

# DISASTER BASICS: THE LIFE CYCLE OF A DISASTER AND THE ROLE OF CONFLICT RESOLUTION PROFESSIONALS

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When things go wrong, we call it a problem and mediators may be called in to help parties affected by the problem work things out. When things go terribly wrong, we call it a disaster, and conflict resolution professionals can use their experience, abilities, and skills to help the individuals, families, businesses, communities, and public agencies in the aftermath.

Mediators may work inside relief agencies and emergency management agencies, or they may be on the outsiders called in to offer their expertise after a disaster. But whether insiders or outsiders, mediators, like all emergency management personnel, need to be prepared in order to function effectively in disasters. To understand how their services can be utilized and to acquire legitimacy and gain the confidence of other disaster workers, mediators need to understand disaster planning, preparedness, emergency response, recovery, and mitigation. They also need to understand the culture of first responders, relief agencies, and those responsible for long-term recovery programs, and they need to have already built relationships with those groups.

Immediately following Hurricane Katrina, and for many months after, thousands of individuals came on their own or as part of church and civic groups to help. Donated goods and services may be essential, and even life-saving, immediately following a disaster, and outside volunteers help the local community members feel that others care and support them. But eventually, as the com-

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munity tries to recover, the donation of goods and labor can interfere with the ability of local businesses to sell products and local workers to get jobs. In addition, unless volunteers coming to the affected area provide their own food, shelter, and transportation, they may be using scarce resources that are needed by those directly affected by the disaster. Mediators, like other well-meaning outsiders, need to be aware that their efforts can interfere with the recovery and professional relief workers may be less than welcoming for that reason.

#### DISASTER BASICS

This Article will provide an overview of the life cycle of a disaster, describe some of the disaster-related work that conflict resolution professionals have done, and discuss how the Alternative Dispute Resolution (ADR) field can be of service both before and after disasters strike. For purposes of this article, I define conflict resolution broadly and include not only mediation, but also facilitation, civic engagement processes and listening projects in this definition. These processes have a place within the spectrum of conflict resolution practices because of their use of common skills such as listening, supporting idea generation, managing expectations; and sharing common values, such as inclusiveness, mutual understanding, and party determination.

Every state (and many localities) has an emergency management office to help coordinate assistance and response for disasters. The Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act), authorizes FEMA to provide assistance to states when they are overwhelmed by major disasters.<sup>1</sup> The Federal Emergency Management Agency (FEMA), created by President Jimmy Carter in 1979, coordinates local and federal efforts and allocates resources to alleviate loss, suffering, and damage caused by disasters.<sup>2</sup> Under the authority of the Stafford Act, the President issues a major disaster declaration after receiving a request from the governor of the affected state.<sup>3</sup> Once the

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<sup>1</sup> Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288, as amended, 42 U.S.C. §§ 5121-5206 (2006).

<sup>2</sup> See History of FEMA, FEMA, <http://www.fema.gov/about/history.shtm>.

<sup>3</sup> See The Robert T. Stafford Disaster Relief and Emergency Assistance Act, *supra* note 1.

disaster is declared, the Department of Homeland Security can administer assistance to those affected.<sup>4</sup>

FEMA's mission, and the mission of emergency management, generally falls into one of four phases: Planning and preparedness, response, recovery, and mitigation.<sup>5</sup> While there is overlap among the four categories, they can be considered phases in the life cycle of a disaster. They are described here to lay the framework for considering when and how the services of conflict resolution professionals can be most useful and appropriate.<sup>6</sup>

Federal, state and local emergency planning offices are responsible for planning, training, and testing the protocols and procedures they have developed.<sup>7</sup> Being prepared involves developing evacuation plans and stockpiling or identifying potential resources such as food, water, medical supplies, identifying shelters, and equipment. Emergency planners work with agencies institutions, and organizations that provide shelter and food, with hospitals and other providers of emergency medical services, and with the media and other communications providers to develop and test warning systems and ensure that communication systems are available before, during, and after an emergency.

Once a disaster has occurred, the response phase begins. During the response phase, efforts are focused on relief operations such as restoring power and providing assistance to meet emergency needs such as food, water, ice and shelter. Depending on the nature of the disaster, first responders may include fire, law enforcement, and medical personnel. When a federal disaster is declared, FEMA and other federal agency staff may be deployed. FEMA staff includes permanent full-time employees and disaster assistance employees (DAEs). DAEs are reservists who are called to active duty to supplement FEMA's permanent staff. Some DAEs have many years of experience working for the military or for state and local emergency management offices. Others have backgrounds in professions such as journalism, media relations, environmental sciences, historic preservation, accounting, human resources, and social work. If more workers are needed, such as after major disasters, FEMA also hires members of the local community.

