A Semester in Exile: Experiences and Lessons Learned During Loyola University New Orleans School of Law’s Fall 2005 Hurricane Katrina Relocation

Brian Huddleston

Please keep well and don’t panic. Compared to the problems currently being endured by thousands still in New Orleans, ours pale into insignificance.

—Dean Brian Bromberger, Loyola University New Orleans School of Law, September 5, 2005

Introduction

Loyola University New Orleans was founded in 1912 and is one of twenty-eight Jesuit institutions of higher education in the United States. The law school, which first held classes in 1914, has thirty-three full-time faculty and an average enrollment of just over 800 students. It has separate civil law and common law curricula and also offers its civil law curriculum in a four-year, part-time evening division. Despite a strong local and state reputation and notable programs such as its law clinic, Loyola is one of dozens of law schools that are locked solidly in the middle of the U.S. News and World Report rankings and that are constantly jockeying for national recognition.

Monday, August 15, 2005

Orientation for the law school’s incoming first-year class begins. Two hundred and eighty students, including sixty-nine in the evening division, attend the week-long program.

Brian Huddleston is the Senior Reference Librarian at Loyola University New Orleans Law Library. Besides the formal sources cited in this article, other background material used include interviews with the principals involved in Loyola’s semester in Houston, archived e-mail and web pages, and the author’s firsthand observations.


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Monday, August 22

Classes begin for the law school’s 2005-2006 academic year; 538 upper-class students return, for a total student body of 818. Of those, almost a quarter, 194 students, are in the evening division. The rest of the university is scheduled to start classes a week later.

Wednesday, August 24

Tropical Storm Katrina, the eleventh named storm of what would become the most active hurricane season on record, forms over the Bahamas, approximately 375 miles southeast of Miami.

Thursday, August 25

Katrina, now a Category 1 Hurricane, comes ashore in South Florida. Despite its modest size and strength, initial reports attribute seven deaths and $600 million dollars of property damage to its initial landfall. After crossing Florida and entering the Gulf of Mexico, the long-range forecast is for Katrina to strengthen and make landfall somewhere along the Florida Panhandle on Monday.

Friday, August 26

As the first week of the law school’s semester ends on Friday, Katrina’s likely path has shifted to the West. At 4:00 pm, the National Weather Service Tropical Prediction Center (NWS-TPC) updates its forecast and predicts that Hurricane Katrina, now a Category 2 storm, will make landfall Monday afternoon near the Alabama-Mississippi border after strengthening into a Category 4 or 5 hurricane. That would be 140 miles east of New Orleans and could still affect the city with wind and rain, but would not be any cause for serious concern.

By the NWS-TPC’s 10:00 pm forecast, Katrina’s predicted path has shifted even farther to the west. The new track now takes the storm directly over the Louisiana-Mississippi border, only thirty miles east of New Orleans, as at least a Category 4 hurricane. Louisiana Governor Kathleen Blanco declares a state of emergency so that the implementation of state emergency preparation plans can begin but because it is so late on a Friday night many people, especially law students after their first week of classes, won’t learn of these developments until the next morning.

Saturday, August 27

By Saturday Morning Katrina, now a Category 3 hurricane strengthening and picking up speed, is predicted to make landfall directly over New Orleans early Monday morning. Residents in the coastal areas of Southeastern Louisiana are ordered to evacuate, but by Saturday afternoon, New Orleans Mayor Ray Nagin has called only for a voluntary evacuation of the city, though he 2

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and his staff are debating the legal viability and commercial implications of ordering a mandatory evacuation.\(^3\)

Preparing for and evacuating from hurricanes is a routine drill that most New Orleanians are familiar with. You board up your windows, stock up on water and flashlight batteries, and either hunker down or drive out of town with a few days’ supplies, a change of clothes or two, and then return after what has recently been the inevitable near-miss. The last time New Orleans was directly hit by a significant hurricane was Betsy in 1965, a Category 3 storm that flooded many of the low-lying parts of the city. Betsy caused sixty-five deaths and was the first hurricane to inflict more than one billion dollars in damage. Four years later, Hurricane Camille, one of only three Category 5 hurricanes to hit the United States,\(^4\) missed New Orleans but caused unprecedented destruction along the Mississippi Gulf Coast. Two recent large-scale evacuations of New Orleans occurred for what turned out to be near-misses: Hurricane Georges in 1998 and Hurricane Ivan in 2004. Two smaller storms that grazed the city within ten days of each other in 2002 also contributed to the somewhat blasé attitude about the threat hurricanes pose to New Orleans that many of its citizens held in the summer of 2005.

With yet another hurricane threatening the city, Loyola’s administration decides to close the university at 5:00 pm and implement its Hurricane Emergency Plan. Not being able to reach anyone at the law school by phone, University Provost Dr. Walter Harris personally comes to the law library and tells the staff of this decision. The university’s tentative plan is to resume classes on Wednesday, August 31st.

**Sunday, August 28**

By Sunday morning, the latest forecast indicates that Katrina may be the hurricane that everyone had feared and predicted for many years: a large Category 4 or 5 hurricane that hits New Orleans head on and floods the majority of the city that is below the level of the Mississippi River and Lake Ponchartrain.\(^5\) One official said Katrina was going to be Hurricane Camille on Hurricane Betsy’s course.\(^6\) On Sunday morning Mayor Nagin finally

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3. Bruce Nolan, Katrina Takes Aim, Times Picayune (New Orleans), Aug. 28, 2005, at A20 (“Nagin said Saturday that he’s having his legal staff look into whether he can order a mandatory evacuation of the city, a step he’s been hesitant to do because of potential liability on the part of the city for closing hotels and other businesses.”).

4. The other two were 1992’s Hurricane Andrew in South Florida and the 1935 “Labor Day Hurricane” that hit the Florida Keys. Patrick J. Fitzpatrick, Hurricanes: A Reference Handbook 34 (Santa Barbara, Cal., 2006).

5. Such a scenario has been predicted for years, perhaps most recently and most accurately in a National Geographic article the previous year. See Joel K. Burne, Jr., Gone With the Water, National Geographic, Oct. 2004, at 88. See also John McQuaid and Mark Schleifstein, In Harm’s Way, Times Picayune (New Orleans), June 23, 2002, at J2 (part one of a five part series on New Orleans and Coastal Louisiana’s increased vulnerability to hurricanes after decades of coastal wetlands deterioration).

orders what would be, surprisingly, the first mandatory evacuation of New Orleans in the city’s history.

Most law school faculty, staff, and students evacuate New Orleans by Sunday. Many depart for the regional metropolises like Houston, Atlanta, and Memphis that will receive the largest numbers of New Orleanians, navigating routes packed with fellow evacuees that now take three or four times longer than usual to drive. Many travel even further to return home or stay with relatives. Though about half of the law school’s students are from New Orleans and Louisiana, many come from elsewhere in the United States and several each year are from other countries. Most of those students have never given hurricanes a second thought but now that they are in the path of one they spend the weekend trying to get out of the city. Law students who grew up in New Orleans advise classmates to evacuate, but they can’t give a ride to everybody who needs one. Many students try to get one of the last flights out of the city and some wait at the airport for hours on standby with the hundreds of tourists also stuck in the city.

By Sunday evening over one million people from the greater New Orleans metropolitan area have evacuated. An estimated seventy thousand city residents stay behind, either at the Superdome or in their homes. At 10:11 am, the National Weather Service’s New Orleans/Baton Rouge Weather Forecast Office issues an especially ominous advisory:

MOST OF THE AREA WILL BE UNINHABITABLE FOR WEEKS [...] AT LEAST ONE HALF OF WELL CONSTRUCTED HOMES WILL HAVE ROOF AND WALL FAILURE [...] AIRBORNE DEBRIS WILL BE WIDESPREAD AND MAY INCLUDE HEAVY ITEMS SUCH AS HOUSEHOLD APPLIANCES AND EVEN LIGHT VEHICLES [...] PERSONS, PETS AND LIVESTOCK EXPOSED TO THE WIND WILL FACE CERTAIN DEATH IF STRUCK. POWER OUTAGES WILL LAST FOR WEEKS AS MOST POWER POLES WILL BE DOWN AND TRANSFORMERS DESTROYED. WATER SHORTAGES WILL MAKE HUMAN SUFFERING INCREDIBLE BY MODERN STANDARDS.

Loyola University’s Hurricane Emergency Plan has procedures for evacuating students who lack their own transportation. Student records and other important data are backed up at two locations outside of New Orleans, and the university has a standard business interruption insurance policy. But neither the university nor the law school has a plan for what to do if the semester is interrupted for an extended period of time.

