reorganization proceeded. He had poor relations with both secretaries of DHS, Tom Ridge and Michael Chertoff, and lost one fight after another. In the reorganization, FEMA lost nearly everything but its name. It lost appropriations, responsibility for preparedness (as distinct from response and recovery), much of its grant jurisdiction, morale, experienced personnel, and direct access to the president. The agency became “a shell of its former self,” Oklahoma’s director of emergency management told Congress in October 2005. It was “emaciated and anemic,” unable to compete with the private sector for emergency management expertise, with all but one of its ten regional offices led by acting directors (Ashwood 2005).

In addition to this battering of FEMA — and therefore also the intergovernmental regime of which it had only recently emerged as a valued part — Bush’s revision of federalism after 9/11 stemmed from the administration’s unusually ambitious effort at central planning. Following Hurricane Hugo in 1989, FEMA had mounted a major effort that culminated in the Federal Response Plan, a signed agreement among twenty-six federal government departments and agencies along with the American Red Cross, that was intended to be the instrument for coordinating delivery of federal assistance to state and local governments in a disaster. It was supplemented by regional plans. A terrorism incident annex was added in 1997, and an updating occurred in 1999 (Sylves and Cumming 2004, 15). This was the plan in effect when the terrorist attacks of 9/11 took place.

The Bush administration, with prompting from the 9/11 commission and Congress, attempted something far more comprehensive and ambitious. In February 2003, following enactment of the Homeland Security Act of 2002, the president issued the fifth in a new series of presidential Homeland Security Directives, later to have a companion in directive number 8. Bush instructed the new Department of Homeland Security to “create a single comprehensive approach to domestic incident management.” It should prepare a National Response Plan (NRP), as opposed to the Federal Response Plan “to integrate federal domestic prevention, preparedness, response, and recovery plans into one all-discipline, all-hazards plan” (Department of Homeland Security, 2004a). In other words, the plan was to cover every type of response to every type of disastrous event. Moreover, it was to embrace all governments in the United States, not just the federal government. DHS set to work immediately on this project. The tension that had existed between civil defense and natural disasters during the

Cold War returned, except that civil defense was now called homeland security and the fear of nuclear attack from the Soviet Union had been superseded by a fear of terrorism from rogue states or Islamic extremists.

DHS began by contracting work on the NRP to the Rand Corporation, a West Coast think tank with a long history of work on military subjects but none on domestic emergency management. The language favored by the administration had a military tone, and within DHS one of the leaders of the planning group was Major General Bruce Lawlor, Secretary Ridge's chief of staff, who previously had been commanding general of a joint military task force for civilian support.

A first draft of the NRP was circulated to state and local officials in May 2003, and elicited sharp criticism. Not only was it difficult to follow, but they felt it ignored the role of local responders and put the federal government in charge of everything (Cooper and Block 2006, 82). In response, Ridge brought planning back into the department and put a retired Air Force colonel, Robert Stephan, in charge. Subsequent versions, by acknowledging the role of state and local governments, became acceptable to them as a compromise. DHS promised that the NRP would constitute a "single, focused, universally understood strategy" and would "greatly accelerate the delivery of critical federal assistance to domestic venues suffering from a mass casualty/mass evacuation incident" (Department of Homeland Security 2004b). It gave the DHS broad authority to respond to catastrophes without waiting for state and local governments to ask for assistance (Sylves 2006, 37).

Approved by federal agency heads in December 2004 and presented to the public by Ridge in January, the NRP was very difficult to comprehend. It consisted of a base plan of 62 pages and six appendixes, fifteen emergency support function annexes, nine support annexes, and seven incident annexes. Here is a sample of NRP prose, drawn from a quick reference guide:

Unified Command is an application of the NIMS/Incident Command System (ICS) used when there is more than one agency with incident jurisdiction or when incidents cross political jurisdictions. Agencies work together through the designated members of the Unified Command to establish their designated Incident Commanders at a single Incident Command Post (ICP). In the Unified Command, entities develop a common set of objectives and strategies which provides the basis for a single Incident Action Plan (IAP). The structure for NRP coordination is based on the NIMS construct: ICS/Unified Command on-scene supported by an Area Command (if needed) and multiagency coordination entities. The Joint Field Office (JFO) provides resources in support of the Unified Command and Incident Command Post(s). (U.S. Department of Homeland Security 2006, 5)



The NRP, as an executive document, could not amend or repeal the Stafford Act, but became a deeply confusing overlay of it. To the several different categories of presidential declarations defined by law, the NRP now added another, an Incident of National Significance (INS), and explained that while all presidentially declared disasters and emergencies under the Stafford Act were considered Incidents of National Significance, not all Incidents of National Significance would necessarily result in disaster or emergency declarations under the Act. The NRP stipulated that the secretary of homeland security would declare an INS, in consultation with other departments and the White House, and would manage the federal government's response (U.S. Department of Homeland Security 2004c, 4-7).

