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### Restoring Power: A Law School's Response to a Superstorm

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## RESTORING POWER: A LAW SCHOOL'S RESPONSE TO A SUPERSTORM

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### I. INTRODUCTION

When Superstorm Sandy pummeled the Northeast's tri-state region from October 28th through October 30th 2012, it was for many, the worst storm in living memory. Making landfall near Atlantic City, New Jersey, Sandy created an unprecedented storm surge which flooded the New York City subway and vehicle tunnels and swept away the majority of beach and dune sands from Fire Island, Long Island's most famous vacation destination. Superstorm Sandy was the deadliest and most destructive hurricane of the 2012 Atlantic hurricane season, and the third-costliest hurricane in United States history.<sup>1</sup> Estimates as of 2015 assessed damage to have been about \$75 billion, a total surpassed only by hurricanes Katrina and Harvey.<sup>2</sup>

In Nassau and Suffolk Counties, the storm damaged a total of 95,534 buildings and left 4.4 cubic tons of debris across both counties.<sup>3</sup> Flood damage to stores and restaurants shuttered them for weeks or months at a time. The storm disrupted electrical power plunging

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\*\* Research & Compilation. AmeriCorps Volunteer in Service to America at Touro Law Center from November 2013 through November 2014.

Many hours of research went into this work. Many more hours would have been needed had it not been for many individuals who kindly gave of their time and knowledge to make this project possible. Touro Law Center acknowledges the three organizations without whose financial support this undertaking would not have been accomplished: AmeriCorps/VISTA (Volunteers in Service to America), Washington DC, Montana Legal Services Association, Missoula Montana, and The Rausch Foundation, Garden City, Long Island, NY.

<sup>1</sup> Blake, Eric S; Kimberlain, Todd B; Berg, Robert J; Cangialosi, John P; Beven II, John L; National Hurricane Center (February 12, 2013). Hurricane Sandy: October 22 – 29, 2012 (PDF) (Tropical Cyclone Report). United States National Oceanic and Atmospheric Administration's National Weather Service. Archived from the original (PDF) on February 17, 2013.

<sup>2</sup> Hurricane/Post-Tropical Cyclone Sandy, October 22–29, 2012 (PDF). nws.noaa.gov (Service Assessment). United States National Oceanic and Atmospheric Administration's National Weather Service. May 2013. p. 1 (10th page). Archived (PDF) from the original on June 2, 2013.

<sup>3</sup> Newsday, "FEMA: Sandy impacted 95,534 buildings on LI" <http://www.newsday.com/long-island/fema-sandy-impacted-95-534-buildings-on-li-1.4418074> (January 7, 2013)

thousands into darkness leaving homes and businesses without electricity for weeks. It also created a sense of powerlessness in many, as they attempted to navigate the dark labyrinth of bureaucracy seeking to regain their normal lives. Landlord/tenant issues, labor and employment issues, insurance claims and appeals, and application for FEMA benefits easily overwhelmed individuals distraught and dislocated as a result of the storm. As we learned from the aftermath of Hurricane Katrina, resolving these legal issues requires long-term legal assistance. Touro Law Center's response sought to "restore the power" to those dealing with the legal devastation created by Sandy.

Since Hurricane Katrina in 2005, the Touro Law Center had been assisting with the critical legal needs of Gulf Coast residents. Twice each year Touro students spent one week helping the overwhelmed local legal services providers cope with the increased need for legal services. Now the disaster had hit home. When the storm ceased on October 31st, the administrators, faculty, staff, and student leaders who were able to reach the building found it unscathed by the storm with its electrical and telecommunications infrastructure fully functional. The school had escaped the devastation visited on the surrounding area. The Touro community rolled up its sleeves and went to work to set up a disaster response project based on years of experience assisting those affected by Hurricane Katrina.

In this respect Touro Law Center stood on a solid foundation as it had both a long-standing commitment to public service law and numerous relationships with legal services and social services providers on Long Island, in New York City, as well as the greater region. These deeply-rooted connections enabled the school to quickly receive grants to set up its TLC-HEART, Touro Law Center Hurricane Emergency Assistance and Referral Team, project and hire a student pro-bono placement coordinator. We built on what was learned from responses to previous disasters such as Hurricane Katrina and the September 11th terrorist attack and adapted that to the situation Sandy created. The interplay of Touro's network along with a cadre of disaster-response experienced students permitted Touro to engage in an immediate response to Superstorm Sandy.

Unfortunately, 2017 was a year filled with many tragedies – both man-made and caused by mother nature. All too often we hear "Our hearts and prayers go out to those affected", and "WE WERE NOT PROPERLY PREPARED FOR A STORM OF THIS MAGNITUDE". If we have learned anything since 2005, it is that mother-nature cannot be controlled, and areas which once had a one-in -500 year chance of flooding, can now have homes submerged under seven feet of water

within hours. As history tends to repeat itself, *the time to prepare is now*.

This manual will take you through the procedural growth and accomplishments of the Touro Law Center's Disaster Relief Clinic which was formed in the aftermath of Superstorm Sandy, substantive law which is crucial to the understanding of flood disaster recovery, and provide guidance and resources which should be utilized in the aftermath of a natural disaster.

## II.

### DURING TIMES OF BLUE SKIES

Preparation is key. And in today's world where everything can be delivered to your home or office, large companies pay for car services to bring their employees home when ending work at 11pm, and the most nutritious meal consumed during a work day is whatever can be picked up from a drive-thru window and swallowed in three bites-time is not a commodity many people have to devote to disaster preparedness, with a minimal chance their efforts will ever be needed. What history has taught us is that *any and all* preparation can mean the difference between weathering a storm and actually recovering from a storm. Just like the best time to pour a foundation for a new home is on a humidity-free May day, *the best time to prepare for a natural disaster is during times of blue skies*.

All disasters involve preparation, response, and recovery. However, each disaster is unique depending where it takes place and the corresponding social, political, and economic factors existing in that location. The speed and efficiency of the response depends on the degree of advance preparation of materials and personnel. The ability of the local legal services providers to absorb a massive new caseload is only as good as the strength and integration of the state's delivery and pro-bono system before the disaster.<sup>4</sup> An influx of law student volunteers can augment an overburdened pro-bono network in a disaster even if the pre-disaster condition of the legal services delivery system is not ideal. However, the organizations receiving the volunteers must expend much time and energy to prepare materials and train volunteers while struggling to maintain their own organizations affected by the disaster. Advance preparation reduces the burden on the host organizations and increases the effectiveness of the students' participation.

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<sup>4</sup> Karen A. Lash et al., *Mitigating Disaster: Lessons From Mississippi*, 77 MSLJ 895,895 (2008).

Collaboration between law schools and other legal and social service providers assures better preparation by reducing duplication of efforts and minimizing stress on the individuals seeking assistance. Collaborative coalitions should be established well in advance of any disaster. While the disaster is occurring there should be frequent communications between coalition members to stay abreast of the status of their respective elements to achieve timely modifications of pre-established protocol.