Monday, August 29

Hurricane Katrina first makes landfall along the Gulf Coast at 6:10 am in Buras, Louisiana, sixty-five miles southeast of New Orleans. Though it has weakened to a Category 3 storm, damage in that small town and most of lower—i.e., down-river—Plaquemines Parish is catastrophic. Three and a half hours later, after crossing the open waters between the delta of the lower Mississippi River and the Louisiana-Mississippi border, Katrina again comes ashore near Waveland, Mississippi, thirty-five miles east of downtown New Orleans. The hurricane’s storm surge devastates a large part of the Mississippi coast as Camille did nearly thirty years earlier, but because its path veered slightly to the east, a direct hit on New Orleans is avoided. Wind damage to trees and roofs in the city is extensive, but for a short while it looks like New Orleans has been spared the doomsday scenario yet again.

Tuesday, August 30

Evacuees around the country wake up Tuesday morning to the initial media reports of rising water in New Orleans. Television news footage of our fellow citizens trapped on rooftops and wading through flooded, polluted, debris-filled streets captivate and shock the nation and the world. Everyone quickly realizes that they won’t be going home any time soon, and many know they won’t have anything to go home to.

It is also obvious that the law school will not resume classes any time soon and that the entire semester may be a loss. But no one knows anything for sure: the university’s e-mail and web servers are down and it is unknown when they will be restored. Most law students, as well as many faculty and staff, have a non-Loyola e-mail account but there is no roster of those. Student records, with their home addresses and phone numbers, exist on backup tape outside of New Orleans, but the company that the university retains for this service also has contracts with several large commercial businesses in New Orleans and so Loyola waits its turn for the data to be loaded and restored at a back-up location.


10. The numerous breaches of New Orleans’ protective system of levees and floodwalls would eventually cover almost 85 percent of the city in water to depths ranging from inches to over ten feet. Several sources may be consulted for a detailed discussion of the engineering mistakes and bureaucratic bungling that were the proximate causes of the failures of the flood control system. See, e.g., Independent Levee Investigation Team, Investigation of the Performance of the New Orleans Flood Protection Systems in Hurricane Katrina on August 29, 2005 (2006) and A Failure of Initiative, supra note 7, at 87-100.

11. Hurricane Katrina would be the costliest natural disaster in American history, causing over eighty billion dollars of damage, and the deadliest since 1928. Service Assessment, supra note 8, at i; National Hurricane Center, Tropical Cyclone Report: Hurricane Katrina, Aug. 23-30, 2005, at 11 (2006) (comparing casualty statistics from hurricanes that have made landfall in the United States). For the scale of destruction of a major, modern U.S. city, the post-Katrina flooding of New Orleans is second only to the 1906 San Francisco earthquake and fire, which destroyed roughly 80 percent of that city.
Many students quickly begin to take the initiative to preserve the continuity of their legal education and contact schools about transferring. Even before any formal policies are in place, a handful of law schools agree to take in displaced New Orleans law students on a visiting basis and waive tuition for the fall semester. But some students are told that they have to be formally “released” by their law school before they can enroll elsewhere. Numerous messages on several legal education e-mail listservs (primarily the ABA Deans listserv and the ABA Associate/Assistant Deans listserv) all express a desire to take in students or help out in any way they can. But the consensus is that the best course of action is to wait until the deans of the two New Orleans law schools are contacted and the ABA and AALS are consulted.

By late afternoon on Tuesday, a message on the ABA Deans listserv says that Tulane Law School Dean Larry Ponoroff has been located and notes that he had evacuated to Houston and plans to leave that night to join his family in Chicago. Another communication from a Tulane law school administrator indicates that as of Tuesday they are considering plans to make up lost class time during weekends and vacation periods and that further detailed information would be forthcoming. The emerging consensus among legal educators around the country who are monitoring the situation in New Orleans is that a formal policy about accepting displaced students for the semester will be disseminated as soon as officials at the ABA and the AALS confer with Ponoroff and Loyola School of Law Dean Brian Bromberger. But as of Tuesday evening, no one has heard from Dean Bromberger.

As hours pass and the scale of devastation and the depth of the crisis facing New Orleans become evident, more students inquire about attending law schools around the country and most are told to wait. This compounds the stress and uncertainty the students are already experiencing: many law schools are in their second or third week of classes and waiting much longer to try and catch up is not an option many students or law school administrators want to consider.

At the University of Houston Law Center (UHLC), Dean Nancy Rapoport and Associate Deans Sondra Tennessee and Seth Chandler begin to consider what they can do to assist the students and faculty from the two New Orleans law schools. As an economist and a law school administrator, Dean Chandler was particularly aware of the fiscal consequences that a significant loss of tuition could have for a law school. And part of its institutional memory is the UHLC’s own meteorological drama: in 2001 Tropical Storm Allison dumped over thirty inches of rain across the greater metropolitan Houston area and flooded the low-lying parts of the city, including where the university is located.

12. E-mail from Frank Alexander, Interim Dean, Emory Law School, forwarded to the ABA Deans listserv (Aug. 30, 2005, 17:20 CDT) (on file with author).

13. E-mail from Susan Krinsky, Tulane School of Law Associate Dean, forwarded to the ABA Associate/Assistant Deans listserv (Aug. 30, 2005, 16:31 CDT) (on file with author).
The basement of the law center flooded, damage was extensive, and classes that summer were held at other law schools and elsewhere around Houston.

Chandler and the other administrators decide that just as they were helped after Allison, they should try to assist the two New Orleans law schools in any way they can and so they consider different ways to accommodate displaced law students. Possibilities include incorporating students into the existing classes that started just a week earlier, running a parallel program for New Orleans students, or even shipping videotaped lectures or streaming video over the internet to students around the country. They soon decide that the best option is to host a satellite program for one of the displaced law schools at the law center, with that school’s faculty teaching their own students. On Tuesday afternoon, Dean Chandler tries to contact the two New Orleans law school deans and suggest this possibility, but the communications vacuum makes finding almost anyone from New Orleans nearly impossible (besides the loss of both universities’ e-mail systems, cell phone traffic to New Orleans numbers is close to non-existent). Though Dean Ponoroff of Tulane had established his whereabouts with the e-mail message forwarded to the ABA Deans listserv, he was apparently out of contact again while traveling to Chicago.

**Wednesday, August 31**

Dean Brian Bromberger came to Loyola from the University of North Carolina School of Law in the summer of 2003. When Hurricane Ivan threatened New Orleans in 2004, he followed the lead of the faculty and staff he consulted and he and his wife evacuated to Houston for several days. They evacuated to Houston again for Katrina, arriving there early Monday morning after a twenty-two hour drive (sixteen hours longer than the trip normally takes). Along with other displaced New Orleanians and much of the rest of the country, he was soon absorbed by the continuous news coverage of the destruction of the Gulf Coast and the seemingly third-world humanitarian crisis unfolding in New Orleans.

As he describes his state of mind then with typical understatement, Bromberger was in a “bit of a funk.” Once he realized the semester seemed to be a complete loss, he and his wife planned to visit their children and grandchildren in their native Australia. They exchanged the tickets they had already purchased for the Christmas break and got new tickets to depart Houston for Australia on Friday, September 2.

On Tuesday afternoon, Bromberger’s former colleagues at the University of North Carolina School of Law called his relatives in Australia and learned that he was safe in Houston. Then early Wednesday morning UNC Dean Gail Agrawal talks to Bromberger and at 10:17 am she posts a message to the Deans listserv with Bromberger’s location and phone number. Soon the two phones in his hotel room are ringing constantly.

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14. Interview with Dean Brian Bromberger and Executive Assistant to the Dean Barbara Wilson, in Houston, Tex. (Dec. 9, 2005).

15. E-mail from Gail Agrawal, Dean, University of North Carolina School of Law, to the ABA
One of those phone calls is from Loyola Law Professor Robert Verchick. Verchick, among others, has heard rumors that the Dean is already en route to Australia and he asks what Bromberger is going to do about the law students. For Bromberger, this phone conversation is a “kick in the pants” that reminds him of the responsibility the school has for the legal education of its students.¹⁶

Soon, administrators at the UHLC also contact Dean Bromberger and at noon Wednesday he attends a meeting there to discuss tentative plans for a possible Loyola School of Law semester in Houston. One serious obstacle to this plan is that Bromberger isn’t sure that he, on his own, has the authority to accept the UHLC’s offer; so far, no one has yet made contact with University President Father Kevin Wildes, S.J. or Dr. Walter Harris, the University Provost. But the Chairman of Loyola’s Board of Trustees, Ted Frois, lives and works for Exxon in Houston and Dean Bromberger eventually locates Frois on vacation in Massachusetts, where he authorizes the tentative Houston program for the law school on behalf of the university.