Another complicating feature was that the secretary of homeland security, who was designated by presidential directive as the Principal Federal Official (PFO) for domestic incident management, could in turn name someone else to hold that position as his representative and coordinate federal incident management and assistance "across the spectrum of prevention, preparedness, response, and recovery." It was unclear how this official would relate to the Federal Coordinating Officer (FCO), who had existed by law since 1969 and would continue to manage and coordinate federal "resource support activities" related to the Stafford Act (U.S. Department of Homeland Security 2004c, 33-34).

The NRP formally went into effect in April 2005, four months before Katrina, which was its first serious test.

### The Military Periphery

After Katrina, a second phase of Bush's revision of federalism and emergency management emerged. The first phase was the post-9/11 downgrading of the conventionally collaborative, FEMA-centered, grant-dispensing civilian core, which I just described. The second phase was the push of military force from the periphery toward the core.

American federalism — indeed, American democracy — has long been characterized by strong inhibitions against use of national armed forces for domestic purposes (leaving aside the Civil War, and related events immediately before and after it). The inhibition can be seen in disaster assistance legislation, which provides that upon request from the governor of an affected state, the president may authorize the Department of Defense to carry out emergency work for a period not to exceed ten days. Such emergency work is limited to essential preservation of life and property (Bea 2005, 2).

More generally, the inhibition is rooted in English precedents that go all the way back to the Magna Carta. In the United States, it has been embodied in the Posse Comitatus Act, which in 1878 prohibited use of the Army for domestic law enforcement. The Insurrection Act of 1871 has been an exception. Designed to protect the constitutional rights of freed slaves, it authorized the

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president to mobilize the National Guard and regular army for domestic law enforcement in case of “insurrection, domestic violence, unlawful combination, or conspiracy.” It rarely has been used, although the president’s father, George H. W. Bush, used it twice in his one term as president — first in response to looting in St. Croix, Virgin Islands, during Hurricane Hugo in 1989, and then in riots in Los Angeles in 1992 (Elsea 2006, 3). But for the most part, local police, state troopers, or the National Guard under command of the governors have been used.

Students of the Posse Comitatus Act have often concluded that it has been honored in the breach. Congress can, and does, enact exceptions such as that found in the Stafford Act (Young 2003; Trebilcock 2000). Nevertheless, a review of the major natural disasters in American history — the Johnstown flood of 1889, the Galveston hurricane of 1900, the San Francisco earthquake and fire of 1906, the Florida hurricanes of the late 1920s, the flood of the Mississippi Delta in 1927, the New England hurricane of 1938 — shows scant evidence of the use of federal troops to maintain order, as distinct from providing supplies, staging rescues, or clearing debris. The leading exception would be San Francisco, where the Army had troops based at the Presidio, with a detachment at Fort Mason. Their deputy commander, Brigadier General Frederick Funston, witnessed the earthquake, and promptly sent written orders to his senior commanders to “Immediately send all available troops at your disposal to the Hall of Justice [city hall having been ruined], and make them at the disposal of the mayor and of the chief of police” (Winchester 2005, 304-07). Given the wording of this order, which subordinated the federal troops to local authority, this either is no exception or an exception that dramatically proves the rule.

In the aftermath of Katrina, the Bush administration acted in several ways to revise the norm against use of the military to maintain order in domestic emergencies, beginning with what the president said in a speech to the nation in mid-September 2005, soon after the event: “It is now clear that a challenge on this scale requires greater federal authority and a broader role for the armed forces . . .” (White House, 2005). Two weeks later, following visits to Northern Command headquarters in Colorado Springs and Randolph Air Force Base in San Antonio, the president remarked that Congress needed to consider whether the Defense Department should be the lead agency in responding, not just to terrorist attacks, but also to extreme natural disasters (VandeHei and White 2005).

Consistent with such statements from the chief executive, the federal government acted aggressively in the two hurricanes, Rita and Wilma, that followed Katrina in 2005. It sought to take charge with military task forces, and it sent DHS employees into the states without advice, consultation, or requests from state officials (Block and Schatz 2005).

In February 2006, the report issued by the White House to draw lessons from Katrina concluded that the nation's approach to homeland security should take as a model its approach to national security, which was a military model. It should emulate construction of the institutions that began with the National Security Act of 1947 and included creation of the Department of Defense, the Office of the Secretary of Defense, the Joint Chiefs of Staff, the National Security Council, and the Central Intelligence Agency. "The lessons of the national security system's evolution will help us to transform our five-year-old homeland security system," it said. Specifically from Katrina, the report deduced seventeen lessons, among which was that "the Department of Defense should ensure the transformation of the National Guard is focused on increased integration with active duty forces for homeland security plans and activities." The implication of this was that the National Guard, a joint federal-state force that is normally under command of the governors, should be federalized for use in domestic emergencies, which indeed turned out to be the administration's intention (White House 2006, 67, 94).

