

Statement of Michael D. Brown

House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina

September 27, 2005

Chairman Davis and Members of the Committee --

Although I am no longer on the hot seat as Director at FEMA, I want to begin by saying that I agree with the premise of these hearings. Lessons can and must be learned from how each crisis is handled. This is the way that FEMA operated when I was Director, and this is the way that it should be. I hope that my appearance here today furthers that goal.

And I also want to say that I admire the efforts of many of the members of this Committee, including the Chairman, to get out of Washington, go out into the field, and gather information on which good decisions can be based.

The response of government at all levels to Hurricane Katrina has come under criticism, some of it valid, some of it not. As the former Director of the Federal Emergency Management Agency (FEMA), I am here to discuss FEMA's response to Hurricane Katrina and the actions FEMA took in Florida, Alabama, Mississippi and Louisiana, all of which were affected by this catastrophic hurricane. But any criticism of FEMA must be understood in the context of understanding FEMA's role in responding to disasters, and that is what I will address first. Without that context it is simply too easy to Monday-morning quarterback the response of many dedicated civil servants to this and other disasters.

Likewise, many criticisms have been made against me, personally. I will address

those later in this statement and in response to any questions the Committee may have regarding my background, my experience, and my performance. As everyone on this Committee understands, you can't always believe everything you read in the newspapers or see on television. I now understand that more fully than I ever imagined.

Emergency Management in the United States

To understand the role FEMA undertook in Hurricane Katrina, and all other disasters before that, it is imperative to understand the basics of emergency management in the United States.

At its most basic level, emergency management is best described as a cycle. Governments must *prepare* for disasters, then *respond* to disasters, ultimately *recover* from disasters, and, finally, *mitigate* against future disasters. This cycle is the standard for emergency management services throughout the world:

- (a) Prepare
- (b) Respond
- (c) Recover
- (d) Mitigate

These four pillars exemplify the basic cycle and also dictate how any emergency management department, agency or directorate must be structured in order to assist citizens in times of emergencies.

Emergency management begins at the local level. Municipal and county governments are best suited to understand the needs and capabilities of their locales. Mayors, city councilmembers, county commissioners, county administrators, and parish presidents are all in the unique position of understanding the vulnerabilities and

capabilities of their communities. They develop the local emergency operations plans by which their community will respond to disasters, either natural or manmade.

State governments develop emergency operations plans for disasters, provide liaison and support to the local governments, and administer programs related to mitigation against disasters, preparedness, response and recovery.

The reason primary responsibility for this “first response” being at the local level, is that it is inherently impractical to expect the federal government to respond to every disaster, of whatever size, in every community across this nation. The federal government is simply not a “first responder,” has never been, and should never be.

The role of the federal government in emergency management is generally that of coordinator and supporter. The federal government develops national policies, assists the state and local governments in the development of their policies and procedures and, where Congress has authorized FEMA or other departments or agencies, provides funding to carry out those local and state responsibilities.

Understanding those roles is essential to understanding how our nation responds to a disaster, whether it is natural disaster, a manmade disaster, or a terrorist event. The concept of federalism has long provided the basis by which our levels of government interact. Those principals of federalism should not be lost in a short-term desire to react to a natural disaster of catastrophic proportions, for if that concept is lost, the advantages of having a robust state and local emergency management system will lead not only to waste of taxpayer dollars at the federal level, but will inherently drive decision-making best left to the local and state level, to a centralized federal government, which inherently cannot understand the unique needs of each community across this nation.

These roles are also fully supported by the basic concept of federalism, recognizing that the sovereign states have primary responsibility for emergency preparedness and response in their jurisdictions. For example, the Governors have primary control over the National Guard. Law enforcement is primarily a local responsibility. Fire protection, police protection and emergency medical care are clearly understood by the American public to be local and state responsibilities.

Many may be surprised to learn that FEMA is not a first responder. FEMA does not own fire trucks, ambulances, search and rescue equipment. In fact, other than some small supplies for protecting its own properties, FEMA does not own any first responder equipment. FEMA does not have a law enforcement squadron that can swoop into any crime scene or crowd and restore order. FEMA is a coordinating agency, not a first responder.