One of the most significant problems that needs to be solved before planning can begin in earnest is how to communicate with faculty and students. A common theme in the e-mail exchanged among law school administrators and faculty around the country who want to help is the complete lack of any means of communications for Loyola and Tulane. Luckily, the third significant phone call that Bromberger receives on Wednesday is from Eric Muller, a law professor at UNC. Muller calls and asks Bromberger how he is getting news out to students and Bromberger replies that this is the big problem: they have no means to communicate with anyone. As Bromberger recounts the conversation: “Eric said ‘what you need is a blog’ and I said ‘What’s a blog?’” Muller had run his own blog on his personal web site for several years and late Wednesday evening he sets up a web page and blog for both Loyola and Tulane law schools on his web site. An announcement of these emergency pages and their web addresses are e-mailed to numerous law-related listservs and quickly disseminated throughout the on-line legal community. Many Loyola law school faculty, staff, and students eventually get in touch because of Muller’s efforts and his blog quickly becomes a vital source of information and means of communication.

¹⁹. In the days immediately after Katrina, Tulane Law School was also provided with a web site on Emory Law School’s web server. Reclamation: The Law School Community Moves Beyond the Woes of Katrina, Tulane Lawyer, Spring/Summer 2006, at 2.
Thursday, September 1

It is three days after the failure of the federally built flood control system around New Orleans allowed Katrina to inundate the city. Students continue to contact other schools and some begin to attend classes, but as of yet there is no official policy about displaced students visiting other law schools or any announced plans for a possible Loyola semester at the UHLC. Information about schools that are accepting students for the fall semester, as well as rampant rumors and unfounded speculation, circulate among the students via instant messaging (“IM”) and their non-school e-mail accounts. As is typical of this generation, even many of the first-year students who only had five days of orientation and a week of classes together had already swapped e-mail addresses and IM user names with each other. They use these to stay in touch, swap information, and debate what they should do.

On Thursday morning, one of the first posts on Muller’s blog for Loyola is a brief note forwarded from Dean Bromberger saying that a formal message would be forthcoming later in the day. This short promise of pending news does not include the tentative plans for the Houston program, but only says that “arrangements of various sorts” are being made.\(^\text{20}\) Even a brief mention of the nascent plans that existed at this moment would have helped to quell some of the discontent and uncertainty among the students.

As the web addresses for Muller’s blogs continue to be disseminated, messages from faculty and students start pouring in. Many administrators from other law schools also post messages there, offering to take in displaced law students, mainly upper-class students, from New Orleans. Desperate students post messages and contact faculty who have posted on the blog, asking what they should do.

Also on Thursday morning, Deans Ponoroff and Bromberger have a conference call with representatives from the ABA and the AALS to formulate consistent policies and guidelines for law schools who can take in Tulane and Loyola law students, and a brief synopsis is sent out on the ABA Deans listserv.\(^\text{21}\) Law schools are encouraged to take in displaced New Orleans law students on a transient basis for the fall semester (with the schools’, and New Orleans’, situations to be evaluated later for the hopeful resumption of classes in the spring). Schools are requested not to require formal applications or transcripts, but rather to accept the students’ word that they are in good academic standing at their home schools (with such claims subject to eventual verification).

One-hundred seventy-three law schools soon offer to take in at least a few students each, and the AALS creates a directory on its web page that lists

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\(^{20}\) Posting by Eric Muller to <http://www.isthatlegal.org/loyno/> (Sept. 1, 2005, 08:32 EDT) (an archived copy of the entire temporary Loyola blog from Muller’s web site is on file with author).

\(^{21}\) E-mail from John Sebert, Consultant on Legal Education to the American Bar Association, to the ABA Deans listserv (Sept. 1, 2005, 11:03 CDT) (on file with author).
each school’s details and conditions. Most schools waive all tuition for the semester if the student has already paid tuition to a New Orleans law school (though some schools assess miscellaneous student fees required by their universities). A “non-poaching” agreement is also established: host schools agree not to keep visiting students beyond the fall semester, except with the permission of the home law school or if the student applies to transfer under the school’s existing policies. One serious concern remains: only a few schools agree to take in displaced law students who have just started their first year. The loss of a third of the law school’s revenue stream would be fiscally devastating.

Over 350 students from Loyola eventually find a place for the fall semester at sixty-eight different law schools around the country. Worrying about the logistics of that many students transferring credits back to the law school in the spring is a distant concern.

Several law school faculty had also evacuated to Houston and are soon in touch with Dean Bromberger at the UHLC. These faculty quickly coalesce into a small, law firm like working group that helps with many of the necessary tasks involved in setting up the law school’s operation in Houston. Thursday evening, Bromberger and these faculty huddle around a single laptop at the home of Professor John Lovett’s sister and, between forkfuls of red beans and rice, draft the announcement of policies and plans that was promised that morning. It would be the first of many long days.

Friday September 2

It’s my belief that, notwithstanding what may be some inconveniences, basically we have the equivalent of a war time situation and that this is something that we simply need to do as fellow educators and human beings.

—Vice Dean Seth Chandler, University of Houston Law Center, Sept. 2, 2005

At the University of Houston Law Center, the student organization that occupied a small suite of offices on the ground floor starts to move to another location. These six rooms will be the base of operations for Loyola’s semester in Houston; Dean Bromberger and his executive assistant have an office in the Dean’s suite, and some of the Houston faculty agree to share their offices with faculty from Loyola.

In North Carolina, Muller’s routine has been to receive information sent to him by Loyola law school personnel and post it himself on the Loyola blog. Anyone could reply to his postings, but only he could start a “thread” on it. It is becoming evident that the law school needs a more efficient way of communicating with the growing number of students and personnel who are checking in. Like the students, many faculty and staff already had a

22. E-mail from Seth Chandler to Dean Nancy Rapoport and UHLC Law School Executive Committee (Sept. 2, 2005, 08:18 CDT) (on file with author).
non-work e-mail account or have quickly registered for one, so to help them stay in touch, Professor Dane Ciolino sets up a free e-mail list with Google Groups. At first, it is used primarily for faculty and staff to submit their evacuation addresses and contact information, but later it would become the primary tool for communicating with each other during the semester. A second Google Group e-mail list is set up for students. The links to both these groups are soon posted on Muller’s blog and on different web sites and news forums used in the immediate aftermath of Katrina to help locate missing persons and to disseminate information among the hundreds of thousands of residents displaced from southeast Louisiana. As students check in and subscribe to the Google group, a basic roster is created with their contact information and their plans for the semester.

On Friday afternoon, the formal message Dean Bromberger promised Thursday morning is posted on Muller’s blog for Loyola. The message provides the details of the agreement with the ABA, AALS, and other law schools for students who are able to take classes elsewhere, and confirms that plans are underway to establish a satellite program at the University of Houston Law Center. The Dean reassures students that there will be a full first-year curriculum, for both civil and common law students, as well as a “significant number” of upper level courses. This solid information about the Houston program is received enthusiastically by both students and faculty.

I saw the Dean’s post regarding the Houston operations, especially for the 1Ls who are having difficulty landing somewhere. I’ll teach anything, to anybody, anywhere, and at midnight if need be.

—Professor Craig Senn, Loyola University New Orleans School of Law, Sept. 2, 2005

While many faculty share Senn’s feelings, some faculty and students have reservations. Many students have already resettled around the country, often with family members in tow, and are reluctant to move again. Several students who have started school elsewhere aren’t sure whether the Houston program should supersede their existing arrangements. First-year students, however, know that the Houston program is the only option most of them have to continue their legal education on schedule. Faculty concerns involve questions about the viability of a compressed semester


24. E-mail from Craig Senn to Loyola Law Faculty Google Group (Sept. 2, 2005, 15:15 CDT) (on file with author).

25. Some first-year students were already requesting deferments to wait and start law school again in the Fall 2006 semester. It was decided early on not to make a broad announcement or establish a blanket policy for deferment requests. Instead, they were to be handled on a case-by-case basis. In practice, any first-year student who had a colorable reason to defer had their request granted.
and the quality of the instruction that can be delivered under the unusual circumstances; some administrative arm-twisting is necessary to get the faculty participation needed for the semester.

**Week of September 5**

A week after Hurricane Katrina hit the Gulf Coast, New Orleans has been fully evacuated (save for a few stragglers intent on toughing it out) and a full inventory of the devastation is taking place. Predictions are that the city won’t be completely “de-watered” for several weeks and that restoring power and other services to even the least damaged areas may take weeks or months.