Late in 2006, the administration achieved a highly consequential change in law through a rider attached to the Defense Authorization Act for Fiscal Year 2007. This change renamed the Insurrection Act to be an act for "Enforcement of the Laws to Restore Public Order" and extended the president's authority to call up the National Guard to cases of "natural disaster, epidemic, or other serious public health emergency, terrorist attack or incident, or other condition." This essentially removed any limitation to the power. The nation's governors protested unanimously, in a letter that was the work largely of a Republican, Mike Huckabee of Arkansas, who in 2008 would emerge as a candidate for the Republican presidential nomination (Steinhauer 2006). As two congressional critics, Senators Patrick Leahy and Christopher Bond, pointed out, this was a constitutional change that replaced a presumption against invoking federal martial law with a presumption for domestic use of the military (Leahy and Bond 2006). Had it preceded Katrina, Bush presumably would have called the National Guard in Louisiana and Mississippi into federal service, as he tried but failed to do because both governors denied permission.

This march to transformation, heralded in these several ways, had by the closing months of the Bush administration stopped considerably short of its destination.

### The Pushback

In this section, I locate specific sources of opposition to the administration's initiatives, but it is important as well to acknowledge a want of robust support in the society. The push for transformation originated in a willful and frightened presidency that had been galvanized by two external shocks. Grave as they were, these shocks did not generate a popular demand for giving

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the national government a greater role in managing domestic emergencies.

Soon after Katrina, polls asked respondents to evaluate the response of the different levels of government to the catastrophe. They gave slightly better ratings to state and local governments than to the federal government. Whereas 51 percent rated the performance of state and local governments in Louisiana and Mississippi only fair or poor, even more (58 percent) gave that rating to the federal government (Pew Research Center, 2005).<sup>4</sup>

I know of no poll data that tested the public's desire to be subjected to a more frequent and unpredictable use of martial law by presidents, but Bush's suggestion of a larger role for the military was not well received in the House of Representatives. In a hearing in early November 2005 on the role of the military and National Guard in disaster response, the Republican chairman of the subcommittee on emergency preparedness, science, and technology of the Committee on Homeland Security inveighed against a larger military role. Speaking from experience as the former sheriff of King County in Washington State, he cited constitutional, legal, and practical constraints, and he was joined by the ranking minority member, who called the suggestion of a larger military role "misplaced and ill-advised" (U.S. Congress, House of Representatives 2005, 2-4).

It is of course true that after the terrorist attacks Congress joined initially in an effort to create a new regime of homeland security by passing the Patriot Act, which made legal changes to facilitate resistance to terrorism, and creating the Department of Homeland Security, which gathered more than twenty existing federal agencies under a new umbrella. One scholar has counted 26 new antiterrorist acts that passed Congress between September 2001 and December 2004 (Birkland 2006, 52). However, the second shock — Katrina — caused Congress to take a highly critical look at the DHS (Starks 2006) and diminished respect for the Bush administration even among its own members (McClellan 2008, 271-91). Not altogether fairly, Katrina became a symbol of the president's lack of competence, and hence was a weak foundation on which to argue for greater centralization. Only in regard to *financing* the recovery, both in New York after 9/11 and in the Gulf Coast after Katrina, was there a demand for a bigger than ever federal role.

Resistance to the Bush administration's initiatives occurred on several fronts. One of the earliest and most vociferous critics was the president's younger brother Jeb, who as governor of Florida had ample experience of hurricanes. Florida had been hit by several in 2004. In Congressional testimony and an op-ed essay in the *Washington Post*, Jeb Bush protested that centralizing management of catastrophic events would itself be a disaster: "The current

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4 For extended analyses, see the special issue of *Publius*, "Attribution of Governmental Blame in Times of Disaster," 38, no. 4 (fall 2008).

system works when everyone understands, accepts, and is willing to fulfill their responsibilities ... the bottom-up approach yields the best results," he argued (U.S. Congress, House of Representatives 2005b, 18-30).

Jeb Bush's actions as governor matched his words as a witness before Congress. When the commander of the U.S. Fifth Army at Fort Sam Houston in Texas told the commander of Florida's National Guard that he intended to fly in equipment ahead of Wilma, which followed Katrina in the hurricane season of 2005, the governor called Secretary of Homeland Security Chertoff to say that the federal government's actions were insulting to him personally, to Florida's widely respected director of emergency management, Craig Fugate, and to all of the citizens of Florida. Florida prevailed in this confrontation. Three days before landfall, Fugate announced creation of the Wilma Command — a "unified incident command" that met the paper requirements of homeland security — with Governor Bush as its commander. The Fifth Army did not send troops or equipment, and no military task force was created (Block and Schatz 2005).