Law schools are typically structured to have multiple faculty and staff members who are directly related and involved with students' pro bono contribution. This is when a Clinical Director, Pro Bono Coordinator, or other involved staff/faculty member should be growing and nurturing relationships with state and national organizations who work in disaster recovery year-round. On a national level, those organizations should include the Red Cross, FEMA, American Bar Association Disaster Legal Services Team and the Committee on Disaster Response and Preparedness, as well as the National VOAD. In New York, there is a dedicated New York Bar Association Committee on Mass Disaster Response, and our local Nassau and Suffolk County Bar Associations were active in disaster recovery work & referral services. After Sandy, we also learned that a strong connection to our local and state government offices, along with those neighboring states is a great asset for collaboration.

*Specific steps that can be taken before any disaster strikes include:*

- ◆ Review any existing disaster response manuals and update as needed
- ◆ Ensure that hard copies of materials are available in case power or internet access is disrupted
- ◆ Compile a preliminary guide to local, state, and federal assistance programs
- ◆ Collaborate with legal and social services providers in the large community to ensure that all organizations are aware of available resources
- ◆ Cooperate with local bar associations to enlist volunteer attorneys to supervise student volunteers in event of disaster
- ◆ Recruit and train volunteers in basic emergency benefit programs so there is a pool of trained volunteers ready to staff a helpline
- ◆ Law schools can host community education nights to educate the community at large regarding basic emergency preparation with respect to legal issues arising after a disaster i.e.

Making copies of insurance policies, mortgage documents, health information, emergency contact information etc. and keeping it all together in a waterproof envelope in an easily accessible location in the home

### III.

#### OUR LAW SCHOOL WANTS TO HELP. WHERE DO WE START?

Legal education today faces considerable criticism as debt-burdened graduates face the most challenging job market in years due to the economy and the changing nature of the legal profession. Students are demanding more “experiential learning” while in law school to better prepare them to practice law.

Establishing a disaster assistance project provides opportunities for law students to train in a new and growing field of law. The legal needs crisis produced by any disaster can provide a useful context for dynamic social justice-oriented learning. The wide variety of placement opportunities available help create meaningful contacts that could lead to future job opportunities and a one-week alternative break service trip provides an immersion into social justice issues that many students may never have encountered.

A law school is a highly visible member of its local community. Establishing a disaster assistance project reinforces the school’s image as a caring member of the community. Any mass disaster provides many human interest stories which gain the attention of local, regional, and national media. Positive publicity improves the school’s name recognition which can attract more funding from philanthropic foundations and increased alumni donations. Publicity can also generate more interest from prospective students, an important consideration at a time when the numbers of law school applications have declined greatly.

With most schools, the first hurdle to overcome is “how will we fund this clinic/project”. The first source of funding is the law school itself. How much of its own resources does the law school have available to invest into the project? Are there Alumni who would consider making a donation to the school? A school that sees the project as an extension of its educational mission to train law students in both substantive and practical legal skills will be willing to invest more resources.

Other sources of funding can include federal, state, and local government grants. Private foundations and alumni groups are other potential funding sources. Some schools may partially or entirely fund students’ volunteer trips, while other schools may require students to

conduct their own fundraising to fund the service trips. A law school wishing to engage in a disaster response project should consider joining a consortium of other social and legal services providers as this may facilitate obtaining funding as funders are often more willing to assist a consortium than a single entity.

Parallel to the issue of funding, is the practicality and logistics of having a disaster related clinic both for schools which are located in the disaster affected areas, as well as those located outside the disaster affected areas. There are differing considerations which come into play for both those schools located within and outside the affected areas.

*By way of examples, those considerations include:*

- ◆ The extent of the administration's and faculty's support for a disaster response project
- ◆ Faculty availability to assist with supervision of law student volunteers
- ◆ The school's relationship to the larger legal and social services providers in the community
- ◆ The school's relationship with the media which can be instrumental in promoting the response effort, keeping up the enthusiasm for the response effort, attracting new volunteers, and attracting additional sources of funding
- ◆ Whether an on-site telephone helpline would be a feasible response. If so, what will the hours of operation be, how would volunteers be recruited, and how would helpline operations be affected during exam periods and semester breaks?
- ◆ Is there an alternate site with which the law school could partner with to host a helpline if its own premises are not operational?
- ◆ If the school wishes to establish a disaster law clinic, does it have the expertise in-house required to direct the clinic or does it need to initiate a search to hire faculty for the clinic?
- ◆ What will be the scope of the clinic's response be? Will the clinic undertake long-term actions such as engaging in impact litigation to affect broad policy changes based on patterns of injustice discovered as a result of data collected during the immediate response effort?
- ◆ What resources are available to assist students who are affected by the disaster with regard to lost textbooks and other academic material?

*A. Help Is On The Way: The Logistics of Coordinating Student Pro-Bono Volunteers*

Touro Law Center received numerous offers of assistance from law schools and law students all across the nation in the wake of Superstorm Sandy. The model for coordinating and harnessing the energy and enthusiasm of so many volunteers is the Student Hurricane Network<sup>5</sup>, which arose in response to the unprecedented devastation inflicted on the legal services providers and the judicial system by Hurricane Katrina. The Student Hurricane Network (“SHN”) is a national network of law students dedicated to advancing the cause of social justice in communities affected by Hurricanes Katrina and Rita by coordinating volunteer efforts, aiding public interest organizations, and educating members of the legal community about legal crises in the region. Thousands of students poured into New Orleans, Louisiana and Biloxi, Mississippi to assist in meeting the legal needs of thousands of the most vulnerable citizens of the region.

While the assistance was greatly needed, the situation also illustrated the difficulties of integrating an influx of people into a region where housing, transportation, and communications were already strained by the disaster itself. Careful planning is needed to insure that the helpers do not become hindrances.

*1. Finding Placements*

Finding successful placement opportunities for law student volunteers requires knowledge of the affected areas needs and resources and the ability to match students’ abilities to the organizations needs. Whether the project involves sending students away from their home school to a disaster-affected area, or attracting students from elsewhere to come to a school in a disaster-affected area, the best way to start is to contact the Director of Pro-Bono or Public Interest Law Director at law schools across the Country<sup>6</sup>. This individual will be familiar with the different opportunities for pro-bono in his or her particular region and can make appropriate referrals.

Once potential host organizations have been identified, they must be evaluated to determine their suitability for student placements. Not all organizations may be willing to accept students for one-week assignments as they may feel that the disruption to the organization’s operations is greater than the assistance received from the students.

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<sup>5</sup> Student Hurricane Network, <https://www.studentjustice.org/>.

<sup>6</sup> American Bar Association, Directory of Law School Public Interest and Pro Bono Programs, [https://www.americanbar.org/groups/probono\\_public\\_service/resources/directory\\_of\\_law\\_school\\_public\\_interest\\_pro\\_bono\\_programs/staff\\_listings.html](https://www.americanbar.org/groups/probono_public_service/resources/directory_of_law_school_public_interest_pro_bono_programs/staff_listings.html).



On large-scale projects where there is constant turnover of groups, it is most important to ensure that there is an efficient way of documenting all work-product from an outgoing group so that the incoming group can continue the work. One way to ensure fluidity and consistency between those working on the same file is to complete daily file logs which should be kept both on paper and in a computer file database system.