At a UHLC faculty meeting attended by Dean Bromberger, a member of the Houston law faculty brings up the issue of the various legal problems that the thousands of New Orleans evacuees arriving in Houston will probably face and Bromberger realizes that the Loyola Law Clinic would be able to help meet the legal needs of evacuees. The attorneys and staff of the clinic eventually regroup and reposition themselves, along with the U.H. Law Clinic and many others in the greater Houston legal community, to provide legal assistance to indigent New Orleans evacuees.26

Planning for the Houston program continues as more members of the law school community check in, including Associate Dean Father Larry Moore, S.J., who arrives in Houston on Monday and is soon at work scheduling classes and tallying the minutes of classroom instruction time available under different possible arrangements. The Loyola web and e-mail servers are still down and while the two Google Groups are useful for communicating with everyone *en masse*, they’re not ideal as a central repository of important information. So on Thursday, Professor Ciolino registers the internet domain loynolaw.org and creates a web page there to serve as the law school’s official source of information. Along with his fourteen year old son, Hale, Ciolino volunteers to run the web page for the semester.

Later that week, one faculty member e-mails the Google Group that during a quick trip to New Orleans to check on his home, he stopped by the law school. His report and the pictures he forwards indicate that the law school building, including the 12,000 foot addition begun the previous spring, appears to have escaped any major damage. What isn’t obvious from the outside is that the roof over some faculty offices was damaged by Katrina and a few faculty have lost a significant amount of their personal book collections and research materials to water damage. Several students have also ventured back into the city, with mixed results: a few are able to retrieve clothes and other needed items from their homes in parts of the

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26. Half of the Loyola Law Clinic staff attorneys soon come to Houston and, together with the clinic students, participate in several efforts to work in Houston with evacuees. The other half of the clinic faculty work in Baton Rouge and assist New Orleanians as they return home to navigate the maze of relief regulations and procedures and to deal with myriad legal issues such as landlord and tenant disputes, criminal matters, and family law issues exacerbated by Katrina. For more information about the Loyola Law Clinic activities, see Justice Journal, Fall 2005, available at <http://law.loyno.edu/clinic/> (last visited Oct. 3, 2007).
city that didn’t flood, but some students, along with several faculty and staff, confirm their fears that they have lost everything.

On Thursday evening the 8th of September, the university’s web page and e-mail are restored on servers at a back-up location for the first time since Katrina hit ten days earlier. But the servers’ operationality would be sporadic for several weeks and so the law school continues to rely primarily on the Google e-mail groups and the web page set up by Ciolino. Muller’s blog for Loyola is still online, but at the end of the week he posts a final message saying that with the e-mail groups and the new web page, he doesn’t see the need to post any more information there. It was an invaluable resource in the early days of the law school’s struggle to communicate, but it has served its purpose.

In Houston, Dean Bromberger e-mails a message to the faculty Google Group describing Loyola University’s administration’s support for the program. He assures the faculty and staff who can participate in the Houston semester that they will be fully reimbursed for their travel and living expenses. Several faculty who have already set up their families around the country and enrolled their children in school agree to commute to Houston, some from as far away as San Diego and Washington, D.C., for the few days a week they are scheduled to teach.

Financing the program in Houston was the subject of difficult and pointed negotiations in the law school’s post-evacuation relations with the university administration. Even before arriving in Houston to work with the program, Law School Budget Director Andy Piacun gave Dean Bromberger a rough estimate that half a million dollars would be needed to cover the operational expenses of the law school in Houston for the new fall semester. But in the weeks after Katrina when the long-range fiscal health of Loyola was in doubt, the university purse strings were understandably kept very tightly drawn. A request to set up a law school bank account in Houston was denied, so for the semester minor expenses needed to operate in Houston are paid out of pocket by the staff and eventually reimbursed by the university and some large items are purchased using university credit cards that a few law school administrators have. The top university officials initially set up temporary offices in Alexandria, Louisiana, but several of them are now also at the University of Houston. Still, obtaining reimbursement proves to be tedious and a three-week turnaround becomes routine.

By the end of the second week after Katrina, more law school faculty and personnel have arrived in Houston, and a skeleton staff of representatives from most offices resumes their work in preparation for the new semester. The Career Services staff begins working with students as best they can, both in Houston and around the country. One staff member from the Office of Scholarships and Financial Aid is in Houston to help students track down their student loan money for the semester: because classes had only been in session for a week in New Orleans, many students had not received their loan checks and so had evacuated and traveled around the country with little to help pay their living expenses. Admissions personnel have committed themselves to continuing their
scheduled participation in law school recruiting events around the country. The fear that Katrina will severely curtail the law school’s admissions profile for the 2006-2007 academic year makes their work particularly important.

Loyola faculty and staff make up a good, representative sampling of all New Orleans evacuees. Only a rare few didn’t have at least some damage to their homes, and nearly a dozen lost everything they owned in the flood. For some, family photos and mementos in their offices are all they now have to help preserve memories of a lifetime of birthdays, graduations, and other special occasions. Though many are constantly negotiating with insurance and contractors and making weekend trips back home, no one wants to dwell on what happened. Working on the Houston program gives everyone something new, immediate, and positive to focus on.

**Week of September 12**

On Thursday, a tentative schedule for the Houston program is posted on the law school’s “temporary official” web page. Classes will start October 3rd and run until December 18th, with exams held back in New Orleans in January (the calendar for the spring semester will be pushed back two weeks). The Houston schedule includes a full 1L program for both civil and common law students (which includes separate property and contracts classes for each curriculum), sixteen upper-level courses, and accommodates the requirements of students in both the day and evening programs. A few professors will teach classes they weren’t teaching before the evacuation and, for many courses, students originally from different sections back in New Orleans will be combined into a single section in Houston.

The schedule for the new fall semester is shoehorned around the UHLC classes. Monday through Thursday, an occasional class is scheduled for the morning, several for the afternoon, and each evening there are classes from 6:00 pm to 9:40 pm. Classes are also scheduled all day Friday, from 8:00 am to 7:00 pm, and on Saturday from 8:00 am to 5:10 pm. Most will last for seventy to ninety minutes per session, twice a week. Scheduling some classes on Sunday had been a possibility, but was ultimately unnecessary. This compressed, eleven-week semester will provide the ABA-required 700 classroom minutes per semester credit for each course. Barely.

When faculty who have volunteered to teach in the Houston program look over the schedule, there is some discord about both the late hours and the fact that classes will continue until the middle of December. On Friday, Dean Bromberger responds to these objections in an e-mail sent to all faculty and staff via the faculty Google Group:

> I don’t want to sound overdramatic, but we really are in a crisis situation. I know that the schedule is inconvenient, and I know that some pre-arranged matters may be interrupted, but in the overall scheme of things the very existence of the school and the continued employment of both faculty and staff is my primary concern. In the event that we close our doors, and the response of other institutions in the New Orleans area to the problem indicates that
this is a matter of real concern, the hardship that will result will be far in excess of anything the Houston operation may create.\(^27\)

Others respond in subsequent e-mail messages to say that student enthusiasm for the Houston program is growing and that faculty should focus on the students’ needs and not their own personal concerns.

Many of the preparations for the program in Houston bypass the law school’s usual operating procedures. Some decisions were, through necessity, made unilaterally by the law school administration. For example, two Legal Research and Writing instructors were essentially given battlefield promotions and assigned to teach substantive courses during the Houston semester. Normally the faculty would have to approve even the appointment of temporary adjuncts to teach any course at the law school. These and other decisions were made by decanal fiat due to the requirements and time constraints of getting the program up and running: a crisis is not the time for leisurely faculty deliberations.

One serious logistical hurdle to the Houston program is overcome by the generosity of the legal publishing industry. Most students did not evacuate with their books, and many either lost theirs in the flood or need books they didn’t buy in the first place (not all faculty in Houston choose to teach with the books used by the course’s original professor back in New Orleans). In an overwhelming gesture of corporate charity, all of the major American legal publishers volunteer to donate the textbooks needed by displaced New Orleans law students around the country, including those in Loyola’s Houston program. (Similar offers were made to law firms and attorneys along the Gulf Coast whose library collections were destroyed by Katrina.) Thomson-West, Aspen, and Lexis-Nexis all eventually donate over 3,800 books to Loyola students in Houston. The combined list price for these books is well over $100,000.