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<sup>4</sup> See Keith Bea, CRS REPORT FOR CONGRESS, Aug. 29, 2005, <http://fas.org/sgp/crs/home/sec/RL33053.pdf>.

<sup>5</sup> See *Id.*

<sup>6</sup> See About FEMA, FEMA, <http://www.fema.gov/about/index.shtm#0> (last visited Apr. 16, 2008).

<sup>7</sup> *Id.*

Depending on the nature of the disaster, federal agencies such as the Coast Guard, the Army Corps of Engineers, Occupational Health and Safety Administration, Environmental Protection Agency, and others may send personnel. Agencies such as the Red Cross, churches, and civic groups may also arrive to assist. In addition, local, state, and federal agencies may send supplies and equipment. FEMA's job is to coordinate the deployment of all these human and material assets.

After the immediate response period, FEMA assists local and state governments in helping the community achieve long-term recovery. Recovery may include the repair of buildings and infrastructure, debris removal, and the provision of temporary housing. A wide variety of grant and loan programs are available to individuals, businesses, and public agencies to support long-term recovery. FEMA may have a presence in the community for months and even years, if necessary.

The fourth major phase, hazard mitigation, may begin during recovery, or even during response, and includes planning and financial assistance to reduce future disaster losses. FEMA provides Hazard Mitigation Grants to local governments to rebuild and strategically configure facilities to withstand the impact of future earthquakes, hurricanes, floods, and other natural disasters.<sup>8</sup>

These four phases may overlap and the end of the one phase and the beginning of the next isn't always clear. Response and recovery may be occurring simultaneously and different agencies may end response and begin recovery at different times. Mitigation is part of preparedness, but begins during response and continues during the recovery phase. These four categories may be a useful way for conflict resolution professionals to understand what happens during a disaster and to design interventions appropriately.

#### ADR SERVICES IN THE FEMA WORKPLACE

Before discussing the roles mediators have played in disasters, here is an overview of the ADR services provided within FEMA, the federal agency primarily responsible for coordinating federal disaster assistance.<sup>9</sup> FEMA currently has a five-person ADR of-

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<sup>8</sup> See, The Robert T. Stafford Disaster Relief and Emergency Assistance Act, *supra* note 1, at § 404.

<sup>9</sup> See FEMA, [www.fema.gov](http://www.fema.gov).

office at their headquarters in Washington, DC.<sup>10</sup> The office intervenes to help employees resolve workplace-related conflicts and has provided mediation training to large numbers of employees.<sup>11</sup> Emergency management is, by nature, often stressful. When a major disaster strikes, many permanent employees are deployed to the field, leaving headquarters short-staffed and overwhelmed with the additional work from the disaster. The headquarters staff supports the rest of the agency by helping to resolve conflicts, reduce tensions, and relieve some of the stress.

Shortly after Hurricane Katrina, FEMA hired a cadre of ADR professionals to work in field offices and began deploying them to Alabama, Mississippi, and Louisiana to provide dispute resolution services to FEMA employees throughout the hurricane-damaged areas of the Gulf Coast.<sup>12</sup> Subsequently, members of the cadre have been deployed in connection with disasters in New York, Virginia, California, Florida, Georgia, and Oregon.<sup>13</sup> They provide direct services and training in mediation, facilitation, coaching, communications, and problem-solving.

During FY2006, the cadre recorded 518 cases and a total of 1283 clients.<sup>14</sup> The use of informal processes such as listening and problem-solving, as opposed to mediation and facilitation, is evident in the program statistics. The most commonly used intervention was listening and problem solving at 48%. Conflict coaching was used in 15% of cases, followed by mediation and conciliation (13%), and facilitation and dialogue (10%). A total of 1591 em-

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<sup>10</sup> ALTERNATIVE DISPUTE RESOLUTION, FEMA, <http://www.fema.gov/help/adr/index.shtm> (last visited Apr. 16, 2008).