A second scene of pushback was Congress as it considered how to respond to the federal government's poor performance in Katrina. When Katrina struck and the future of FEMA became an issue, Congress, rather than savaging a vulnerable agency, stepped up as its patron and protector. Initially unsure whether to abolish FEMA or embrace it — and whether, if the choice were embrace, to remove the agency from the Department of Homeland Security — Congress ended by giving it greater authority and autonomy within the department (Yoest 2006, 3355).

Congress's choices were contained in Title VI of the Homeland Security appropriations act for 2007, which was enacted in October 2006 and entitled the Post-Katrina Emergency Management Reform Act (U.S. Congress, House of Representatives 2006). The critical provisions were that FEMA should be maintained as a distinct entity within DHS, with the primary mission of "leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation." Thus, preparedness was restored to FEMA, and with it the Office of Grants and Training that had been lodged in DHS's Preparedness Directorate, independent of FEMA.

In a rebuke to the administration's choice of the ill-prepared Michael Brown to head FEMA, the act prescribed qualifications for the FEMA director, who "shall be appointed ... from among individuals who have ... a demonstrated ability and knowledge of emergency management ... and not less than 5 years of executive leadership and management experience in the public or private sector." He or she was to be the principal adviser to the president and the secretary of homeland security for all matters relating to emergency management, prepare the budget for them, which was to be submitted directly to the president, and direct and supervise homeland security grant programs. Congress limited the

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**All of this constituted a strenuous effort to put the Humpty Dumpty of FEMA back together again after its great fall in the Bush presidency and to make it a supportive partner of state and local governments.**

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secretary's power to reprogram and transfer funds appropriated for emergency management, which had been an issue as FEMA was being gutted after 2003, and it provided that the FEMA director be elevated to cabinet status — and thus directly responsible to the president — “during the effective period of an Incident of National Significance.”

In an attempt to improve coordination with state and local governments, Congress also created regional offices of emergency management and regional advisory councils, to be composed of emergency managers and emergency management experts appointed by the federal, state, and local governments. And it authorized 10 percent funding increases for FEMA from fiscal year 2008 through 2010 (Yoest 2006, 3355).

All of this constituted a strenuous effort to put the Humpty Dumpty of FEMA back together again after its great fall in the Bush presidency and to make it a supportive partner of state and local governments. As the patron and protector of FEMA, Congress was also of course the patron and protector of the state and local emergency management officials who had received FEMA's grants in the past and who remained loyal to it now, as the testimony of NEMA before Congress showed. The financial stakes of disaster assistance, which had risen sharply in the 1990s with the Clinton-Witt administration, rose still more sharply after 2001 with the addition of several billion dollars annually in homeland security grants. Besides restoring FEMA's jurisdiction by statute, Congress also tried to give it more money than the president asked for (Yoest 2007, 2536).

The arena of executive planning might seem to have offered the least opportunity for pushback, inasmuch as the administration was here operating on its own turf. A pushback came, nevertheless, from Katrina itself, which exposed the National Response Plan as inapplicable because incomprehensible, a judgment widely shared in the federal government.

An early appraisal of experience with the NRP came from the Office of Inspector General of DHS, which reported that some FEMA headquarters officials said the Plan contained “unrealistic requirements and unclear language” and caused confusion during the emergency (U.S. Department of Homeland Security, 2006a). Authors of a successor document, prepared largely within DHS in 2007, stated that “Stakeholders have advised that both the initial NRP and its 2005 iteration were bureaucratic, internally repetitive, duplicative of details contained in the *NIMS* and stylistically turgid” (U.S. Department of Homeland Security 2007). Even the president's special assistant for homeland security, Frances Fragos Townsend, condemned it as overly complicated and Washington-driven (Hsu 2007a, A5).

Rarely have executive officials been so critical of executive work, and Congress of course concurred. The Senate report on Katrina catalogued numerous flaws in both the design and the implementation of the NRP, prominently including confusion over

federal leadership, a failure to delineate federal agency roles, and a failure to implement the plan's Catastrophic Incident Annex, which prescribed a "proactive" federal response to catastrophic events. (A Catastrophic Incident Supplement, more detailed than the Annex, had yet to be issued because the Department of Defense had declined to sign off on its provisions for medical care.) Of course, there had not been much time for field training in how to use the new plan, but even at the very top of DHS, which had issued it with much fanfare, there seemed little awareness and less concern about what was in it (U.S. Congress. Senate. 2006, 551-574).