**Week of September 19**

As preparations for the accelerated semester in Houston continue and more faculty and students make their way to Houston, another tropical force of nature intervenes. On Wednesday September 21st, Hurricane Rita enters the Gulf of Mexico as a Category 3 hurricane. The forecast predicts that Rita will strengthen and make landfall anywhere from Mexico to Louisiana by the end of the week.\(^28\) Directly in the middle of that range of possibility is Houston. As Rita strengthens into a Category 5 storm in the next day and a half, the coastal regions of east Texas, and a large part of Houston, are evacuated. Many law school faculty and students again spend eighteen hours or more driving slowly on packed highways to avoid a second hurricane.

Most of Houston closes down in preparation for Rita, including the University of Houston and the Law Center. Loyola’s preparations for the

\(^{27}\) E-mail from Dean Bromberger (Sept. 16, 2005, 11:14 CDT) (on file with author).

fall semester are delayed by a week. In retrospect, the October 3rd start date for classes was a good decision. An earlier start date of September 26th, originally advocated by Associate Dean Moore, would have been difficult to meet even without Hurricane Rita’s interruption.

Rita eventually turns east and weakens back to a Category 3 hurricane when it comes ashore in Southwest Louisiana on Saturday, September 24th. Much of the Houston evacuation is eventually viewed as an over-reaction to the post-Katrina tragedy in New Orleans and more fatalities occur from the evacuation than from Rita itself.29

**Week of September 26**

It is the final week of preparation for the satellite program in Houston. Students continue to make their way to Houston, faculty finish syllabi, everyone gets settled, and the donated books arrive and are distributed. Early concerns that students and faculty would not be able to find housing in Houston turn out to be unwarranted.30

Despite the partial roster from the student Google Group and other efforts to get an accurate count of students who plan to attend the Houston program, no one is sure how many to expect.

**October 2005**

On Monday October 3rd, classes for the Loyola University New Orleans School of Law’s semester in exile begin at the University of Houston Law Center. Twenty-seven faculty and three hundred and seventeen students participate in the program; 176 of the students are 1Ls and 141 are upper-class students. At least one student arrives in Houston early Monday morning, getting to the Law Center at the end of an all night drive. Several who started classes as transient students at other law schools have decided to abandon those programs and move yet again to Houston to attend classes with familiar faculty and fellow students.

29. By initial accounts, the evacuation of the Houston metropolitan area results in at least fifty-four deaths, many from heat-related conditions or traffic accidents. Peggy O’Hare, Hurricane Rita: The Aftermath, Houston Chron., Sept. 28, 2005, at A6. Only seven fatalities were direct results of Hurricane Rita itself when it made landfall in Louisiana near the Texas border. National Hurricane Center, Tropical Cyclone Report: Hurricane Rita, 18-26 September 2005 8 (2006).

30. With a pre-Katrina population of over five million people, absorbing the evacuees was not as difficult as originally feared. Houston received the largest number of Katrina evacuees of any single city: as of September 23, 2005, 84,749 applications for FEMA aid, from both individuals and households, had been received from zip codes in the greater Houston metropolitan area. Katrina’s Diaspora, N. Y. Times, Oct. 2, 2005, at A24. Statistics from the U.S. Census Bureau show that as of early 2005, Houston had a Rental Vacancy Rate of 15.4 percent. Housing Vacancies and Homeownership, Table 5, available at <http://www.census.gov/hhes/www/housing/hvs/annual05/ann05t5.html> (last visited Oct. 25, 2007). As of Katrina’s first anniversary, an estimated 150,000 displaced New Orleanians were still living in Houston. Shaila Dewan, Storm’s Escape Routes: One Forced, One Chosen, N. Y. Times, Aug 24, 2006, at A1.
The start of classes is not as chaotic as planning for them was. Even though “registration” consists of students showing up and signing blank class rosters, with formal enrollment to be processed later, everything goes smoothly. (Eventually students in a few of the first-year course sections and upper-level courses with two sections will have to be manually redistributed so that the number of students in each section is based on having equitable class sizes and not on the professor’s reputation.) Students and faculty share a sense of relief and a feeling of normalcy with the structure and familiarity that the classes provide. The routine is reassuring after five weeks of chaos.

**November 2005**

Loyola University weathered Hurricane Katrina better than many of the other colleges and universities in New Orleans: its campus escaped flooding, and wind and rain damage was relatively minor, i.e. “only” five million dollars. Tulane suffered several feet of floodwater across a majority of its campus, and two smaller universities, Dillard and Xavier, both suffered significant flooding. Much of Dillard’s campus was further damaged by fires in the weeks after Katrina when a lack of water pressure and a shortage of fire-fighting personnel enabled even small blazes to turn into conflagrations. The two medical schools in New Orleans, Louisiana State University and Tulane, suffered damage to their facilities and the closure of area hospitals, and are eventually forced to fire many staff and clinical faculty because of the post-Katrina population decrease in New Orleans. But both medical schools, like Loyola School of Law, were able to restart their fall semester at other locations after Katrina struck.

Soon after communications were reestablished following the evacuation, Loyola’s administration reassured staff and faculty that they would continue

35. Tulane Medical School relocated for the 2005-2006 school year to Baylor College of Medicine in Houston, and LSU Medical School relocated to Baton Rouge, also for the entire year. See Todd Ackerman, No Ordinary Orientation: Emotions Run High as Tulane Starts Class, Houston Chron., Oct. 2, 2005, at B1; Jan Moller, LSU Medical Students in Baton Rouge Through Spring, Times Picayune (New Orleans), Dec. 9, 2005, at A6. A few of the universities and community colleges in New Orleans resumed teaching classes on-line in the fall, but Loyola School of Law and the two medical schools were apparently the only components of any institution of higher education in New Orleans to actually hold classes in the immediate aftermath of Hurricane Katrina. The medical schools both undoubtedly also have interesting stories to tell.
getting paid during the fall even though classes—except for the law school in Houston—were not in session. But uncertainty about the university’s future enrollment creates doubts about how long that will continue. In a November 4th e-mail, Loyola University President Father Kevin Wildes addresses some of the university’s fiscal issues. He notes that the university derives 80 percent of its revenue from tuition and that the promise to continue paying the faculty and staff for the semester was a thirty million dollar commitment undertaken when future revenue was quite uncertain. (Unlike the non-poaching agreement between the ABA and AALS and the law schools that took in Tulane and Loyola law students, the three hundred and sixty institutions that took in Loyola undergraduate and graduate students were not prohibited from enticing students to transfer and stay after the fall semester. Also unlike the law schools, not all the colleges and universities hosting displaced Loyola students were as generous in letting them attend for free and so the university refunded tuition to students who had to pay to attend other institutions.) In his e-mail, Wildes spells out what everyone knows, but has not wanted to confront: the fiscal future of the university depends on how many students return in the spring and there would be no solid numbers to answer that question until registration begins later in November. The four-page message has an underlying tone of preparing everyone for bad news.

Another e-mail from Father Wildes later in the month clarifies the university’s policies about when support and administrative personnel (i.e., all non-faculty employees) are to return to work. A deadline of November 28th is set, and anyone who “cannot or is unwilling to report” by then will begin using accumulated vacation days (which have continued to accrue during the evacuation). When employees’ vacation days are expended, they will go on unpaid leave and they will be terminated if they don’t report by January 2nd.

All law school personnel were accounted for in the weeks following Hurricane Katrina. Most of the law school staff, administrators, and librarians not taking part in the Houston program have returned to New Orleans and many are busy cleaning their flooded and damaged homes. Department supervisors have discussed their staff’s personal situations and their ability to resume work at the law school. Some who have lost everything have permanently relocated elsewhere and won’t return. Most of the rest report back to work throughout November and begin to resume the law school’s daily routine, such as it is with classes being held in Houston.

For three days prior to the Thanksgiving break, the law school holds registration for the spring semester. With computing services restored in

36. E-mail from Fr. Kevin Wildes, S.J., to Loyola University faculty and staff (Nov. 4, 2005, 16:32 CST) (on file with author).
37. Id.
38. E-mail from Fr. Kevin Wildes, S.J., to Loyola University faculty and staff (Nov. 18, 2005, 15:25 CST) (on file with author).
39. Id.
New Orleans, law students are able to register on-line and 82 percent of them sign up for the spring semester. Many of those not registering are first-year students who have requested to defer until Fall 2006. For Loyola undergraduates, 85 percent eventually register for the spring; while these numbers are encouraging, it’s the admissions profile, both of the university and of the law school, for the 2006-2007 academic year that is a concern.