FEMA was created by President Jimmy Carter's Executive Order 12148 (July 20, 1979). This Executive Order reassigned to FEMA certain emergency functions (vested in the President and previously assigned to other federal agencies, such as the Defense Civil Preparedness Agency, Department of Defense, the Federal Disaster Assistance Administration, Department of Housing and Urban Development, the Federal Preparedness Agency, General Services Administration). The Executive Order also set forth the scope of the new agency's duties. Section 3 of Executive Order 12148 also established the Federal Emergency Management Council, composed of the FEMA Director (as chairman), the Director of the Office of Management and Budget and "such others as the President may designate." Executive Order 12148 ¶ 3-102. The functions

of the Council include providing guidance to the Director of FEMA in the performance of functions vested in him. Executive Order 12148 ¶ 3-202.

The FEMA Director's duties under Executive Order 12148 include establishing federal policies for, and coordinating, all civil defense and civil emergency planning, management, mitigation, and assistance functions of executive agencies, and responsibility "for the coordination of efforts to promote dam safety, for the coordination of natural and nuclear disaster warning systems, and for the coordination of preparedness and planning to reduce the consequences of major terrorist incidents." Executive Order 12148 ¶ 2-103.

The emergency functions delegated to FEMA in Executive Order 12148 (*see* Executive Order 12148 ¶ 4-1 and 4-2) are very specific. They include certain functions delegated to the President with respect to emergencies and disasters, but they do not include the President's function or authority with respect to the declaration of emergencies and major disasters, or relating to the repair, reconstruction, restoration, or replacement of federal facilities), or relating to food coupons and surplus commodities. *See* Executive Order 12148 ¶ 4-203.

In 2002, of course, FEMA was placed under the jurisdiction and control of the Department of Homeland Security ("DHS") pursuant to the Homeland Security Act of 2002. While not specifically delineated in the statute, the Under Secretary of Homeland Security for Emergency Preparedness & Response became the Director of FEMA and reports to the Secretary of Homeland Security.

Statutory authorization for the President and the executive agencies, including DHS and FEMA, to undertake specific measures for the many functions contemplated by

Executive Order 12148, including disaster preparedness and recovery, is set forth in the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121, *et seq.*, as amended (“the Stafford Act”). That law, which is designed to provide a mechanism whereby the federal government may assist state and local government — including supplementing state and local resources — in cases of emergencies or major disasters where state or local resources are insufficient, sets forth the relevant legal guidance and authority for action by the federal government, including FEMA, in situations such as recently presented by Hurricane Katrina.

The Stafford Act authorizes the President to establish a wide range of programs related to emergencies and disasters, which programs utilize the services of all appropriate federal agencies and resources. The Act requires that the Governor of the State request the President to declare that a major disaster exists (section 401 of the Act, 42 U.S.C. § 5170) or that an emergency exists (section 501 of the Act, 42 U.S.C. § 5191), before the federal government can conduct relief efforts in the State.

According to the Act, the Governor’s request “shall be based on a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary.” 42 U.S.C. § 5170. *See also* 42 U.S.C. § 5191(a) (request and declaration that an emergency exists). As part of such a request, and as a prerequisite to major disaster assistance under the Act, “the Governor shall take appropriate response action under State law and direct execution of the State's emergency plan.” 42 U.S.C. § 5170. The Act also requires that the Governor furnish information on the nature and amount of State and local resources which have been or will be committed to alleviating the results of the

disaster, and that the Governor certify that State and local government obligations and expenditures (of which State commitments must be a significant proportion) relative to the current disaster will comply with all applicable cost sharing requirements of the Act.

Id.