<sup>11</sup> See *id.*

<sup>12</sup> See Linda Baron & Robert W. Scott, *Embedding Mediators: Benefits and Challenges of the FEMA Workplace Mode*, DISPUTE RESOL. MAG., 13–16. (Fall, 2006).

<sup>13</sup> See e-mail from Robert Scott, ADR Cadre Manager, to Linda Baron (Apr. 15, 2008) (on file with author):

FEMA hired a cadre of ADR professionals to work in field offices and began deploying them to Alabama, Mississippi, and Louisiana to provide dispute resolution services to FEMA employees throughout the hurricane-damaged areas of the Gulf Coast. Subsequently, members of the cadre have been deployed in connection with disasters in Georgia, Florida, Kansas, Missouri, Oregon, California, Oklahoma, Tennessee, and Wisconsin and to a fixed site facility in Virginia. Deployments are based on requests from the Federal Coordinating Official, the FEMA official directing field operations. The FEMA ADR office encourages requests for larger disaster that will have staffing close to 100 or more.

*Id.*

<sup>14</sup> Unpublished statistics prepared by Robert Scott, ADR Cadre Manager, Office of the General Counsel, FEMA, Washington, DC.

ployees attended the forty-seven training events and fifty-four presentations conducted by cadre members.<sup>15</sup>

The cadre members are all DAEs working sometimes for months at a time in the field. Unlike programs in which the providers of mediation services are expected to be outsiders without ties to the parties, the members of FEMA's ADR cadre are insiders, embedded in the FEMA workplace. This requires that the mediators be particularly vigilant to avoid appearing allied with any individuals or groups in the field. If they are perceived as being aligned with management or employees, their effectiveness could be reduced.

At the same time, because DAE's are not unionized and don't have access to grievance procedures, mediation is one of the few alternatives available to employees when conflicts arise. The absence of other recourses means that ADR is not an *alternative* to something, but may be the first avenue for conflict resolution. On the one hand, this is desirable because it may mean that mediation can be offered early in the course of a dispute; but because it is new in FEMA field offices and not part of a larger dispute resolution system, field mediators need to be pro-active so that their services will become known and utilized.

In addition to providing mediation and training in headquarters and managing the field cadre, the ADR office also arranges arbitrations under the National Flood Insurance Act when there are disagreements between insurance companies and FEMA.<sup>16</sup> In 2000, after the disastrous fires in Los Alamos, New Mexico, FEMA processed individual claims for compensation and ADR office created an arbitration program using outside arbitrators to resolve appeals filed by victims not satisfied with the awards offered.<sup>17</sup>

#### PREPAREDNESS

There are several examples of how conflict resolution professionals have supported disaster planning and preparedness. Efforts are underway in California to train neighborhood leaders in mediation as part of disaster preparedness planning and to use collaborative problem-solving to help state and local agencies plan for

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

<sup>16</sup> 42 U.S.C. § 4083 (2008).

<sup>17</sup> See Cindy Mazur, *Working Toward Critical Mass: FEMA, ADR & Disasters*, DISPUTE RESOL. MAG. 9 (Fall 2006).

emergencies. In Riverside, California, mediation is considered a “key skill,”<sup>18</sup> along with cardiopulmonary resuscitation and first aid. Employees of community and faith-based organizations have been recruited to receive training in those skills and in turn train neighborhood leaders as part of disaster preparedness training.

The Center for Collaborative Policy at California State University Sacramento assisted the State Office of Emergency Services and the Interoperability Coalition to develop a plan for modernizing state agency communications and improve inter-agency communications in the event of an emergency. A similar effort is underway to help local governments find ways to improve communications during disasters. The Center is also helping emergency response and homeland security programs in the State comply with the new National Incident Management System (NIMS) requirements.<sup>19</sup> This is critical because eligibility for certain federal grants requires compliance with NIMS. In addition, the Center is working with the California League of Cities/Collaborative Governance Initiative to bring together local governments to identify how they can use collaborative problem solving to work with first responders and the public to achieve emergency management and homeland security goals.

In another example, Calvert County, Maryland is using a civic engagement process to elicit citizen participation for community preparedness. Several local agencies are working with AmericaSpeaks, an organization that designs and facilitates large-scale community-wide civic engagement processes, to develop a plan to respond in the event of a pandemic flu outbreak. The planning process includes a “Twenty-first Century Town Meeting,” a facilitated open meeting for local citizens to provide input for the planning process.<sup>20</sup> Approximately eighty local residents gathered on a Saturday morning in February 2008 to discuss the draft of the plan with their neighbors and provide suggestions for modifying and disseminating the plan.