Despite the challenges, student volunteers can make significant contributions during a during one-week assignment. Possible placement sites include non-profit legal services providers, town or county attorney offices, prosecutors, and law school clinics. As a starting point, schools seeking to place students in volunteer pro-bono assignments should consider the following:

- ◆ The nature of the organization: Does it provide direct services or is it engaged in policy and administrative advocacy work?
- ◆ What are the organization's needs? Is it looking for students to conduct surveys, perform client intakes, engage in research and writing, or assist with drafting documents for litigation?
- ◆ Will the organization accept students for only one week? Is the organization looking to secure students for a short period of time, or are they looking for a long-term commitment placement?
- ◆ Will the organization have attorneys available to directly supervise students?
- ◆ What will the physical work environment be like?
- ◆ How many students can the organization accommodate?
- ◆ Does the organization accept individual students or does it prefer that students be accompanied by a faculty advisor?
- ◆ Will the service opportunities available to the students comply with their home state and/or home school pro-bono requirements?
- ◆ Does the organization have any political, religious, or cultural affiliations that potential student volunteers might find disconcerting?

## 2. *Finding Students*

The director of a law school's pro-bono or public interest initiative is a good starting point for recruiting student volunteers from across the country to engage in legal disaster relief work. He or she will be familiar with the particular state's rules on number of pro-bono hours required for admission to the bar and how that state defines pro-bono work. All pro-bono work is public service, but not all public

service work will qualify as pro-bono. He or she can promote the project to the school's student organizations.

To recruit students from the coordinator's own school, the coordinator should reach out to the student organizations on campus. If the school has students who belong to the Student Disaster Relief Network, those students can put on presentations illustrating past trips to encourage fellow students to join the volunteer effort.

### 3. *Schedules and Calendars*

Most pro-bono student volunteer placements consist of one-week trips to the affected area during the spring and winter recess. During both the spring and winter recess, placement sites may be closed in observance of the holidays. If the hosts sites are closed on a holiday, having students perform legal research back at their hotel rooms is an option if electricity and internet access is available.

Another timing issue is the academic schedule. Towards the end of the semester as final examinations approach, students and faculty will be busy. It may be difficult to reach coordinators or faculty. Thus, it is important to get as many details finalized before the hectic end of the semester. It may not be either feasible or practical to host student volunteers during examination periods

### 4. *Accommodations and Travel*

The sooner accommodations and travel arrangements are booked, the greater the selection available and the lower the cost. While it does take time to finalize a trip and confirm how many students will be involved, it is important to make reservations as soon as feasible to help reduce expenses. Exercising creativity with regard to arrangements can also minimize costs.

The school's coordinator should contact the sales manager or special events representative at area hotels to negotiate discount rates at the hotel if possible. Stressing the following positive benefits to the hotel can help in obtaining significantly reduced rates, if the national hotel chain's policies permit:

- ◆ Generation of favorable publicity for the hotel as a result of supporting the efforts of student volunteers traveling away from their homes and families to assist those affected by the disaster.
- ◆ Potential steady stream of student volunteers for weeks or months generating revenue

- ◆ Good-will generated on the part of area residents towards the hotel may sway them to choose that hotel when considering where to hold family events.

For both air and car rental reservations, the coordinator should check with the development and student affairs offices to see if the school has any institutional discounts with any airlines or car rental companies.

For air travel arrangements, it may be more efficient for each school's team to handle air reservations. It is vital for students to have information about the local travel infrastructure at their destination in advance. Some considerations are:

- ◆ Will their placement sites be easily accessible by public transportation and how far is the transportation from their lodgings?
- ◆ Will the host school be able to provide transportation to the students' work assignments?
- ◆ Will students be driving to the host school or will they need to rent cars when they arrive? Student groups may be separated and assigned to different placement sites which are not located in close proximity to each other.

### 5. *Planning for the Spring Break Trip*

Planning for a successful spring break trip needs to begin as soon as the previous fall semester begins. The initial contact with law schools nationwide is only the beginning as months of repeated follow-up and follow-through are needed to gauge what the needs and interest of each school are and what possibilities exist for meeting those needs.

It is crucial that law schools, project coordinators, and students clearly understand how their state bar defines pro-bono legal work. The state bar and the law school in any particular state may have a different requirement from the home state as to the number of hours required for admission to the bar. For example, some law schools may not recognize work done by students placed with district attorney's offices as pro-bono work, while the state bar may accept it. In most states, law students performing pro-bono services must be directly supervised by a licensed attorney.

*Below is a sample timeline for planning spring service trips which was prepared by Ms. Deirdre Byrne, former Student Pro-Bono Coordinator for TLC-HEART as a proposed timeline for planning student volunteers service trips to Long Island to assist individuals affected by*

*Superstorm Sandy. It is offered here as a planning tool to guide other schools and should be modified and adapted as needed.*

<b>September</b>	<ul style="list-style-type: none"> <li>- Contact all law schools nationwide to advise of upcoming opportunity</li> <li>- Send blast email to law school deans after consulting with schools' own dean.</li> <li>- Inform potential participating schools of past summer's activities</li> <li>- Inform of the need for assistance where the disaster caused damage</li> <li>- Outline opportunities which may be available</li> <li>- Advise what the process will be going forward.</li> <li>- Meet with students of school's Student Disaster Relief Network Chapter, if available for input and assistance.</li> </ul>
<b>October</b>	Send out an "interest questionnaire" to both schools and potential providers
<b>November</b>	<ul style="list-style-type: none"> <li>- Continue to contact schools personally and providers personally, see what questions each group may have and respond</li> <li>- Forward articles about local needs and what the school's clinic is doing as well as other groups who are providing hurricane recovery services</li> </ul>
<b>December through January</b>	<ul style="list-style-type: none"> <li>- Remind schools and providers of upcoming deadlines</li> <li>- Providers- contact to determine needs, number of students each provider can accept, a brief description of what the work will entail, also any specific requirements the provider may have, i.e. a Confidentiality agreement, etc.</li> <li>- Schools- contact to ascertain if there are any questions, remind of deadlines, advise of any requirements-special requests, resumes, confidentiality agreements, etc.</li> <li>- Be available and respond quickly to all questions; develop publicity for sponsoring school and beyond, keep sending all relevant news to schools.</li> </ul>
<b>February</b>	<ul style="list-style-type: none"> <li>- Begin confirmation of providers and schools</li> <li>- Definite number of placements, number of supervisors &amp; students needed at each placement, school participation, dates of arrivals and departures, travel and lodging in place for each group</li> </ul>
<b>March</b>	<ul style="list-style-type: none"> <li>- Monitor arrival and activities of groups.</li> <li>- Track and record data, Number of placements, Types of work, Number of students from each school, Numbers of hours worked, Student interviews</li> </ul>
<b>May</b>	<ul style="list-style-type: none"> <li>- Wrap up and review</li> <li>- Draft report with data from both providers and schools</li> <li>- Place articles for publicity</li> </ul>

#### 6. *Training, Education, and Managing Student Expectations*

The amount of education and training that students receive prior to arriving at their destination will determine how effective and productive their contribution is to the disaster-relief effort. A problem student may result in that host organization being unwilling to accept future volunteers.