An effort to replace the NRP with something more useable got under way in earnest at the beginning of 2007, and proceeded initially with participation from federal, state, and local officials. But the effort at intergovernmental cooperation broke down, and two federal officials — the undersecretary of DHS, Michael Jackson, and a White House deputy assistant for homeland security, Joel Bagnol — took over. Their draft, renamed the National Response Framework, was leaked in August 2007 and formally released in September.

This draft was immediately the subject of congressional hearings, held not coincidentally on September 11, in which representatives of the state-and-local emergency management profession attacked the draft, barely concealing their deep suspicion of the goals and motives of DHS headquarters. Tim Manning, a spokesman for NEMA and director of New Mexico's Department of Homeland Security and Emergency Management, summed the situation up, rather obliquely, for a reporter from *CQ Weekly*: "There's still a lot of concern around the country that the fairly effective way we used to do things got scrapped a few years back, and some individuals put some new ways to do things out there without really listening to people who had been doing this for their whole careers. That didn't work two years ago in Louisiana, and there's no reason to think it will work now" (Crittenden 2007, 2606-07). To the Subcommittee on Economic Development, Public Buildings, and Emergency Management of the House Committee on Transportation and Infrastructure, a friendly audience, Manning said: "The current framework has been clearly drafted from a federal perspective.... [It] does not specifically say what the federal government brings to the table in a disaster, and the framework essentially writes FEMA out of a job ..." (Manning 2007).

NEMA's persistent anxiety and suspicion had several sources, not all of them located in Washington. Within the state capitals, 9/11 had precipitated a reorganization that in some places diluted emergency managers' access to their governors (Jackson 2008). All of the state governments created homeland security "directors" or "advisors" who could be rivals to the directors of emergency management. Sometimes the same person held both offices, as, for example, in Connecticut, but the head of homeland security might be the adjutant general, or the director of public safety, or none of

these. Less securely anchored to their governors at home, the emergency managers also were threatened by the downgrading in Washington of their federal executive patron, FEMA, and by a latent suspicion that a Republican administration might try to compel state and local governments, in the name of decentralization, to bear a larger share of the costs of disasters. Some passages of the Jackson/Bagnal draft could be read in that way — not as an assertion of federal control, but as a retreat from federal financial participation:

States are sovereign entities, and the Governor has the primary responsibility for the public safety and welfare of residents. States have significant resources of their own.... During incident response, States play a key role coordinating resources and capabilities from across the State and obtaining resources and capabilities from other States. Even when a community is overwhelmed by an incident, there is still a core, sovereign responsibility to be exercised at this local level, with unique incident response obligations to coordinate with State, Federal and private sector support teams. Each organization or level of government therefore has an imperative to fund and execute its own core emergency management capabilities (U.S. Department of Homeland Security 2007).

When Jackson and Bagnal stepped in, obviously dissatisfied with the rewrite of the NRP that had been undertaken by a bulky interagency committee and its numerous work groups — merely “a red-line edit” of the NRP and still unreadable, Jackson would say — NEMA’s anxiety rose, whereupon its congressional patron in the House, the Transportation and Infrastructure subcommittee on emergency management, gave it a forum for expressing opposition. In truth, the Jackson/Bagnal draft had very little to say about FEMA’s responsibilities. Jackson saw it above all as a document to be rendered in plain English, and thus made accessible to generalist officials at all levels of government. It was explicitly addressed to “senior and elected and appointed leaders, such as Federal department or agency heads, State Governors, mayors, tribal leaders or city managers — those who have a responsibility to provide for effective incident response.” As such, it ceased to be the province of specialists who spoke in a jargon that outsiders could not understand.

By January 2008, when DHS Secretary Michael Chertoff presented the new National Response Framework, successor to the NRP, to the public, Manning professed to be quite satisfied with it. “They [DHS] changed,” he said. “It [the framework] came around 180 degrees” (Hsu 2008). This would appear to overstate what happened. In volume, the revisions were minor, and a FEMA official seemed to minimize their significance when he told a reporter that “... if people are comfortable with it and are willing to advocate on its behalf — and more importantly will take it



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**The subcommittee hearings on September 11 had invited expressions of doubt that the administration would abide by the law.**

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and use it — they can say what they want and I’m happy about it” (Hsu 2008).