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<sup>18</sup> See *Spots Remain for Disaster Preparedness Training*, NORTH COUNTY TIMES, Nov. 20, 2007, available at [http://www.nctimes.com/articles/2007/11/21/news/californian/riverside/18\\_38\\_4211\\_20\\_07.txt](http://www.nctimes.com/articles/2007/11/21/news/californian/riverside/18_38_4211_20_07.txt)

<sup>19</sup> See NIMS RESOURCES, FEMA, <http://www.fema.gov/emergency/nims/resources.shtm>.

<sup>20</sup> Christy Goodman, *Pandemic Preparedness Spurs Gathering of Experts*, WASH. POST, Jan. 31, 2008, at SM02.

## PREJUDICE REDUCTION, LISTENING PROJECTS, AND COMMUNITY RELATIONS IN DISASTER RESPONSE

The initiatives undertaken during the response phase address the immediate needs for shelter, transportation, food, and medical services. Disasters can also surface and exacerbate community tensions around race, ethnicity, and economic disparities, and those affected by disasters need to be able to speak out about their experiences. Mediators have initiated listening projects and conducted prejudice reduction workshops following natural disasters and civic emergencies. For instance, after the civil unrest in response to the beating of Rodney King in Los Angeles in 1991, Ken Cloke, an arbitrator and mediator well-known in the dispute resolution field for his work in high conflict arenas, helped train FEMA employees to facilitate inter-racial and inter-ethnic dialogue to reduce the potential escalating hostilities.<sup>21</sup>

Shortly after Hurricane Katrina devastated the communities of the Gulf Coast, volunteers working for Rural Southern Voice for Peace (RSVP) began interviewing evacuees in Columbia, South Carolina, Atlanta, Georgia, and Birmingham, Alabama. The purpose of the project was to enable Katrina survivors to share their experiences, voice their needs and concerns, and offer ideas for addressing those needs.<sup>22</sup> Project organizers also hoped interviewees would become involved in grassroots education and action programs. In August 2006, one year after Hurricane Katrina made landfall, RSVP released a report on the twenty-six interviews that were conducted. Included in the report were the stories of life before and after the storm, with a focus on issues of race, class, prejudice, and poverty, and suggestions for ways to improve the way relief agencies respond to future disasters.<sup>23</sup> While listening projects may not be considered part of the traditional tool box of conflict resolution professionals, those projects, like other conflict resolution processes, help parties in conflict to better understand

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<sup>21</sup> See, e.g., Kenneth Cloke, *MEDIATION WITHOUT BORDERS: A PROPOSAL TO RESOLVE POLITICAL CONFLICTS* (2005), <http://www.beyondintractability.org/action/essay.jsp?id=41287&nid=6752>; *Citizens Will Plan for Pandemic Flu Outbreak*, Maryland County, <http://www.americaspeaks.org/index.cfm?fuseaction=feature.showFeature&FeatureID=51&d:\CFusionMX7\verity\Data\dummy.txt> [hereinafter *Pandemic Flu Outbreak*].

<sup>22</sup> See Gulf Coast Listening Project (GCLP), <http://www.listeningproject.info/news/projects/GulfCoastLP.php>.

<sup>23</sup> See LISTENING PROJECT, GULF COAST LISTENING PROJECT, [http://www.listeningproject.info/downloads/GCLP\\_Report\\_8-06.doc](http://www.listeningproject.info/downloads/GCLP_Report_8-06.doc).

each other, find common ground, and generate, evaluate, and choose options for solutions.

The Community Relations Service (CRS) of the U.S. Department of Justice, established by Title X of the Civil Rights Act of 1964, provides mediation, conciliation, and training programs to resolve and prevent community conflicts that arise from differences in race, color, or national origin.<sup>24</sup> In September 2005, CRS received a mission assignment from FEMA to work with FEMA's Equal Rights Offices in Alabama, Mississippi, and Louisiana.<sup>25</sup> Many CRS met with community leaders, relief agencies, schools, and law enforcement personnel to encourage dialogue, foster positive relationships, and defuse tensions. CRS provided cultural competency workshops for disaster relief workers, conveyed to FEMA the need to provide written material in languages other than English, and brought together government agencies with small and minority businesses to provide information about opportunities for contractors.<sup>26</sup>

Many members of minority groups had difficulty accessing government assistance because they lacked an understanding of the proper procedures for filing claims and requests for assistance. CRS worked with government agencies and community and faith-based organizations to help members of those organizations find ways to better understand program requirements and complete the paperwork necessary to receive financial assistance. Again, while these activities may not be considered part of traditional alternative dispute resolution, they can reduce tensions and build bridges between affected residents and agencies providing assistance to those residents.