The first day of a service trip usually begins with a half-day orientation before the students disperse to their placements. A pre-orientation program before the students leave their home school could better prepare the students in advance and enable them to be more productive upon arrival. Any questions that arise at the pre-orientation could be addressed before they arrive. The actual orientation on the day of arrival could thus be less stressful and more productive.

*Some possible ways of presenting a pre-departure orientation to incoming student volunteers are:*

- ◆ Use webcasts or podcasts to provide substantive training in specific subject matter that students will need to be familiar with when they arrive
- ◆ Use webcasts or podcasts to familiarize the students with the geographical layout of the area, damage from the disaster, as well as cultural and social aspects of the region
- ◆ If students will be assigned to specific organizations, provide information about those organizations in advance so students can get to know the organizations they will be working with
- ◆ Have students review the American Bar Association's Young Lawyers Division website as well as the American Bar Association's Committee on Disaster Preparedness website to learn about law and disaster response work
- ◆ Provide information on local points of interests and sight-seeing opportunities to assist students in planning their time

Unrealistic student expectations can lead to problems for the student, the host organization, and for the relationship between the host school and the student's home school. Students may have specific ways in which they wish to serve, while the placement coordinator's goal is to place students with organizations needing the most help. Wherever possible specific placement requests should be accommodated, but students must understand that desired placements may not be available and flexibility is required.

It is important to help students understand that any work that they do makes a significant impact on individuals affected by the disaster even though the connection may not be readily apparent to them. For example, a student spending hours in an office sorting and analyzing survey results may not really understand how this is helping individuals affected by disaster. Yet the data culled by his or her efforts may form the basis for litigation efforts which then result in ameliorating injustices committed to hundreds of disaster-affected individuals.

Students must understand that first and foremost the purpose of the trip is to help local legal services providers to meet the numerous legal needs of their clients. The experience is a good resume builder but that is not the main purpose of the trip. Disaster relief work is emotionally draining and there should be some time built in to the schedule to allow for the students to decompress, but students must comport themselves as professionals through the entire experience.

### 7. *Problem Resolution*

Unfortunately problems can and do arise with students and placements. It is best to have a policy in advance as to how to handle conflicts. Some possible problems could be:

- ◆ The student volunteer and the host organization may have very different political views which may make the student uncomfortable to the extent he or she cannot be effective
- ◆ A student may have misrepresented themselves on their application.
- ◆ A student may not respect the host organization's rules
- ◆ One student in a group may not do their fair share of the work

Problems need to be handled carefully to avoid any negative publicity and preserve existing relationships. Clear guidelines should be put in place ahead of time to prevent misunderstandings and miscommunication. If the students are accompanied by a faculty advisor, this of course simplifies dealing with student issues. If the group receives funding from their school, a student who does not honor his or her obligation could be required to refund any assistance received or forfeit pro-bono credit for the trip.

### 8. *Evaluations*

Both the student volunteers and the host organizations should complete evaluation forms at the end of the placement regarding their experiences.

<b>Student evaluations</b>	<ul style="list-style-type: none"> <li>- Appropriateness of placement</li> <li>- Quality of supervision</li> <li>- Quality of training provided</li> <li>- Coordinator's assistance through the recruitment process</li> <li>- Effect of the placement on their legal education and personal outlook</li> <li>- Effect of the placement on their commitment to pro-bono work through their legal career</li> <li>- Any problems encountered during the placement, and what resolution, if any occurred</li> <li>- Suggestion for improving the experience for future volunteers</li> </ul>
<b>Host organizations' evaluations</b>	<ul style="list-style-type: none"> <li>- Volunteer's performance during the placement</li> <li>- Appropriateness of the placement for the student volunteer</li> <li>- Effect of the volunteer's presence on the host organization.</li> <li>- Any problems or discipline issues with the student volunteer</li> <li>- Would the organization be inclined to accept another volunteer from that - particular law school, why or why not?</li> <li>- Suggestions for improving the placement process</li> </ul>

#### 9. *Keeping Interest In The Program Strong In The Face Of Competing Events And Other Disasters*

The greatest challenge in maintaining a pro-bono volunteer placement program other than funding, is sustaining interest in the program in the face of "rescue fatigue". New disasters do not wait for the issues of the previous event to be fully settled, all damage repaired, and everyone's life to return to normal. Hurricane Katrina struck the Gulf Coast in 2005, and to date, more remains to be done. A few weeks after Superstorm Sandy devastated Long Island and New York City, the area was hit by a Nor'easter, a winter snow storm that created new problems for those suffering from Sandy. Media attention focuses intensely on a disaster in the immediate aftermath and for some time thereafter, but then attention and interest shift to the next disaster.

Publicity is a vital tool for maintaining interest and keeping the public's attention on the on-going challenges faced by individuals affected by the disaster. Local media outlets such as hometown newspapers and local cable channels can be most helpful in covering continuing human interest stories about individuals' long-term struggles to recover. A school's public relations director can serve as an effective means of creating interest and maintaining attention focused on the volunteer placement program through targeted press releases.

The student volunteers themselves can be effective in creating publicity and support for their program by making presentations about their experiences to their fellow students when they return to their home schools, as well as utilizing numerous social media platforms.

#### IV.

##### *Touro College Jacob D. Fuchsberg Law Center*

##### *A. TLC- Heart Hotline*

The greatest need in the immediate aftermath of any disaster is the need for information. Individuals are confused, distraught and overwhelmed. They need information regarding what to do and where to go to obtain assistance. A well-coordinated, well-staffed helpline can be an excellent resource for a law school to provide to the community. The post-disaster response period consists of several stages. The nature and complexity of questions received change and evolve as the disaster response progresses from one stage to the next. Legal needs surveys done at each stage of the recovery process also complement the helpline's efforts by providing additional information on emerging issue trends, unmet needs, and underserved communities.

Touro was able to establish the TLC-HEART Helpline because it suffered no disruption to its electrical or telecommunications infrastructure. The TLC-HEART was created when within days after Superstorm Sandy, the Touro Law Center, together with partners the Suffolk County Bar Association, the Disaster Relief Law Center "You.Me.We." and the Student Disaster Relief Network, launched the Touro Law Center – Hurricane Emergency Assistance and Referral Team (TLC-HEART), which provided referrals, assistance and legal advice for local residents and small businesses affected by Hurricane Sandy. Beginning on November 5, 2012<sup>7</sup>, less than one week post-Sandy, TLC-HEART opened staffed by volunteer lawyers and law students. Those who were affected by the storm were able to call a hotline which was answered during regular business hours, but also could take messages 24 hours a day, 7 days a week. In addition to a hotline, there was also a separate email account set up which permitted storm victims to contact the Hotline at any time.

Upon contacting TLC-HEART, a homeowner would receive assistance from disaster relief trained students and attorneys who were able to match resident concerns with referrals to federal, state and local government agencies and private groups offering storm-

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<sup>7</sup> Touro College & University System, *Touro Law Opens Pro Bono Storm Help Center "TLC-HEART"*, <https://www.touro.edu/news/archive/touro-law-opens-pro-bono-storm-help-center---tlc-heart.php> (November 2, 2012).



related assistance. “Touro Law Center was founded on the values of academic excellence, social justice and community service. We have always been there when people needed help, and now we are preparing once again to respond to a crisis in our community.” said Dean Patricia Salkin, *now Provost of the Graduate and Professional Divisions of Touro College*. She continued, “We know that based on the experiences from other natural disasters in the State and across the country, the immediate pro bono assistance of trained lawyers and supervised law students is in immediate demand and will be a necessary component of rebuilding for many months to come.”