Further substantive information from the university administration is not forthcoming. Rumors of pending cut-backs and layoffs abound. On November 30th, Dean Bromberger sends this e-mail out to the law school faculty and staff:

Folks,

Yesterday I received a direction from the provost to submit a budget for spring 2006 that cut the personnel budget by 15% and the operations budget by 20%. I made enquiries and discovered that the same direction had been given to all deans.

Because the cuts were ‘across the board’ I made the further decision that the only interest was money. I asked Andy to come up with a budget that answered the ‘money’ call without costing anybody their job. I was forced to cut some of the ‘goodies’ but it may only be for the spring semester.

At this stage I have not received any notice whether my submission has been accepted and I’ll keep you all informed. I hate to be the bearer of bad tidings but it may turn out okay.40

The “money call” for the law school equals $1.6 million dollars. Potential staff and faculty reductions have been a concern for everyone, but this is the first official action taken in that direction. A 15 percent cut would mean that about a dozen law school personnel would have to be fired.

December 2005

As classes in Houston wind down, law school administrators planning for the move back to New Orleans realize that housing may be a problem for students. Many students have either lost their homes and apartments because of Katrina or have been priced out of their existing residences by opportunistic rent increases in the tight post-Katrina housing market in New Orleans. Many students are concerned about where they will live upon returning to Loyola in January. To help out, the law school surveys students to find out the extent of the housing need. Students are asked to supply specific details both if they need housing and if they have extra space to offer fellow students, either temporarily or long-term. The reconstituted administrative staff back

40. E-mail from Dean Brian Bromberger to School of Law faculty and staff (Nov. 30, 2005, 15:39:14 CST) (copy on file with author).
in New Orleans starts collecting housing leads and e-mailing them to the students who need help finding a place to live.

On Wednesday, December 7th, an e-mail from Dean Bromberger announces that the Provost has accepted the Dean’s proposed budgetary compromise: the law school would be free to satisfy the total monetary target indicated by the requested budget cuts, but not in separate cuts to both the operations and personnel budgets. The fact that the law school set up operations in Houston and was the only active, revenue-generating component of the university during the semester provided the Dean with substantial leverage to help make this deal and prevent any layoffs at the law school.\footnote{Some of the money used for the targeted budget cuts would come from the four staff members in various offices of the law school who are unable to, or choose not to, return after Katrina. Those positions were either frozen until further notice or eliminated. Interview with Andy Piacun, Law School Budget Director, in Houston, Texas (Dec. 12, 2005). All law school faculty are able to return to Loyola for the Spring 2006 semester.}

The rest of the university is not so fortunate. The public announcement of Loyola’s layoffs appears in the New Orleans Times-Picayune, also on December 7th. Twenty-eight support personnel from elsewhere in the university, described as “mostly clerical,” are to be laid off. Additionally, forty-eight jobs will not be filled: twenty-one are existing—i.e., pre-Katrina—vacancies and twenty-seven are positions previously held by individuals, including those from the law school, who are not returning to Loyola.\footnote{John Pope, Loyola Plans to Lay Off Dozens, Times Picayune (New Orleans), Dec. 7, 2005, at B2.}

In Houston, the Law Center students begin exams while Loyola is still teaching its last two weeks of classes. The schedule requires some room changes for the UHLC exams, and the last major glitch of the semester occurs when word of the changes don’t reach Loyola faculty and students until they show up for their scheduled classes and find Houston law students taking exams.

\textbf{January 2006}

Students from the Houston program, “fresh” from Christmas and New Year’s break, take their exams for the fall semester back in New Orleans over the first two weeks of January. Inevitably, students who spent the fall semester at other law schools around the country complain about the extra time the Houston students had to study for their exams.

After spending the fall semester telling potential students to delay their applications to the law school, the Office of Admissions officially reopens. The pace of acceptances and deposits is understandably slow during the early part of the semester.

On January 23rd, the law school’s spring semester begins. Faculty back from Houston work hard to both teach the first weeks of classes and grade exams from the fall semester. After late enrollment and a few transfer students, the law school has 693 students for the spring semester, 84.7 percent of its pre-Katrina student body.
April 2006

Law school applications and deposits for the Fall 2006 semester still lag behind previous years, but not so far as to cause alarm. Yet. The two open houses the law school has each spring for accepted students attract only slightly fewer students than in previous years. The forecast for the university is more disturbing: based on deposits received as of the middle of the spring semester, the university is looking at an entering class 60 percent smaller than the previous year’s crop of freshmen. The worst predictions for enrollment appear to be on track towards realization; the loss of tuition revenue based on that forecast would devastate the entire university.

In early April, the university releases its post-Katrina restructuring plan. Facing a $9,000,000 deficit on a $125,000,000 operations budget, the university accelerates what it says was an existing restructuring plan. Two departments and over a dozen majors and degree programs are to be eliminated, though some curricular resources would remain within a reorganization of the university’s component schools and departments. Seventeen faculty positions, many of them occupied by tenured professors, are also to be cut. The only changes affecting the law school would be the elimination of two joint degree programs, the J.D. and Masters in Communication and the J.D. and Masters in Religious Studies, and the renaming of the school to the College of Law. The university Board of Trustees is set to vote on the proposed restructuring in May.

May 2006

At this year’s commencement ceremony, only 170 students graduate from the newly re-christened College of Law. The bulk of the rest of the 249 members of the senior class are students who were unable to take classes during the fall semester but who will graduate either in August or December. In appreciation for his efforts and assistance in the fall semester, Associate Dean Chandler of the University of Houston Law Center is the commencement speaker. He reflects on the ordeal that shaped the graduates’ final year of law school and urges them to rise up to the challenges that some will confront:

You are the first graduating law school class of which I am aware to be composed entirely of transfer students. You are not the same people you were when you entered this school, nor do you attend entirely the same institution, nor, really, is that institution in the same city. You are the early pioneers forged by unusually harsh experiences now met on a great battle-field of the Twenty First Century, on the frontier of what amounts to a new world.


44. Pathways: Towards our Second Century (April 2006) (Loyola University New Orleans restructuring plan, copy on file with author); John Pope, Loyola To Cut Study Fields, Teachers, Times-Picayune (New Orleans), Apr. 11, 2006, at A3.
You will face very hard challenges on that frontier... You will have to figure out faster than the rest of us how to forge the law in a way so that the risks of some forms of poverty, or being born with what we term the wrong color skin, or of natural disasters such as Katrina are shared, yet to forge attitudes in your schools and communities such that this sharing of risk does not seem as much to its participants, so that the incentive to excel persists, as does pride in the maintenance of distinct yet tied cultures.\footnote{45}

As summer begins, the College of Law’s admissions statistics for the Fall 2006 semester are now more promising. The admissions office has been making more offers to applicants than in years past, and by the summer, the number of deposits from accepted students is only slightly below average. The goal of having the same size entering class as in recent years is well in reach.

On May 20th, the University Board of Trustees unanimously approves the president’s reorganization plan. The reverberations of that decision are still sounding across the university.\footnote{46}

\textbf{August 2006}

Loyola University New Orleans College of Law orientation for the 2006-2007 academic year begins on Monday, August 14th. There are 304 students in the first-year class. This includes 36 “Katrina deferrals” from the previous year, so 268 are \textit{truly} new—i.e., non deferral—first-year students, only 12 fewer than the 280 1Ls that began school in Fall 2005. The entering class has an average LSAT score only one point lower, and an average GPA less than one tenth of a point lower, than the previous year’s class.

University enrollment has improved since mid-spring, and the freshman class on the main campus is expected to consist of 555 students, 56 percent

\footnote{45}{Seth J. Chandler, \textit{Loyola New Orleans College of Law Commencement Address} (May 19, 2006).}

\footnote{46}{See Piper Fogg, \textit{Storm Surge}, Chron. of Higher Educ., July 7, 2006, at A10 (noting faculty discord with the reorganization plan, and that the American Association of University Professors (“AAUP”) has convened a committee to look into post-Katrina measures taken by administrators at Loyola and other universities in New Orleans). Some dismissed faculty at Loyola, after exhausting the university’s required administrative appeals process, have sued the university over their terminations. Steve Heath, Fired Faculty File Suits Against Loyola, The Maroon (Loyola University New Orleans student newspaper), Apr. 27, 2007, at 1. In May 2006, the AAUP convened a special committee to look into the responses of New Orleans universities to the challenges they faced post-Katrina, and their final report was published in June 2007. American Association of University Professors, \textit{Report of an AAUP Special Committee: Hurricane Katrina and New Orleans Universities}, Academe, May-June 2007, at 59, available at \texttt{http://www.aaup.org/AAUP/pubsres/academe/2007/MJ/Else/} (last visited Oct. 25, 2007). Also in June 2007, the AAUP censured Loyola, Tulane, the University of New Orleans, and Southern University at New Orleans for actions the four universities have taken since Katrina. John Gravois, \textit{AAUP Carries Through with Plan to Censure 4 New Orleans Universities}, Chron. of Higher Educ., June 22, 2007, at A12. Officials at all four universities issued statements in response to the AAUP’s censure reflecting a consensus that the organization was oblivious to the realities of running institutions of higher learning after an unprecedented disaster and in the face of a large decrease in enrollment and a significant loss of revenue. Gravois, supra.}
the size of the freshmen 2005 class. There are also 125 transfer students and 50 re-admits, putting enrollment for the fall ahead of the earlier, more pessimistic predictions.