#### RECOVERY: ADR IN PROCESSING CLAIMS AND ALLOCATING COMPENSATION

When disasters occur, insurance companies are flooded with claims for property damage. Insurance companies may not have enough trained adjusters to respond to the demand and local courts may not be able to handle disputes both because the courts

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<sup>24</sup> See U.S. DEP'T OF JUSTICE, LEGISLATIVE MANDATE, <http://www.usdoj.gov/crs/mandate.htm>.

<sup>25</sup> See Community Relations Service FY 2005 Annual Report, <http://www.usdoj.gov/crs/pubs/fy2005/annualreport2005.pdf>.

<sup>26</sup> *Id.*

themselves may have been affected by the disaster and because of the large volume of cases. After the hurricanes in recent years in Florida and the Gulf Coast, arbitrators and mediators stepped in to resolve claims disputes.<sup>27</sup> Insurance mediation programs are one of the most common and well-developed applications of alternative dispute resolution in natural disasters, but because they are described in this issue of the Journal and elsewhere, they will not be discussed in detail in this article.<sup>28</sup>

While this article has focused on natural disasters, mediators have also played a role in man-made disasters. Ken Feinberg, a leading expert in mediation and arbitration, served as Special Master of the Federal September 11th Victim Compensation Fund. In that role, he was essentially an arbitrator charged with determining how much financial compensation to allocate to each victim's family. In his keynote address to the 2006 Fordham University Dispute Resolution Society's Symposium, *ADR as a Tool for Achieving Social Justice*, Feinberg discussed how the principles of ADR and the Victim Compensation Fund helped victims and their families after the September 11th disaster.<sup>29</sup> After the bombing of the World Trade Center, the Pentagon, and the downing of United Airlines Flight 93, Congress passed a law, which stated that anyone who lost a loved one or was physically injured could participate in the compensation fund program in exchange for waiving their right to litigate. The statute did not specify the amounts of compensation to be awarded, but required that the economic circumstances of each claimant be considered in determining award amounts.<sup>30</sup>

In his speech, Feinberg asked, "Where did we succeed with individualized justice in the face of mass disaster?"<sup>31</sup> After initial misgivings, he decided to give every claimant an opportunity to have a personal hearing. He conducted 1500 hearings and the staff conducted another 1000. Feinberg stated, "I believe the character of those hearings, as much as any other single factor, contributed to the program's success."<sup>32</sup> Despite the program's success, Feinberg concluded that this type of individualized program should never be

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<sup>27</sup> Mel Rubin, *Disaster Mediation: Lessons in Conflict Coordination and Collaboration*, 9 *CARDOZO J. CONFLICT RESOL.* 351 (2008).

<sup>28</sup> *Id.*

<sup>29</sup> Kenneth R. Feinberg, *How Can ADR Alleviate Long-Standing Social Problems?*, <http://law.fordham.edu/publications/articles/400flspub8509.pdf>.

<sup>30</sup> Air Transportation Safety and System Stabilization Act, tit. IV Pub. L. No. 107-42, 115 Stat. 230 (2001) (codified as amended at 28 C.F.R. Sect. 104 (2002)).

<sup>31</sup> See Feinberg, *supra* note 29.

<sup>32</sup> *Id.*

repeated, but said that he does believe that the opportunity to be heard, key to the program's success, should be replicated.<sup>33</sup>

#### RECOVERY: CIVIC ENGAGEMENT PROCESSES

Mediators were involved in the design and implementation of another initiative to help residents of New York City in the post-September 11 recovery process in a project called "Listening to the City."<sup>34</sup> The Civic Alliance to Rebuild Downtown New York, a coalition of more than eighty-five groups concerned with the redevelopment of Lower Manhattan, engaged AmericaSpeaks to design and implement a large-scaled community engagement process to develop a consensus vision for the future of the World Trade Center site. During the course of two meetings and a two-week online dialogue that followed, New Yorkers came together to offer opinions and discuss options on the highly controversial and contentious issues the city was confronting in deciding how to rebuild the area in a way that memorializes the event and treats victims and their families with respect.