When TLC-HEART first opened, the center offered: assistance in assessing eligibility and completing application forms for the wide range of emergency assistance available to storm victims, both for individuals and small businesses (e.g., food stamps, government loans and grants); referrals for free legal consultation and advice on storm-related legal issues (e.g., insurance, landlord-tenant, consumer complaints, unemployment); assistance to members of the Touro Law community, including students and staff members, who were in need.

In addition to TLC-HEART, Touro Law houses a dozen not-for-profit public interest law groups in the Public Advocacy Center (PAC) that already provide assistance in senior citizen, employment, disability, family law, domestic violence and similar issues that can sometimes be exacerbated during natural disaster. The PAC agencies agreed to help provide additional resources and support for the victims of the hurricane.

*Why Should a Law School Establish an Independent Helpline When FEMA Provides One?* The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended 42 U.S.C. § 5121 provides federal aid to state and local governments as well as voluntary relief organizations whenever the President of the United States declares a “major disaster.” The Federal Emergency Management Agency (FEMA) coordinates this federal aid through several programs. One such program is the Disaster Legal Services (DLS) program, a cooperative effort between the American Bar Association Young Lawyers Division (YLD) and FEMA.<sup>8</sup> Under the DLS program the national YLD together with the affected state’s YLD chapter, if requested by FEMA, provides legal assistance to low-income individuals affected by a declared major disaster. FEMA determines when to initiate the program. Once FEMA activates the DLS program, depending on the

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<sup>8</sup> FEMA Disaster Legal Services, <https://www.fema.gov/media-library/assets/documents/24413>.

magnitude of the disaster, the DLS/YLD helpline can be operational within a week or two at the latest.

Notwithstanding the DLS hotline assistance, an individual school that is willing and able to establish its own helpline can more promptly provide the community with this resource. Since volunteers will mostly be drawn from the affected community, they may be more knowledgeable about local resources. In order to reach the greatest portion of the storm-affected population, it is extremely important for a law school hotline to be publicized in as many ways as possible. Social media has a great influence today, and is one of the greatest channels of publishing information. For example, the Touro Disaster Relief Clinic has a Facebook<sup>9</sup> page which continues to be updated with events, deadlines, and a host of other storm-related information.

The TLC HEART helpline was fortunate to have a full-time volunteer attorney supervisor who:

- ◆ Monitored the trending issues as measured by the nature of questions being posed to helpline volunteers in real time
- ◆ Identified and prioritized research tasks that arose based on the trending issues
- ◆ Coordinated with research volunteers who then were quickly able to research and update the helpline volunteers with information on evolving issues.
- ◆ Analyzed the intake sheets collected by student volunteers to verify the existence of true legal issues as opposed to requests for information
- ◆ Monitored intake sheets to insure that all required information was present to eliminate need for attorneys to call back to obtain the information.
- ◆ Monitored referrals made to outside volunteer attorneys and followed up to insure that services were being provided

If it is not possible to recruit a full-time volunteer, an alternative is to recruit volunteers to be the “officer of the day” for one day. It is important to have one person monitor trends in the nature of questions and issues encountered by helpline volunteers. This enables research volunteers to more effectively obtain information to assist the helpline volunteers. Also monitoring intake sheets for completeness and presence of true legal issues eliminates the need for volunteer attorneys to make call backs to obtain missing information or to repeatedly explain to callers why an attorney cannot help with their

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<sup>9</sup> Touro Law Center Disaster Relief Clinic, <https://www.facebook.com/TLCDisasterRelief>.

particular issue. Flexibility and adaptability are essential components for a helpline or any disaster response project. Technology such as computers and digital tools provides maximum efficiency but may be impossible options in the wake of disasters, thus any intake forms, numbering systems, and any other information gathering methodologies should be simplified as far as possible to enable them to be used by volunteers relying on paper, pens, and pencils.

*B. From Hotline to Community Life-Line: The Touro Disaster Relief Clinic*

As of October 2017, the five-year anniversary of Superstorm Sandy, the TLC-HEART hotline has now evolved into a full service Sandy-Clinic, which works cooperatively with other organizations replying to the disaster and often hosts and assists in community education and outreach programs. The mission at the Disaster Relief Clinic is to assist New York Sandy-affected households with a focus on Nassau and Suffolk Counties, with a focus on homeowners that are seniors, working families, and households that are financially burdened as a result of Sandy. As time continued to pass from the storm, legal issues continued to evolve. In order to remain able to provide the most assistance possible on Long Island, the Clinic listened to the needs of the community and expanded its areas of services to include:

- ◆ Flood insurance or homeowner insurance underpayments or denials of coverage;
- ◆ Contractors who misappropriated funds or incorrectly performed contracted services;
- ◆ FEMA recoupments of Individuals and Households Program (IHP) benefits;
- ◆ Assistance or guidance concerning the NY Rising Program (for instance, establishing a hardship so that a household can be considered for the acquisition program), and NYR recoupments;
- ◆ Assistance with the FEMA Sandy Claims Review Process;
- ◆ Assistance for homeowners who must engage in real property loss mitigation, such as a mortgage modification or a short sale, to avoid foreclosure; and
- ◆ Working with policymakers to positively reform the flood insurance program in a manner that reduces the need for ongoing legal assistance or representation, by potentially thousands of households, access to justice issues related to the need for legal services, and undue burdens that insurance underpayments or denials or coverage place onto the State

through its NY Rising Program and ongoing needs for social services.

As of October 29, 2012, the Five-Year Anniversary of Superstorm Sandy, students from Touro's Disaster Relief Clinic were able to do the following:

- ◆ Spoken with over 5,000 households in Nassau and Suffolk Counties and represented over 1,600 households in full or limited scope representation;
- ◆ Filed flood insurance lawsuits in Federal Court, netting over \$1,100,000 for our clients;
- ◆ Successfully won FEMA Recoupment Appeals, terminating over \$190,000 plus associated fees, on behalf of our clients;
- ◆ Submitted supplemental structure and content flood insurance claims for our clients;
- ◆ Represented 100 homeowners in the FEMA Sandy Claims Review Process, obtaining over \$2,450,000;
- ◆ Been successful in having NY Rising grant Hardship applications submitted on behalf of our clients to move homeowners in the acquisition program, and to clarify/reduce the Duplication of Benefits analysis;
- ◆ Working cooperatively with other organizations reposing to the disaster and often hosts and assists in community education and outreach programs, as well as serving as a direct referral source for government agencies

In addition to the direct legal services which are necessary post-disaster, the most crucial and successful component of the Sandy recovery has been the interplay of the legal and non-legal agencies. The partnership between the non-profit legal services and other non-profit agencies that are active in the relief work has proven to be effective in coordinating a comprehensive and integrated recovery for those seeking assistance. Partnerships like the Long Island Long Term Recovery Group, comprised of non-profit, community and governmental agencies, and the Long Island Voluntary Organizations Active in Disaster (LIVOAD), convened through the Health and Welfare Council of Long Island (HWCLI), which helps all non-profit agencies to respond and proposes solutions to these trends to serve the survivors.<sup>10</sup> The center of these coordinated groups has been the Disaster Case Management Program (DCMP), which is staffed with individual

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<sup>10</sup> *Disaster Recovery*, HEALTH AND WELFARE COUNCIL OF LONG ISLAND, <http://www.hwcli.com>.