On August 21st, Loyola University College of Law begins classes for the 2006-2007 academic year. Total enrollment is 810, down slightly from the 818 students who started the Fall 2005 semester. Also this week, news reports indicate that the 2006 Hurricane Season is, so far, statistically below average.

**Conclusion: Lessons Learned and Thoughts on Business Continuity Planning and Legal Education**

Loyola’s semester in exile was unprecedented in the history of American legal education. Before Katrina, no law school ever faced an emergency that forced it to relocate its entire operations to a distant location for an extended period of time. Law schools in Florida have often closed for a few days when a hurricane threatens, as the UHLC did for Rita and as Loyola and Tulane have done several times in the past. Hurricane Andrew delayed the start of the Fall 1992 semester for the University of Miami and its law school for two weeks and UHLC’s experience with tropical Storm Allison in 2001 still serves as the best primer about a disaster that severely damages a law school’s facilities. The one law school most directly affected by the terrorist attacks of 9/11, New York Law School, located only nine blocks from Ground Zero, was closed then for only two weeks. That school initially faced many of the same communications challenges that New Orleans law schools suffered in the immediate aftermath of Katrina and continued to face other challenges after they regained access to their building. Even Hurricane Betsy, which prior to Katrina was the worst hurricane to affect New Orleans in recent memory, delayed the start of classes at Loyola by only three weeks, though it struck just before the Fall 1965 semester began.

A hurricane is the only major type of disaster where its victims have plenty of advance warning, so its hard to imagine another set of circumstances that would force a law school to go through an ordeal similar to Loyola’s: suffer a disaster that results in long-term displacement, but in

48. Id.
50. The season would be one of the least active in several years. See Tom Skilling, Quietest Hurricane Season in Nearly a Decade Comes to an End, Chic. Trib., Dec. 4, 2006, at 7.
53. Id. Even after they resumed classes, NYLS endured the rest of the Fall 2001 semester in close proximity to the ongoing recovery efforts and had to deal with sporadic utilities outages and concerns such as noise and air quality. Id. at 199.
which the majority of personnel survive and temporary relocation is a practical, though difficult, option. Nevertheless, a tenet of disaster planning and preparation is to “expect the unexpected,” and other law schools could benefit from thinking about how their institutions would respond to a comparable challenge. Lessons to be learned from Loyola’s semester in exile go beyond disaster planning because what every school should consider is not to prepare for a disaster, but to prepare for the resumption of normal activity after a disaster: what is called Business Contingency Planning (“BCP”). And what law schools do is a business: the business of educating, training, and preparing students for the practice of law. But even if you couch it in terms more palatable to academia (“Instructional Continuity Planning”?) BCP is something that all law schools should at least consider including in their operations, and it is particularly important for law schools that, like Loyola, are largely tuition-dependent and which would be severely impacted by even a semester’s loss of revenue.

In higher education, disaster preparation and BCP are tasks that, until recently, have received little attention. Few people are willing to fully contemplate catastrophe, and even fewer are willing to push an institution to be as prepared for a wide range of potential, yet unpredictable, disasters as, in balance, is both possible and practical. Many documents and response scenarios that result from what passes as disaster planning consist mainly of vague bureaucrat-speak and wishful thinking. Author and disaster-planning expert Lee Clarke describes such disaster plans as “fantasy documents” that “are little more than vague hopes for remote futures and have virtually no known connection with human capacity or will” and which often serve as “rationality badges, symbols organizations use to signal they are in control of danger, whether they really are or not.”53 A case in point was the entire city of New Orleans in the Summer of 2005: Everyone knew that a hurricane like Katrina—or worse—was inevitable,54 but few if any institutions in New Orleans had a Business Continuity Plan in place that anticipated the possibility of not having access to their primary physical facilities and to much of the city for more than a few days. The city’s emergency plan itself proved largely to be a “fantasy document” that had little impact on the city’s actual response (or non-response, in many aspects) to Hurricane Katrina.55

A military truism widely compiled as one of “Murphy’s Laws of Combat” states that “No battle plan survives contact with the enemy.” No matter how

53. Lee Clarke, Mission Improbable: Using Fantasy Documents to Tame Disaster 16 (Chicago, 1999).

54. See supra note 5.

55. See David Brooks, The Best-Laid Plan: Too Bad it Flopped, N. Y. Times, Sep. 11, 2005, at 4-14 (“In short, the [New Orleans Emergency Preparedness] plan was so beautiful, it’s too bad reality destroyed it.”). See also A Failure of Initiative, supra note 7, at 111-13 (“Despite the New Orleans Plan’s acknowledgment that there are people who cannot evacuate by themselves, the city did not make arrangements for their evacuation. Instead, city officials decided to shelter them in New Orleans.”).
much time you put into your actual emergency planning documentation, in practice events will always find a way of making all or part of your disaster plan irrelevant. And because an institution can’t plan for every possible contingency, a better way to prepare for possible emergencies is to de-emphasize planning documentation—a great-looking eighty page plan in a binder on a shelf won’t do anybody any good by itself—and work to make your institution more flexible and responsive to a wide variety of potential operational challenges. Practical documentation like lists, contact information, resources, decision trees, and the like are important for numerous reasons such as operational continuity and quick reference. But to be effective, a disaster or business continuity plan must be accompanied by the right institutional mindset, one that is able to adjust to not only the incremental change that happens to any institution, but to the rapid, chaotic change that occurs during a disaster.

Perhaps the best way for a law school to begin to work towards increasing its responsive flexibility is to brainstorm on a few questions. What if your law school didn’t have access to its building for a month or more? If your faculty, staff, and students lost access to their homes, or if many of them actually lost their homes? If your city was largely uninhabitable for several weeks, or longer? If most of the means of communications you use every day—telephone, cell phone, e-mail—were out of service? If you could not access the data and files on your servers and desktop computers?

In some disaster scenarios, keeping a law school open will be a ridiculously low priority but in other situations planning and preparation can make the difference between keeping your law school open and watching it wither away after losing most of a semester or two of tuition. This leads to what may be the first thing to consider in your plan: under what scenarios should you try to reconstitute your law school and continue the semester at a different location, and under what circumstances will it be viable to wait and return to your facilities and make up lost class time? The same scenario at different points throughout the semester would result in different contingency thresholds, so decide now on some benchmarks and make a basic decision tree. Factors to consider include the types of possible disasters, the physical condition of the law school and alternative facilities nearby, the condition and extent of damage to the entire city and the availability of basic facilities and services within it, and the amount of casualties, if any, among the faculty, staff, and student body. Cross-reference different combinations of these factors with points during the semester and decide whether it would be worth it to try to relocate to a different location for different intervals of the remaining term: for the final month? The final two months? After only a few weeks of classes? When is it viable to make up the last few weeks of the semester at the beginning of the next term and push the rest of the schedule back? And under what circumstances should you consider the whole semester to be a loss, and that perhaps you should plan to fit two semesters into the space of half
a year? You won’t be able to provide a decisive answer to these questions for every possible circumstance, but the exercise of thinking through these issues will help your law school to be prepared to decide what to do during any contingency, and to decide it quickly, when each passing hour and day are vital.

One lesson Loyola College of Law learned from Katrina is that during a disaster a law school has a very different response profile than a university. For even a relatively small university like Loyola, with a pre-Katrina undergraduate enrollment of around 3,700, the logistics of quickly relocating even a sizable fraction of the entire student body and the university’s whole operations to another location is probably too difficult to surmount. But a law school, like other graduate schools, is a relatively small, self-contained academic unit. Still, in an emergency a law school will be just one of several units vying for resources and attention from the parent institution. So, despite whatever plans your university might have, be prepared to take action unilaterally, if necessary.

Another benefit that law schools have is the relatively small universe of American legal education. The ABA and AALS were invaluable in coordinating the efforts of other law schools to take in displaced law students from Loyola and Tulane; a comparable effort among a majority of colleges and universities around the country would have been impossible. And now with Loyola and Tulane’s law schools’ experiences during the Fall 2005 semester, the ABA and AALS’s post-Katrina actions will surely serve as a precedent for any possible future disaster that affects one or more law schools.