If the President receives such a declaration from the Governor of a State and declares that a major disaster or emergency exists, two types of federal disaster assistance are available. First, the President may direct “the general Federal assistance” — utilization of federal agencies and resources, coordinating all disaster relief assistance, providing technical and advisory assistance to affected State and local governments, and assisting State and local governments in distribution of food, medicine, and consumable supplies and emergency assistance. 42 U.S.C. § 5170a. Second, the President may also direct “essential assistance” — whereby federal agencies “provide assistance essential to meeting immediate threats to life and property resulting from a major disaster” in a variety of enumerated ways. 42 U.S.C. § 5170b.

The provisions for federal emergency assistance are similar in scope and effect to those relating to federal disaster assistance. See 42 U.S.C. § 5192a. In either case, of course, it is the President’s declaration that a disaster or emergency exists that triggers the federal response. And the President’s declaration depends upon a request from the Governor of the State that a major disaster and/or emergency exists.

As civil defense needs diminished, and the Agency became more focused on natural and manmade disasters, the business of emergency management matured. Over the years a natural cycle of emergency management has emerged, which has withstood the test of time, and the trials of actual disasters.

The American public must understand the business of emergency management, for they, too, individually, as families, and as communities, are an integral part of that emergency management system.

As I noted earlier, emergency management is a cycle: prepare, respond, recover and mitigate against future disasters based on lessons-learned. This cycle is taught in universities, practiced in the smallest of jurisdictions, and replicated throughout the world. The Emergency Preparedness & Response Directorate of the Department of Homeland Security, where FEMA is housed, and as originally envisioned by the President, and generally adopted by the Congress, recognizes that cycle. The title itself suggests an inherent link between preparedness and response.

The philosophy of the “all-hazards” approach to emergency management teaches us that how we prepare, respond, recover and mitigate for any disaster can be replicated in any disaster, regardless of the cause. Thus, whether the disaster is chemical, hurricane, radiological, tornado, biological or forest fire, the cycle is the same:

Prepare - through planning, training and exercises.

Respond - with those with whom you have planned, trained and exercised.

Recover - through rebuilding and reconstruction.

Mitigate - building codes, standards, protocols, retrofits, et al.

When that cycle is broken in any way, we minimize our effectiveness and maximize our potential for failure.

Every level of government, and every individual in this country, has a role to play in that cycle. Individuals must take personal responsibility for being prepared. First responders may not be able to get to them quickly. Local governments must be prepared

to respond, because, as simple as it may seem, disasters occur in communities. Locals are the first responders, and they have primary responsibility to respond on behalf of their communities. States must coordinate preparedness and response in their jurisdictions, and work to mitigate the effects of potential and actual disasters wherever possible. And only when state and locals work together to recover from disasters, are the devastating effects of disasters minimized to the extent possible for their communities.

So what is FEMA's role in this cycle? FEMA conducts exercises with state and local governments. FEMA performs capability assessment reviews to better understand the strengths and weaknesses of those we will partner with when asked to come assist them in times of disaster. FEMA must plan with those state, local and tribal governments to prepare for disasters in their jurisdictions. FEMA brings a broad umbrella that enables FEMA to do catastrophic disaster planning that state and local governments might not otherwise be able to do. FEMA trains state and local officials about the emergency management cycle in a way that no other organization does. FEMA brings *all* state and local responders (police, fire, political leadership, health, public works) together so they can train together and not see each other for the first time when disaster strikes. FEMA brings *all* state, local and tribal governments together in a vast mutual aid program so states can help other states respond to disasters.

The emergency management cycle exists in FEMA today because of its partnerships with state and local governments. Not a partnership that says FEMA will come and be your first responder, but a partnership that says FEMA will train and assist you, and when the disaster is beyond the capability of the state to handle alone, FEMA

will assist you in coordinating the use of federal assets and those of other states in helping you respond and recover.

FEMA is a very small agency and a very small part of DHS in terms of budget, personnel and other resources. But it is an honest broker, one which can effectively bring to bear the resources of the federal government to assist state and local governments when disasters are of such a magnitude that outside coordination is needed.

When states need assistance, FEMA becomes a partner with the state, establishing a unified command structure that has worked well throughout thousands of disasters. This unified command structure allows the federal, state, and local governments to work hand-in-hand, recognizing the strengths and weaknesses of each level, distributing resources and assets, and contributing to the needs of a response in a way that is efficient and effective. Only through such a unified command, coupled with an incident management system long used and recognized by the fire community throughout the world, can a response and recovery operation be successful.