Disaster Case Managers (DCMs) who provide assistance to address unmet needs. DCMs are a federally funded program administrated by FEMA.<sup>11</sup> In the event of a presidentially declared disaster, the Governor of the impacted State may request the implementation of the DCM if the declaration includes Individual Assistance.<sup>12</sup> DCM works with a disaster survivor to implement recovery plans for disaster related needs on a limited time basis.<sup>13</sup> These recovery plans are achieved through monetary, volunteer, goods assistance, advocacy and social services.<sup>14</sup>

Non-profit legal services add to the holistic approach with resources to refer clients with serious legal issues. These organizations also provide input and guidance to DCMs for clients' issues, which can often be resolved without attorney intervention.<sup>15</sup> To further coordination and education among the non-profit community, non-profit legal services, including the Touro Law Center's Disaster Relief Clinic, have presented on the topics of insurance claims, NY Rising, and contractor disputes, at staff meetings for these programs to update and properly inform the non-legal agencies on the changing legal landscape of disaster relief. Unprecedented Sandy specific topics and processes have also been guided by the non-profit legal services including the Proof of Loss extensions and the Superstorm Sandy Claims Review Process.<sup>16</sup>

For the Touro Disaster Relief Clinic's partnership with the DCM, initially through FECS<sup>17</sup> which transitioned to Catholic Charities Community Services Arch Diocese of New York,<sup>18</sup> having a DCM seated within the Clinic has proven to be successful in providing comprehensive services to clients who initially come for legal assistance, but they were found to need more integrated services to recover. For example, in one instance, a client called the Clinic hotline for an intake looking for insurance claim assistance. After a complete intake, it was discovered that the client was in foreclosure,

<sup>11</sup> *Disaster Case Management*, FEMA (Mar. 2015), [http://www.fema.gov/media-library-data/1441991447279-2f7d4a5d00fba4d2ecfc1cd840aa249a/DCM\\_factSheet.pdf](http://www.fema.gov/media-library-data/1441991447279-2f7d4a5d00fba4d2ecfc1cd840aa249a/DCM_factSheet.pdf).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *See generally Disaster Case Management: Program Guidance*, FEMA 6 (Mar. 2013), [https://www.fema.gov/media-library-data/20130726-1908-25045-2403/dcm\\_pg\\_final\\_3\\_8\\_13.pdf](https://www.fema.gov/media-library-data/20130726-1908-25045-2403/dcm_pg_final_3_8_13.pdf).

<sup>15</sup> *Id.*

<sup>16</sup> *The Hurricane Sandy Flood Insurance Claims Review Toolkit*, FEMA, <https://www.fema.gov/media-library/assets/documents/105899>.

<sup>17</sup> *Information about FECS Transition*, FECS, <http://www.fecs.org/> (last visited Feb. 1, 2016).

<sup>18</sup> CATHOLIC CHARITIES ARCHDIOCESE OF NEW YORK, <http://catholiccharitiesny.org/> (last visited Dec. 1, 2017).

experiencing contractor fraud, having trouble navigating the CDBG-DR program, and was struggling financially which caused her to fall behind on utility bills. These issues were the end result of storm damage, loss of employment, and the loss of two family members shortly after with Sandy. The DCM was able to make a home visit to the client to obtain documentation and make a recovery plan.

Obtaining counseling services, utility assistance and a construction manager to speak with the contractor through the DCM enabled the client to focus and stay hopeful for recovery. These steps enabled the client to be more self-sufficient and enabled the Clinic to be more efficient in handling the client's foreclosure and other Sandy legal needs. Non-profit legal and non-legal services are an important part to this recovery, and collaboration between the two provide an opportunity for clients to receive resources and assistance that can otherwise be overlooked.

## V.

### CONSTANTLY EVOLVING LEGAL ISSUES

Calls came into the Touro TLC-HEART helpline in "waves" which evolved and changed as the stages of recovery progressed. The focus of Touro Law Center's helpline was addressing questions related to emergency benefits, insurance claims, FEMA claims and appeals, landlord/tenant and labor/employment/unemployment issues. Law student volunteers staffed the helpline and handled informational calls themselves. If a caller had a legal issue, the volunteers would complete an intake sheet, and then a volunteer attorney would call the individual back. If callers had legal needs that required more than a telephone consultation would provide, they would be referred to attorneys who had volunteered to take pro-bono cases.

## THE HELPLINE TIMELINE

STAGE	NATURE OF INQUIRIES TO THE HELPLINE
1	⇒ Informational requests relating to survival needs- emergency housing ⇒ Emergency food stamps or the Supplemental Nutrition Assistance Program, (SNAP) ⇒ Filing for FEMA benefits ⇒ Landlord/tenant issues ⇒ Homeowners & Flood Insurance Claim Submission
2	⇒ More complex landlord-tenant issues ⇒ Employment issues
3	⇒ FEMA Appeals ⇒ Insurance Appeals
4	⇒ Rebuilding and contractor fraud issues ⇒ Insurance fraud ⇒ Foreclosure ⇒ Bankruptcy

## VI.

## WHAT IS DISASTER LAW?

The term “disaster law” is not in fact one substantive area of the law, but a compilation of many areas of law all of which take effect and are interconnected when a President declares a Major Disaster. Below is a brief overview of the different areas of substantive law which are triggered in the wake of a natural disaster.

*A. Robert T. Stafford Disaster Relief And Emergency Assistance Act & The Duplication Of Benefits Analysis*

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (the “Stafford Act”)<sup>19</sup> is a law that intended to “provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which results from such disasters.”<sup>20</sup> Under the Stafford Act’s framework, Congress instituted a goal to achieve greater coordination and responsiveness of disaster preparedness and relief programs.<sup>21</sup> It also sought to guard against fraud and ineligible uses of taxpayers’ funds.<sup>22</sup>

<sup>19</sup> Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5208 (2013) [hereinafter referred to as “The Stafford Act”].

<sup>20</sup> The Stafford Act § 5121.

<sup>21</sup> Clarification of Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees, 76 Fed. Reg. 71,061 (Nov. 21, 2011) [hereinafter “2011 Stafford Act Clarification”].