The critical changes addressed the responsibilities of FEMA. The September draft (U.S. Department of Homeland Security 2007), in a chapter on roles and responsibilities, said nothing of the FEMA administrator, whereas the revised version, citing the Post-Katrina Emergency Reform Act, said that “as the principal advisor to the President, the Secretary, and the Homeland Security Council on all matters regarding emergency management,” he “helps the Secretary in meeting” his responsibilities under the president’s Homeland Security Directive 5. And in a chapter that had been called “Incident Management” but was renamed “Response Organization,” what had been one spare sentence on the FEMA administrator was considerably beefed up:

The FEMA Administrator is the principal advisor to the President, the Secretary of Homeland Security, and the Homeland Security Council regarding emergency management. The FEMA Administrator’s duties include operation of the National Response Coordination Center, the effective support of all Emergency Support Functions, and, more generally, preparation for, protection against, response to, and recovery from all-hazards incidents. Reporting to the Secretary of Homeland Security, the Administrator also is responsible for management of the core DHS grant programs supporting homeland security (U.S. Department of Homeland Security 2008).

Here again, a footnote cited Congress’s recent enactment, the Post-Katrina Emergency Reform Act, a gesture that presumably was reassuring to the Congress as well as NEMA. The subcommittee hearings on September 11 had invited expressions of doubt that the administration would abide by the law.

When Secretary Chertoff presented the new document at a press conference, FEMA director David M. Paulison was at his side, symbolizing what was now being hailed by the administration as a “new” FEMA, more forward-leaning than earlier versions, but which in important respects — above all its responsibility for grants — resembled the “old” FEMA.<sup>5</sup>

Finally, the most dramatic instance of pushback, because it required Congress to reverse itself, was repeal of the defense authorization act rider that had broadened the president’s authority to federalize the National Guard for use in domestic emergencies. Elected officials, perhaps even more than the rest of us, shrink from admitting that they have made mistakes or changed their

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5 The House Committee on Transportation and Infrastructure remained dissatisfied, and in 2009, even with Bush gone, campaigned for removing FEMA from DHS and making it once again an independent agency. [http://transportation.house.gov/Media/file/Full %202009](http://transportation.house.gov/Media/file/Full%202009), accessed June 24, 2009.

minds. Hence it was fair of Senator Leahy's office to call repeal of the rider, a cause that he led, "a difficult and highly unusual legislative achievement" (Leahy 2008). The repeal became effective early in 2008 when the president signed the annual defense authorization act. The statutory form that had been the vehicle for making the change was also the vehicle for reversing it. Coming late in January, the repeal closely coincided with release of the National Response Framework (NRF), and can be said to mark the decisive end to the administration's attempt at transformation of emergency management.

### The Waning of the Presidency

There was only moderate resistance from the Bush administration to these various pushbacks. It did not insist on sending the military to Florida in 2005 or on keeping the National Guard rider of 2006 in law, nor did the president cast vetoes against legislation to resurrect FEMA, which Congress made hard to do by putting the new legislation in an appropriations act. He did, however, issue a lengthy signing statement asserting presidential prerogatives in regard to appointment of the FEMA director, the provision of advice within the executive branch, and the provision of advice and proposed legislation by executive officials to the Congress. Signaling a continuing contest over supervision of FEMA, the president said that the executive branch would construe the law "in a manner consistent with the Appointments Clause of the Constitution" and "consistent with the constitutional authority of the President to require the opinions of heads of departments and to supervise the unitary executive branch" (White House 2006).

Almost wholly presidential in origin, the effort at transformation depended on presidential power — and such power inevitably wanes as a second term approaches its constitutionally prescribed end. Additionally, the Bush administration suffered from its party's loss of the mid-term elections in 2006 and a precipitous drop in the president's popularity.

Of particular pertinence, the presidential effort had depended to an unusual degree on a mind-set, an ethos, rather than a deliberately formulated and articulated program of change. The columnist David Brooks has captured this feature of the Bush presidency. The administration's core creed immediately after 9/11, he observed, was that everything it did must be transformational, but by the spring of 2007 it had "lost its transformational mind-set." After "cruel experience, there's a greater tendency to match ends to means" (Brooks 2007). Brooks presumably had the Iraq war mainly in mind, but he could also have been thinking of the grandiose and discredited National Response Plan. As means and ends were matched, it became possible, perhaps inescapable in emergency management, to resort to the familiar — and thus to put forth the framework that encouraged state governments to do what they had been doing for

decades, namely, looking to the federal government for financial aid in the execution of functions that were acknowledged to be mainly theirs.