The first meeting drew 600 community leaders, advocates, and professional planners. The second brought together 4500 members of the general public. More than 800 people participated in the online conversation.<sup>35</sup> Using the "Twenty-First Century Town Meeting" process developed by AmericaSpeaks, participants worked together in small groups facilitated by experienced conflict resolution practitioners from around the country. The project was underwritten by fifteen corporations and foundations, underscoring the need for collaboration and the high cost of conducting a dialogue of this scale.<sup>36</sup> According to AmericaSpeaks, "[t]he vision and principles for the rebuilding process, articulated by the participants in the first Listening to the City program, changed the decision-making climate by highlighting the value of involving the public."<sup>37</sup>

AmericaSpeaks has also been involved in recovery efforts in New Orleans. On December 2, 2006 they convened a multi-city Community Congress where displaced New Orleans residents discussed the future of their city. Face-to-face meetings were held in

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<sup>33</sup> *Id.*

<sup>34</sup> See *Pandemic Flu Outbreak*, *supra* note 21.

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

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

five cities. Using sophisticated communications technology, New Orleans residents in sixteen other cities were able to view the meeting and call in from libraries in other cities where these former New Orleans residents were now living. As in all 21st Century Town Meetings, experienced volunteers facilitated small group discussions.

AmericaSpeaks reported that 4000 New Orleanians participated in the forums that were convened to discuss what has been referred to as the Unified Plan for flood mitigation and rebuilding.<sup>38</sup> According to AmericaSpeaks, the meetings gave credibility to the proposed plan, energized the citizenry around the plan, and restored hope.<sup>39</sup> The depth of discussion at these forums was limited by time and the highly-scripted structure of the meetings, but these forums do provide opportunities for large numbers of people to learn about plans that will affect them, discuss those plans somewhat informally with neighbors, and offer feedback in ways not generally available in traditional public hearings.

#### RECOVERY: COMMUNITY-BASED PROGRAMS

One example of a community-based mediation project addressing post-disaster needs is the Safe Horizon's September 11th Victims' Assistance Initiative led by Alan Gross and described in another article in this issue.<sup>40</sup> The Initiative provided financial assistance, counseling, and mediation services and facilitated meetings among relief agencies, FEMA, elected officials, and community members.<sup>41</sup> Conflict resolvers, both by training and natural inclination, often serve as bridge-builders, coordinators, problem-solvers, and facilitators. The Safe Horizon program illustrates how mediators, working within a large victim services agency, can use their skills to address the diverse needs of those affected by disasters. When conflict resolvers take on work outside the mediator role, there is the potential for the blurring of the boundary between neutrality and advocacy. If that possibility is present, disclosure of the multiple roles may be appropriate.

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<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> See Alan E. Gross, *Conflict Resolution in the Aftermath of the World Trade Center Attacks: A Family Mediation Program*, 9 *CARDOZO J. CONFLICT RESOL.* 317 (2008); After 9/11 – Healing and Recovery, SAFE HORIZON, <http://www.safehorizon.org/page.php?page=sept11> [hereinafter Safehorizon]

<sup>41</sup> See Safehorizon, *supra* note 40.

Rather than professing neutrality or impartiality, it may be better to consider the mediator as “multi-partial,” that is, working to support the interests of everyone at the proverbial table.

Some mediation initiatives developed as a result of the national attention generated by Hurricane Katrina and the immense needs created and uncovered after the storm. One such project is the Mississippi Mediation Project (MMP), created by Laurel Kaufer, a mediator from Southern California.<sup>42</sup> After the storm, Kaufer felt moved to find a way to contribute her skills to rebuilding the Mississippi Gulf Coast communities. After traveling to the coast and meeting with community representatives, she found that mediation services were lacking in the region. She created the MMP and decided that instead of building a “bricks and mortar” dispute resolution center, she would focus her efforts on providing training in problem-solving, communication, mediation, and facilitation throughout the community and, in that way, provide locally-sustainable programming to enable residents to resolve conflicts in timely and effective ways. Training sessions have included staff and members of community-based organizations, elected officials, business owners, teachers, and others interested in gaining practical skills that can be used in their homes, workplaces, and communities.<sup>43</sup>

In another example of a community-based project, AmeriCorps members, supported by a grant to the National Association for Community Mediation, are working with Community Mediation Services in New Orleans and using their conflict resolution skills in a variety of settings including a health clinic, a community news outlet, a women’s center, and an after-school program.<sup>44</sup> While perhaps not directly resolving disaster-related conflicts, these mediators are creating links between local relief organizations and the community mediation center and demonstrating the value of infusing conflict resolution skills and practices into community life. The AmeriCorps members in New Orleans are trying to improve relations between elements in the community that have not traditionally worked well together and enable community members to resolve more of their own disputes.