<sup>22</sup> *Id.*

It is within the Stafford Act that FEMA has the authority to release grants in a time of a Major Disaster.<sup>23</sup> Since 2002, FEMA has been part of the US Department of Homeland Security.<sup>24</sup> Other agencies, in addition to FEMA and the Department of Homeland Security, provide critical disaster recovery assistance that falls outside the scope of the Stafford Act. This includes the Department of Housing and Urban Development, which provides Community Development Block Grants (CDBG) to aid rebuilding, and the Small Business Administration (SBA), which provides economic assistance to businesses following a disaster.<sup>25</sup>

The President makes Major Disaster declarations only when “response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary”.<sup>26</sup> The Stafford Act defines a Major Disaster as:

[A]ny natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.<sup>27</sup>

The Stafford Act also includes limitations on the issuance of grant money under Section 408. Section 312 outlines the general prohibition on “duplication of benefits.” It states that no benefits should be given to a “person, business concern, or other entity” who has also been given financial assistance under another program or from insurance.”<sup>28</sup> Section 312 also provides that a person should not receive financial assistance from another source that is for the same purpose as funds received through the Community Development Block Grant Disaster Recovery Program (the “CDBG-DR”).<sup>29</sup> This prohibition ensures that:

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<sup>23</sup> The Stafford Act, *supra* note 11.

<sup>24</sup> *Id.*

<sup>25</sup> FEMA, *Two years after Hurricane Sandy*, *supra* note 4.

<sup>26</sup> The Stafford Act, *supra* note 11.

<sup>27</sup> The Stafford Act, *supra* note 11.

<sup>28</sup> 44 C.F.R. § 206.2.

<sup>29</sup> This section provides in pertinent part:

The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity



[T]he prohibition on duplication of benefits ensures that Federal assistance serves only “to supplement insurance and other forms of disaster assistance.” To accomplish these goals, the Stafford Act implies a hierarchy of funding . . . , and prohibits Federal agencies from providing recovery assistance to the extent another source has covered the same portion of that recovery need.<sup>30</sup>

A duplication of benefits is found when:

[A] beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular recovery purpose.<sup>31</sup> “The amount of the duplication is the amount of assistance provided in excess of need.” The “Stafford Act requires a fact-specific inquiry into assistance received by each person, household, or entity.” “A grantee may not make a blanket determination that a duplication of benefits does not exist for all beneficiaries or recipients under a disaster recovery program.” “As a result, all disaster recovery funds must be governed by policies and procedures to prevent duplication of benefits.” “In disaster recovery, it is common for multiple sources of funds to be used to address a single need.” Any recipient receiving a duplicate benefit may be liable to the Federal government.<sup>32</sup>

In order to avoid duplication of benefits, each agency is required to follow a delivery sequence list provided by FEMA in order to ascertain “the order in which a program should provide assistance and what other resources it must consider before it does so.”<sup>33</sup> The hierarchy is as follows: 1) Volunteer agencies’ emergency assistance programs (ARC, Salvation Army, etc.); 2) FEMA Home Repair and Replacement; 3) Flood and hazard insurance; 4) SBA and Department of Agriculture disaster loans; 5) FEMA IHP assistance; and 6) other federal, state and local government agencies (HUD and CDGB-DR grants).<sup>34</sup> Agencies that are higher in the order are expected to provide assistance prior to assistance from agencies lower on the sequence list.<sup>35</sup> The Stafford Act determines an accurate duplication of benefits to be found by:

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will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.

*Id.* § 312.

<sup>30</sup> 2011 Stafford Act Clarification, *supra* note 12.

<sup>31</sup> *CDBG-DR Eligibility Requirements*, HUD EXCHANGE, <https://www.hudexchange.info/programs/cdbg-dr/cdbg-dr-eligibility-requirements/> (last visited Mar. 30, 2016).

<sup>32</sup> The Stafford Act § 5155(c); *see* 2011 Stafford Act Clarification, *supra* note 12.

<sup>33</sup> *Small Business Administration Standard Operating Procedure*, SOP 50-30-7 at 105, SMALL BUS. ADMIN. (May 13, 2011), <https://www.sba.gov/sites/default/files/SOP%2050%2030%207.pdf>.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

[F]irst [determining] the applicant's total post-disaster need in the absence of any duplicative benefits or program caps. Following the identification of total need, duplicative assistance can later be subtracted and program caps applied to arrive at a final award. "Assistance includes all benefits available to the person, including cash and other resources such as insurance proceeds, grants, and SBA loans." Once the grantee has determined the potential award and the total assistance received or to be received, it can exclude for duplication of benefit purposes, assistance that was: (1) Provided for a different purpose; (2) Used for a different, eligible purpose; (3) Not available to the applicant; (4) A private loan not guaranteed by SBA; or (5) any other asset or line of credit available to the applicant.<sup>36</sup>

A Small Business Administration loan, or "SBA", is a loan which becomes available to those affected by natural disaster at a very low interest rate following a natural disaster. However, the SBA loan is the only form of assistance on this list that is not a grant. An SBA loan is required to be repaid, whereas the grants received are not. Loans that need to be repaid with interest should not preclude a homeowner from receiving other forms of assistance.

### B. *Primary Residency*

When it comes to disaster recovery proceeds, homeowners will need to establish that the storm damaged property was their "primary residence". Although there may be multiple interpretations of this concept, Primary Residency is a term-of-art, and must be substantiated in a very specific manner. Primary Residency will come into play with homeowners who apply for FEMA Emergency Assistance through the Individuals and Households Program<sup>37</sup> as well as for any Community Disaster Block Grant Disaster Recovery<sup>38</sup> ("CDBG-DR") program which opens in the wake of a disaster.

Per FEMA's guidelines, a Primary Residence refers to the home where the applicant normally lives during the major portion of the calendar year. All household members at the time of the disaster are considered occupants. Occupant means a resident of the housing unit. FEMA verifies occupancy at the time of registration and may also complete and update verification at the time of inspection.<sup>39</sup>

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<sup>36</sup> 2011 Stafford Act Clarification, *supra* note 12.

<sup>37</sup> FEMA Individuals and Household, <https://www.fema.gov/news-release/2003/09/30/individuals-and-household>.

<sup>38</sup> HUD Exchange, Community Block Grant Disaster Recovery Program, <https://www.hudexchange.info/programs/cdbg-dr/>.

<sup>39</sup> FEMA Individual and Households Program Unified Guidance, September 2016.

Figure 5: Housing Assistance Documentation to Verify Occupancy	
Document and Description	Acceptable Document Dates
<b>Utility Bills:</b> Electric, gas, oil, trash, water/sewer bills that reflect the name of the applicant or co-applicant and the residence address.	Utility bills must be dated within 3 months prior to the incident period.
<b>Merchant's Statement:</b> Bank or credit card statement, phone bill, cable/satellite bill, etc.	Merchant statements must be dated within 3 months prior to the incident period.
<b>Employer's Statement:</b> Pay stubs and similar documents linking the applicant to the damaged residence.	Employer's statements must be dated within 3 months prior to the incident period.
Driver's license, state-issued ID card, voter registration card.	These documents must be current (not expired) at the time of the disaster.