Not that every member of the administration had ever signed on to all that the president had advocated. Presidents often have trouble commanding the obedience of executive departments. The Bush administration had a reputation for discipline, yet one of the most detailed and dependable accounts of the Bush presidency says that during Katrina, as Governor Kathleen Blanco of Louisiana was asking the White House to send 40,000 troops and Bush in exasperation was belatedly casting about for a way to take charge, Secretary of Defense Donald Rumsfeld was expressing great reluctance to deploy his military to a civilian zone and “throwing up every obstacle you could throw up” (Draper 2007, 331). A reluctance to deploy the regular Army, already stretched by deployment to the Middle East, may well have been at the root of the administration’s desire to amend the law so as to make it easier to federalize the National Guard for domestic use. While Bush was saying that there might be a need for a larger military role in domestic natural disasters, even for the Department of Defense to be the lead federal agency in extreme cases such as Katrina, the Pentagon’s assistant secretary for homeland security, Paul McHale, was more circumspect. McHale said that the National Guard and the active-duty military needed to work together more closely, and that training exercises should be more realistic (VandeHei and White 2005). Proposals to broaden the role of the military in domestic disasters had been advanced in Congress in 1992 following Hurricane Andrew and had then elicited “quiet opposition by the top ranks at the Pentagon” (Bowman and Gorman, 2005).

The repeal of the National Guard rider owed something to the 2006 election results. The governors had objected in August 2006 to the change, and so did senators Leahy and Bond, but no one paid any attention. Leahy was able to return to the matter a year later because in the interim the Democrats had taken control of the Senate and he had become chairman of the Committee on the Judiciary, which put him in a position to take an initiative. The change in party control also facilitated repeal in the House, which preceded Senate action, although the issue was not partisan in Congress. Republicans did not put up a fight as Leahy mounted the effort for repeal. The change in law was hardly more debated when being reversed in 2007 than when being adopted in 2006. Senator John Warner, a Republican from Virginia who was chairman of the Armed Services Committee when the rider was adopted, told constituents the following year that he was “receptive to the Senate reviewing this important matter” (Warner 2007).

## Conclusion

The main thrust of the Bush administration initiatives was centralizing – in retrospect, more centralizing than militarizing

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**In summary, the inherited features of federalism withstood the test of two catastrophes in combination with an aggressive use of federal executive power.**

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even when there was a martial form and style in administration documents, such as the NRP. Although the president talked of giving the military a larger role in domestic disaster management, he did not make any such recommendation to Congress. The National Guard rider, which the administration did recommend, would not have expanded the role of the military. Rather, it gave the president greater control of the Guard at the expense of the governors.

Clearly, much centralization occurred in emergency management during the Bush administration. The roles and responsibilities of the federal government expanded with creation of the Department of Homeland Security, a big increase in expenditure, and an effort at planning – the National Response Framework with its numerous supplements – that purports to embrace all of the many governments of the United States in a common design for disaster response. The National Guard, even though it remains under command of the governors in peacetime and is normally available to them in case of domestic emergency, now shares “homeland defense” with Northern Command, a component of the U.S. military that was created after the terrorist attacks of 9/11 to defend the continental United States. But the Stafford Act has not been repealed; an invigorated and client-oriented FEMA lives – somewhat anxiously – inside DHS, with the potential to grow in importance; state and local governments are generally understood to be first responders; and they can look forward to billions of dollars annually in homeland security grants.

In summary, the inherited features of federalism withstood the test of two catastrophes in combination with an aggressive use of federal executive power. Changes were evolutionary, and on the whole consistent with the intergovernmental relations that the administration inherited. I will briefly explore why.

Devotion to constitutional principle does not figure importantly in the explanation. Such principle was most clearly at issue in respect to the National Guard rider, and it is impossible to argue that adherence to it proved strong. Except for the idiosyncratic campaign of one senator mainly, the rider would have survived, and he was fortuitously aided by the election results of 2006. Congress showed no disposition to undertake a debate about constitutional principle, and was mostly mute as it acted in 2006, and then reacted, apparently thinking better of what it had done. In altered political circumstances, an organized effort on the part of the National Governors Association in collaboration with Senator Leahy prevailed even though a year earlier, making the same arguments against the rider, their opposition had been ignored (Dinan 2008, 383-384).

One powerful bulwark was the self-interest of both Congress and the state and local recipients of Congress’s grants. So much attention has been paid in recent years to congressional earmarks, which are instruments by which individual members of Congress deliver benefits to their constituencies, that it may have become

easy to overlook the many benefits that Congress delivers in bulk. The volume and durability of federal grants-in-aid as an instrument for building political constituencies testify to their utility both to the members of Congress who appropriate them and the state and local officials who receive them. Since 1990, federal grants have consistently accounted for 25 to 32 percent of state and local expenditures (U.S. Census Bureau 2007, 265). Among all grants, those for homeland security grew most rapidly in percentage terms during the Bush administration. Between Fiscal Year 2002 and 2003, they more than doubled, from \$3.4 to \$7.8 billion. Most of these grants, under the regime prescribed by Congress following Katrina, are to be administered by FEMA, and Congress will oversee and benefit from their expenditure. The survival of a FEMA-centered intergovernmental grant regime is to be explained largely by the political stakes of the legislature in this kind of institution, which is a paradigmatic feature of American federalism. It was an immovable object.