That is FEMA. It's not a first responder. It's not a law enforcement agency. FEMA is an honest broker, a coordinator, a unified incident commander with the state government to assist the state in responding to disasters.

FEMA's Response to Hurricane Katrina

FEMA began monitoring Tropical Depression 12 long before it became Hurricane Katrina and almost a full week before she made landfall in Louisiana. FEMA prepositioned supplies, equipment and manpower in areas where they were out of harm's way, so as not to become victims themselves, yet close enough that they could rapidly move in to fulfill their mission of assisting the impacted states.

FEMA conducted daily video teleconferences to learn the states' needs and to coordinate the response of the federal government to any requests by the impacted states.

The Hurricane Liaison Teams worked closely with the National Hurricane Center to provide current, updated information to our partners in the federal government and to the potentially-affected states.

Several mobilization centers were established throughout the Gulf coast states. These locations were strategically located that commodities and supplies could be moved into the affected areas as soon as it was safe to do so.

The National Disaster Medical System (NDMS) teams were activated and deployed. The Urban Search & Rescue Teams (USAR) were activated and deployed. The Rapid Needs Assessment (RNA) teams were activated and deployed. The Emergency Response Team (ERT-A) were deployed to each of the affected states. Federal coordinating officers (FCOs) were assigned to and deployed to each of the affected states in order to establish an incident command system with the state emergency managers or homeland security directors. The American Red Cross established shelters and feeding stations in each of the affected states. The National Emergency Management Assistance Compact (EMAC) was activated so that other states could assist the affected states.

FEMA pushed forward with everything it had in order to be ready to help the states respond after landfall. FEMA was prepared to fulfill its role as a partner and coordinator in any response activity undertaken by any of the affected states. Every single team, every single program of FEMA, was pushed to its limit to respond to Hurricane Katrina.

The way FEMA works with State officials to respond to disasters, including hurricanes, is reasonably well established.

FEMA designates a Federal Coordinating Officer (FCO). The State designates a State Coordinating Officer. From that moment on, those two persons are joined at the hip in a unified command structure. These two persons work in the same room, and often at the same table or adjoining desks. They are the nerve center of the operation.

Around the periphery of this nerve center are those federal and state officials responsible for the Emergency Support Function (ESF) areas such as transportation, mass care, energy, etc.

When needs are identified, the coordinators assess what resources are available and what resources can best be utilized. No one looks for credit. There are no turf battles. The coordinators are committed only to getting the job done.

This is exactly the approach that FEMA used in Florida to respond to in the hurricanes in 2004, the California wildfires in 2003, and the historic outbreak of tornadoes in 2003.

This same unified command was used by FEMA in Mississippi and Alabama this year with Hurricane Katrina. FEMA FCO's were in the states *before* Hurricane Katrina made landfall. FEMA's FCO in Louisiana was on the ground and in the state emergency operations center *before* Katrina made landfall. Unfortunately, this is the approach that FEMA had great difficulty in getting cooperation to utilize in Louisiana.

The exact same approach worked well this year in Mississippi and Alabama, but had serious problems in Louisiana. The FEMA plan was the same, and all of the FEMA

coordinators were highly competent – some of our very best. The only variable was the state government officials involved.

In retrospect, I am glad that on Sunday morning before evacuations were ordered, I jumped the gun on the New Orleans and Louisiana officials. I said on television, don't wait for official word, I would act now to get out of town. I hope that that extra time was helpful to get more people out of New Orleans.

I assume that someone today will ask me about whether I did all that I could, or whether I would have done anything differently. The answer to that question is yes. And the answer is not just yes because the answer is always yes – we can always improve our efforts. But I do believe there are specific mistakes that I made with Hurricane Katrina. I will mention two. First, I did not set up a system of media briefings which I should have done, as that would have required less of my time than responding to all of the requests for interviews. Second, I regret not being able to persuade Governor Blanco and Mayor Nagin to sit down and coordinate their response.