In addition, CDBG-DR State Grant Program's also have requirements for the establishment of Primary Residency. The State program in New York was called New York Rising, which set forth the following guidelines<sup>40</sup>:

- ◆ The Program uses FEMA Individual Assistance (IA) received for the affected-storm as best evidence for proof of primary residency.
- ◆ If the Applicant did not receive FEMA IA, the Applicant may provide the following documentation for the year of the qualifying storm and in the name of the Applicant or Co-Applicant to prove primary residency:
  - ◆ Proof of School Tax Relief (STAR) exemption;
  - ◆ Federal income tax return showing Permanent Home Address as damaged property address;
  - ◆ NY State income tax return showing Permanent Home Address as damaged property address; or,
  - ◆ Government-issued identification (including driver's license) issued prior to date of the affected-storm, and expiring after date of the affected-storm.

### C. National Flood Insurance Program

The National Flood Insurance Program (NFIP) is a Federal program created by Congress to mitigate future flood losses nationwide through sound, community-enforced building and zoning ordinances and to provide access to affordable, federally backed flood insurance protection for property owners based on the Standard Flood Insur-

<sup>40</sup> New York State, Governor's Office of Storm Recovery, <https://stormrecovery.ny.gov/homeowner-resources-and-forms>, January 2016 Page 23 of 90 NY Rising Housing Recovery Program Policy Manual Version 4.0.

ance Policy (SFIP). NFIP is administered through the Federal Emergency Management Agency (FEMA).

The SFIP specifies the terms and conditions of the agreement of insurance between FEMA (DIRECT), as insurer, or the WYO company, as insurer the named insurer. There are three policy forms- however in the clinic we deal primarily with the Dwelling Form. The Dwelling Form is broken down in the following coverages: (A) Building Property (structure); (B) Personal Property (contents); (C) "Other Coverages" (debris removal, etc); (D) Increased Cost of Compliance (ICC).

The Write Your Own (WYO) Program allows participating property and casualty insurance companies to write and service the Standard Flood Insurance Policy in their own names. The companies receive an expense allowance for policies written and claims processed while the Federal Government retains responsibility for underwriting losses. The WYO Program operates as part of the NFIP, and is subject to its rules and regulations. (Standard Fire, Wright Flood, Allstate)

The National Flood Insurance Program covers direct physical damage by flood to your building and/or personal property, also known as contents. Flood insurance covers overflow of inland or tidal waters and unusual and rapid accumulation or runoff of surface waters from any source. However, the flood must be a general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties (at least one of which is yours). The Standard Flood Insurance Policy (SFIP) is a single-peril (flood) policy that pays only for flood damage to your insured property, up to the policy limit. The SFIP is not a valued policy, which pays the total policy limit in the event of a total loss.

#### CONCLUSION

For three days, Touro Law Center endured the fury of Superstorm Sandy as the storm battered Long Island to pieces. When it was over, the building stood unharmed and fully functional, unlike the buildings housing other legal services providers in the area. The Touro community came together to help the larger community cope with the numerous legal that arose in the wake of Superstorm Sandy and restore a sense of power to those devastated by the storm.

The experience of setting up the helpline illustrated the importance of pro-actively identifying the needs of those staffing the helpline, both students and volunteer attorneys and of making resources (training) available to them as soon as possible. The faculty quickly approved adding a disaster law course, and a disaster law

clinic was quickly established after the devastation occurred. However, much more could have been done had these elements been part of the law school's curriculum long before Sandy came along.

Touro Law Center's integration into the larger community of social and legal services providers made it possible for the school to quickly receive foundation grants to establish the clinic. Certainly for Touro Law Center and other law schools situated in disaster-prone areas, it makes sense to make disaster preparedness clinics a permanent part of their educational mission to provide experiential training to future lawyers in what will undoubtedly be a growing field in the coming years. Given the global climate changes, and also the call for reducing the regulatory burdens on business, superstorms like Sandy, and even man-made disasters may well become regular occurrences instead of rare events.

## RESOURCES

*Below is a chart with some of the above mentioned resources:*

Resources	Notes about Organization
American Bar Association Committee Disaster Response and Preparedness	This Committee is dedicated to providing lawyers, bar associations and the justice system with tools to prepare for and respond to disasters.  <a href="https://www.americanbar.org/groups/committees/disaster/about_us.html">https://www.americanbar.org/groups/committees/disaster/about_us.html</a>
American Bar Association Disaster Legal Services	Through the Disaster Legal Services Program, the ABA Young Lawyers Division (ABA YLD) and the Federal Emergency Management Agency (FEMA) provide immediate temporary legal assistance to disaster survivors at no charge.  <a href="https://www.americanbar.org/groups/young_lawyers/disaster_legal_services.html">https://www.americanbar.org/groups/young_lawyers/disaster_legal_services.html</a>
National VOAD	National VOAD, an association of organizations that mitigate and alleviate the impact of disasters, provides a forum promoting cooperation, communication, coordination and collaboration; and fosters more effective delivery of services to communities affected by disaster.  The National VOAD coalition includes over 50 of the country's most reputable national organizations (faith-based, community-based and other non-governmental organizations) and 55 State/Territory VOADs, which represent Local/Regional VOADs and hundreds of other member organizations throughout the country.  <a href="https://www.nvoad.org/">https://www.nvoad.org/</a>

Resources	Notes about Organization
New York State Bar Association Committee on Mass Disaster Response	<p>The New York State Bar Association's ("NYSBA") mass disaster response plan ("Response Plan") sets forth guidelines to respond in an appropriate manner to the victims, the public, and the media, immediately following a mass disaster. The plan outlines procedures to be followed in determining the nature of the crisis and the NYSBA's response. The goals of the Response Plan are:</p> <ul style="list-style-type: none"> <li>• To inform victims of a disaster and their families how the legal system functions to resolve disputes which arise out of mass disaster;</li> <li>• To monitor conduct of attorneys as a disaster site;</li> <li>• To make victims of a disaster, their families, and the public aware that personal solicitation of clients by attorneys, at the site of a disaster, is unethical; and</li> <li>• To advise those who require legal assistance how to make an informed selection of an attorney.</li> </ul> <p><a href="http://www.nysba.org/A16700/">http://www.nysba.org/A16700/</a></p>
RedCross	<p>Red Cross volunteers and staff work to deliver vital services – from providing relief and support to those in crisis, to helping you be prepared to respond in emergencies.</p> <p><a href="http://www.redcross.org/">http://www.redcross.org/</a></p>
FEMA	<p>FEMA's mission is to support our citizens and first responders to ensure that as a nation we work together to build, sustain and improve our capability to prepare for, protect against, respond to, recover from and mitigate all hazards.</p> <p><a href="https://www.fema.gov/">https://www.fema.gov/</a></p>
National Disaster Legal Aid Resource Center	<p>This site is a collaborative effort of Lone Star Legal Aid, the American Bar Association, the Legal Services Corporation, the National Legal Aid and Defender Association, the Texas Legal Services Center and Pro Bono Net.</p> <p><a href="https://www.disasterlegalaid.org/">https://www.disasterlegalaid.org/</a></p>
Resource Lawline	<p>Lawline is a platform for online continuing legal education, who released free CLE sessions in the wake of 2017 natural disasters. Federal Disaster Relief and the National Flood Insurance Program, CLE</p> <p><a href="https://www.lawline.com/course/federal-disaster-relief-and-the-national-flood-insurance-program-2">https://www.lawline.com/course/federal-disaster-relief-and-the-national-flood-insurance-program-2</a></p>