Nevertheless, more than the interests of office-holders provided a defense of traditional federalism. A second bulwark was a widely shared belief, with a grounding in common sense, that successful disaster response begins locally and depends on intergovernmental cooperation. This view was so earnestly expressed in so many different forums, including the National Response Framework, that it cannot be dismissed as merely a mindless cliché. The dispassionate and carefully researched report of the DHS inspector general, developed immediately after Katrina and published early in 2006, lauded FEMA for its record of cooperation with state and local governments and by implication criticized DHS headquarters for insufficiently attending to such cooperation. When the emergency management subcommittee of the House Committee on Transportation and Infrastructure held its hearing on 9/11 in 2007 in order to criticize DHS's draft of the NRF, it invited, besides two professional emergency managers from state and local governments, witnesses from the academic world. William L. Waugh, Jr., a Georgia State University professor much credentialed in the field of emergency management, testified with some fervor to the importance of local foundations for emergency response and to the soundness of Congress's statutory decision to preserve the intergovernmental grant regime of which FEMA had been part (Waugh 2007). An academic profession devoted to the study of disasters and disaster policy had developed in the United States beginning in the 1950s with the Cold War, but it had not become, as it might have, a force for centralization. If there was a foundational wisdom of this profession, it favored intergovernmental and interorganizational networks (Comfort 1988, 3-21).

The argument against the Stafford Act/FEMA-centered grant regime, infrequently advanced in the wake of Katrina and studiously ignored by Congress, would be that it has skewed expenditure toward relief rather than attending seriously to prevention.

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**But while governments fail to discourage development in hazardous locations and underprotect or fail to warn settled populations, the federal government is profligate in the declaration of aid when events occur.**

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The scholarship on disasters testifies overwhelmingly to the myopia of both citizens and governments. Actors from John Doe to the president and including state and national legislatures, ignore risks and even exacerbate them with choices in residential locations and land development.

New Orleans is a quintessential case of such myopia. Robert J. Meyer, a professor who studies risk and decision processes at the Wharton School of the University of Pennsylvania, noted the policy and behavioral weaknesses that Katrina had revealed: "opportunities to learn from experience went unexploited, mitigation measures with long-run benefits were under-funded, and the principals emerged as both overconfident before the event and overmatched afterward" (Meyer 2006, 153). Raymond J. Burby, a professor of city and regional planning at the University of North Carolina, formerly on the faculty of the University of New Orleans, wrote following Katrina that although Hurricane Betsy in 1965 had revealed the potential for flooding of low-lying areas in Jefferson and Orleans parishes, the construction of improved (but insufficient) hurricane protection works and the availability of federal flood insurance after 1968 encouraged many thousands of persons to take up residence in swamps. They would become victims of Katrina (Burby 2006, 175).

Nor has New Orleans been alone as the site of government policies that failed to provide protection or — worse — exacerbated risk. When the Mississippi overflowed levees and flooded agricultural areas of Illinois and Iowa in the summer of 2008, a professor of engineering at the University of Maryland pointed out that this flood repeated an experience of 1993 in the same area, that governments ignored the findings of a study of that experience, and that Congress has failed to provide money for a national levee inventory and assessment program despite both a request from President Bush and authorization by the Congress itself in the National Levee Safety Act of 2007 (Galloway 2008; Cigler 1996).

But while governments fail to discourage development in hazardous locations and underprotect or fail to warn settled populations, the federal government is profligate in the declaration of disasters and provision of aid when events occur. Aid to New Orleans has been "volcanic," in Michael Jackson's phrase (Jackson 2008). The *Washington Times* reported on the second anniversary of Katrina that federal commitments to the Gulf Coast, at \$127 billion in direct aid and tax relief, surpassed the inflation-adjusted \$107.6 billion that was spent on the Marshall Plan in 1947-1951 to stimulate the rebuilding of Europe after World War II (Hudson and Lengell 2007). As 2008 opened, the well-established Stafford Act regime was operating at full tilt. President Bush declared ten major disasters in the first two months of the year, and FEMA was issuing several press releases every working day (14 on March 7 alone) describing how to get help and boasting of the help that had recently been provided ("Massachusetts Fire Department

Receives \$44K Firefighter Assistance Grant from FEMA”) (FEMA 2008). One explanation, among many, for the agency’s sluggish performance during Katrina was that when the hurricane struck it was still managing relief for 38 prior disasters. Nevertheless, easing the burden on FEMA with a more circumspect disaster policy is not an idea that either Congress or the executive appears to have entertained in the many studies that came after Katrina.

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