In the initial hours and days of most potential disasters, maintaining contact with key personnel and students will be your law school’s first priority, and so communication and information technology (“IT”) should be an important element of your BCP. With a large enough IT budget (or if your university takes care of it), you could co-locate all important data and processes (e-mail, web server, “e-course” software, student records, financial data, and the like) on backup servers, typically maintained by a commercial service, at a location far enough away so that the same local disaster won’t affect both the law school and the location of the backup server.

56. This is the option Tulane Law School settled on: they compressed the fall and spring semesters of their first-year curriculum into classes held from January through June 2006 while conducting a normal schedule for upper-class students. Reclamation: The Law School Community Moves Beyond the Woes of Katrina, Tulane Lawyer, Spring/Summer 2006, at 3.

57. See supra note 29 and accompanying text (noting that the two medical schools in New Orleans also relocated after Hurricane Katrina).

58. Independent law schools will, of course, have much greater autonomy in developing their own emergency plans.

59. Your IT staff can explain the jargon and the possible options, but in a typical arrangement, all data on your local server is backed up to the remote server every night so that they are synchronized. Then, in a disaster, your remote back-up server can go live in place of the inaccessible one. The domain for your law school’s web page and e-mail—yourlawschool.
The role of the UHLC in Loyola law school’s semester in exile cannot be overstated. They didn’t just offer us space and resources, they worked hard to make it all come together and work smoothly. The semester would not have been a success without their extremely generous offer and their many hours of labor. And it was all done on short notice under *in extremis* conditions. Imagine how much easier it would have been with a little foresight and planning before Katrina had even formed.

What are the bare-bone essentials for running a law school? Professors, cases to read, and space to hold classes. In Fall 2005, Loyola’s law school and the University of Houston Law Center learned that one school could host a sizable part of another school with little disruption to their own program. One possible BCP element that law schools might consider is to pair up with a comparable school in a different part of the country and conduct some tabletop exercises to evaluate the possibility of hosting each other’s programs in an emergency. With a little contingency planning between “disaster partner” schools, most of the groundwork could be put in place before it is needed. And having a “rally point” destination for faculty, staff, and students as a known location for resuming activities can make a large difference between uncertainty and continuity in any number of possible disasters. Questions and scenarios that the two schools should work through together might include: How many hours of classroom space are available each week? Could each school schedule a large chunk of its curriculum in the available times at the other school? What’s the housing situation like in each potential host city? How quickly could arrangements be made for displaced students and faculty from the other school to be set up with things like parking permits, network access, and the like? What burdens and hurdles from the parent university of the host law school would have to be surmounted? Who do you have to contact for mental health counseling services for the relocated and stressed-out students (and faculty)? Another aspect of a reciprocal emergency contingency plan with another law school could be for both IT departments to work with

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edu—is essentially a pseudonym for the internet protocol (“IP”) address of the computers running those applications. The actual IP address is numeric (it looks something like 153.121.134.51), and IP addresses are what the internet uses to route packets of data, be they web pages, e-mail messages, or data from other applications. When your remote backup server goes live, the programs and data running your school’s web page and e-mail are now on a different computer with a new IP address, and so your IT staff requests that the internet registration for your domain be updated so the domain is now associated with the new IP address. Then, within twelve hours or so, the new registration information is propagated throughout the internet and soon servers around the world are now directing the traffic for your web page at www.yourlawschool.edu and e-mail sent to username@yourlawschool.edu to the remote backup server with the new IP address that is now running things. Your school web page is quickly back up and everyone can still use the same e-mail system to stay in touch and get the latest news on what your school is going to do in response to the disaster or crisis.

For a good overview of how information technology was used by several New Orleans colleges and universities post-Katrina, see Andrea L. Foster and Jeffrey R. Young, *The Internet as Emergency Tool*, Chron. of Higher Educ., Sept. 16, 2005, at A39.
their opposite numbers at the other school. If both schools dedicate some server space for each other’s emergency computer operations, neither school may have to contract with a commercial company for back-up services.  

Another useful disaster preparation measure is to create a roster of out-of-town contacts for the law school’s administration, faculty, and staff. This should be a list of the names and phone numbers of relatives or close friends that everyone is likely to either relocate to or at least check in with after an emergency. Law school administrators should either keep this list handy or, better yet, save it in an e-mail folder on their non-work account. If you don’t want to have a huge list of contact information for the entire school, then you should have one for your administrators and department heads and each office and department should have a similar list for their personnel. All this secondary contact information should be verified and updated regularly. For students, the list of home addresses and contact information should be in a format that you know you can get to even if you don’t have access to your school. During their preparation for Hurricane Rita, after having watched Loyola personnel scramble to contact their students, the UHLC Dean of Students made a backup copy of all their student information and put it on a USB drive she took with her when she evacuated.

In a pinch, technology can help even when you don’t have a physical space to hold classes. If your law school is using web-based course software such as Blackboard, WebCT, or another Course Management System (“CMS”), such products can enable the resumption of instruction even if you haven’t relocated operation to a new facility. Ideally, as with your other IT services, your CMS should either be backed up or run at a physical location separate from the main university or law school. Streaming video might be the high-tech approach, but, realistically, a talking head on a screen isn’t a necessary element of most distance education regimes. Podcasting—recording and posting audio files on line for users to download—is much simpler, and most students are familiar with it. Downloaded audio recordings of lectures might not
have the same pedagogical heft as a traditional Socratic exchange between law professor and student, but in an emergency finishing the last week or two of a semester this way might be the best option.

One final point about technology and emergency planning: any use of technology in a law school’s BCP requires a commitment to training. In an emergency, being a computer neophyte is not the endearing quality that it can be in some senior faculty: its an institutional liability. In an emergency evacuation scenario, faculty secretaries won’t be down the hall to provide a forgotten password or help with e-mail attachments. Can all your faculty find the law school’s web page and e-mail—or the school’s emergency back-up substitutes—from a computer other than the one in their office? Can they set up a laptop at a Starbucks to use the free Wi-Fi network? Do they all know what Wi-Fi is?

Much of what occurred in the first days and weeks of Loyola School of Law’s evacuation and relocation to Houston is what has been called “preemptive resilience.” Hierarchal, top-down responses to disasters and emergencies typically take time to be put into effect, while spontaneous “grass-roots” responses are much faster and, at least initially, much more effective in meeting the immediate needs of disaster victims. This occurred in New Orleans after Katrina as private citizens took the initiative while much of the government’s response was delayed: the teenager who commandeered a school bus to drive evacuees to Houston and individuals who used their canoes and fishing boats to help rescue people off the roofs of flooded houses are examples of preemptive resilience.

In contrast, the university’s emergency plan for information services took a significant amount of time to implement. In the immediate aftermath of Katrina, when communication was non-existent exactly when the need to disseminate information was the strongest, several members of the law school community, whose jobs did not include information technology, took the initiative and facilitated the means to communicate: a faculty member created the temporary web page for the law school and the faculty e-mail group, a librarian created and ran the student e-mail group and created a master list of student’s post-evacuation contact information, and other law school personnel scoured various web pages and posted details about the law school’s temporary relocation. Members of the legal education community around the country also rose to the occasion and helped in similar ways, like Professor Muller in North Carolina, the Emory law school administration and IT staff who provided resources and created the temporary web page for Tulane, and

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64. The university didn’t have backup web and e-mail servers up and running until over a week after Katrina hit. The expense of running a backup server may have been part of the delay. See Vincent Kiernan, Ready for the Next Katrina?, Chron. of Higher Educ., Oct. 14, 2005, at A31 (noting that Loyola was initially paying $20,000 to $25,000 a day for its contracted back-up services, and eventually bought a used server for $40,000).
those law schools who took the initiative and opened their doors to displaced law students even before formal policies had been put into place. Nobody had these tasks in their job descriptions or in their standard operating procedures. None of them waited for someone else to do it. And nobody told these people to do these things. They did it because these things needed to be done.

The only sure thing in a disaster or other emergency situation is that any written disaster response documentation or business continuity plan will not work perfectly. What is much more important than any planning document is having a proactive, responsive, and flexible institutional culture. If law school personnel are overly fixated on bureaucratic procedures and the minutiae of administration, everyone will hesitate and/or wait for the “correct” person to take action when initiative and hard work can get the necessary jobs done. As another disaster planning truism puts it, “a quick response is worth a thousand contingency plans.”