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<sup>42</sup> See Mississippi Mediation Project, [www.mississippimediationproject.org](http://www.mississippimediationproject.org).

<sup>43</sup> Laurel Kaufer, *Mississippi Mediation Project: A Model for the Future of Conflict Management*, ACRESOLUTION 4-5 (Fall/Winter 2007).

<sup>44</sup> Personal conversation with Joanne Galindo, Senior Director, National Association for Community Mediation.

## MITIGATION

Mitigation involves planning and implementing strategies to reduce the impact of future disasters. Although mitigation is generally considered a separate phase in a disaster, it is part of both planning and recovery. During the mitigation process, States and communities identify ways to reduce or eliminate the risks of future disasters. FEMA assists communities as they develop and implement plans and monitors progress.<sup>45</sup> Federal funding is available to communities to implement mitigation strategies and FEMA staff work closely with local communities to educate them about mitigation and help them apply for those grants.<sup>46</sup>

Following Hurricane Andrew in Florida, the Governor created a commission to propose modifications to the State's building code.<sup>47</sup> The Florida Conflict Resolution Consortium worked with the commission and designed and facilitated a consensus-building process to develop recommendations for the new building code and new implementation system.<sup>48</sup> The report of the commission became the basis for legislation that created a new building code process designed to improve the quality of buildings in Florida and thus mitigate the impact of future hurricanes.<sup>49</sup>

## OTHER WAYS DISPUTE RESOLVERS CAN HELP

There are other ways that conflict resolution professionals could be involved in all phases of disasters. For example, conflict resolution training for EMTs, search and rescue teams, fire fighters and law enforcement could be part of disaster preparedness so that first responders would be prepared to handle the conflicts that are inevitable under the strains of disaster work. During response, mediators could be deployed to distribution points for food and water, mass shelters, and health facilities that serve those affected by the disaster. Mediators could also be available at Disaster Relief Centers where residents go for information and to file claims

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<sup>45</sup> See FEMA, <http://www.fema.gov/government/mitigation.shtm>.

<sup>46</sup> See Policy Consensus E-News – February 2006, [http://www.policyconsensus.org/publications/news/PCI\\_Newsletter\\_Feb\\_06.html](http://www.policyconsensus.org/publications/news/PCI_Newsletter_Feb_06.html).

<sup>47</sup> See Florida Conflict Resolution Consortium, [http://consensus.fsu.edu/academic\\_directory/casestudies1999/Nebelsiek\\_BldgCode.pdf](http://consensus.fsu.edu/academic_directory/casestudies1999/Nebelsiek_BldgCode.pdf).

<sup>48</sup> See Policy Consensus E-News – February 2006, *supra* note 46.

<sup>49</sup> See Florida Conflict Resolution Consortium, *supra* note 47.

for disaster assistance from federal agencies such as FEMA and the Small Business Administration. In those locations mediators could help manage conflicts on the spot, allowing the relief workers to concentrate on their jobs and not be diverted by the conflicts that arise when large groups of people congregate under emergency conditions. During recovery, mediation could be used more extensively to resolve disputes regarding insurance claims and compensation. And finally, during mitigation, mediators could be used to design and implement processes that elicit community participation and help multiple jurisdictions and agencies work out the complex issues they face in planning and implementing mitigation strategies.

#### PRINCIPLES FOR ADR PROFESSIONALS

Providing conflict resolution services can be helpful to relief workers and those affected by disasters. These services can be rewarding to those providing the services, but several guidelines should be considered. These guidelines are similar to the guidelines that pertain to any dispute resolution program: Mediation in disaster and emergency settings, like all mediations, works best when the mediators are knowledgeable about the cultures of the organizations and people they are working with and are prepared to respond quickly and with flexibility. And as with all mediations, participation is voluntary and self-determination of the parties is paramount; those affected by the conflict need to be heard and need to be at the center of the work.