I would be happy to answer any questions the Committee has regarding the response by FEMA to Hurricane Katrina.

Personal Charges

I feel compelled to spend just a little of my time today to respond to the numerous, wide-spread, false accusations that have been leveled at me concerning my background, my qualifications, my experience. While FEMA was trying to respond to the largest natural disaster in the nation's history, the FEMA press office was bombarded with requests to respond – immediately – to these false statements.

It started with allegations that I had been either fired or forced to resign from a previous position. The major media found this story on a blog, entitled, appropriately enough, "horsesass.org." The story was false. But the media repeated the story over and over.

Next, one national magazine defamed not only me but also my alma mater, Oklahoma City University School of Law, leveling false charge after false charge. But that was just a prelude.

Time magazine called FEMA's press office while I was in Baton Rouge, Louisiana, coordinating the Federal government's response to Hurricane Katrina. The press office was told of allegations that I had supposedly embellished my resume, and was given approximately 45 minutes to respond. The story wasn't true. But that apparently didn't matter.

For almost twenty years I have worked either in, or for, local, state and federal government. The majority of that time has been working in local government. I have represented municipal governments in either a legal capacity or a political capacity for many years. I have a thorough understanding of the concept of federalism in this country and how it governs relationships among local, state, federal and tribal governments.

In 1977, I was a student at Central State University (CSU), which is now called the University of Central Oklahoma (UCO). One of my professors, Carl Reherman, was on the Edmond (Oklahoma) City Council, and encouraged me to take an internship at the City of Edmond. I did so in the Planning Department. After successfully completing that internship, I became a full time employee as the assistant to the city manager, where I undertook several responsibilities, including serving as the city manager's liaison to the

city's emergency services divisions, the police and fire departments. I sat on the city's collective bargaining team in negotiating union contracts with the police and fire departments.

During my tenure as the assistant to the city manager, I was instrumental in developing the city's first comprehensive emergency response plan. I served on a committee developing a new emergency operations center for the city. I worked closely with the fire department to assure the city manager's strategic goals for the department were being met and implemented.

After having served as an intern, an assistant to the city manager, and working on the emergency services projects of the city, I successfully ran for and was elected to the city council, probably the youngest to have served in that capacity at the time. I served while attending law school. During my tenure on the city council, Edmond was the fastest growing city in Oklahoma, and I was intimately involved in such issues as guaranteeing sufficient and quality police and fire protection to this burgeoning city.

But rather than take my word for my exhaustive local government experience, I refer the Committee members to Exhibits "A" and "B" to this written statement. Exhibit "A" is an affidavit of Carl Reheman, my mentor, professor and co-member of the Edmond City Council. Exhibit "B" is an affidavit of Mary Ann Karns, who at the time of my service was the Edmond City Attorney. The affidavits speak for themselves, and unequivocally contradict the erroneous claim of *Time* magazine that I inflated my municipal experience.

My state and local government experience goes beyond the City of Edmond, however. While serving as the coordinator of the Senate Finance Committee of the

Oklahoma Legislature, I drafted the enabling legislation to create the Oklahoma Municipal Power Authority. This legislation was adopted by the Oklahoma Legislature and created Oklahoma's first and only joint action municipal electric authority. I later became a board member, Secretary and ultimately, Chairman of this authority. We obtained more than thirty-five municipal wholesale contracts, creating a municipal electrical wholesaler, saving cities and towns across Oklahoma millions of dollars, which enabled them to expand local services to their citizens.

During my law practice I represented several municipal governments, local water authorities, a local municipal development authority. I represented other police departments, a police union, and worked with local officials on development and emergency services issues.

The media claimed that my resume falsely states that I was an adjunct professor. Had the media taken the time to check the facts, they would have discovered that indeed, I served as an adjunct professor of law at Oklahoma City University School of Law. Some might have been surprised to learn that not only did I teach at the law school, but I taught in the area of state and local government law. I taught two courses, *The Law of State & Local Government* and *Legislation*. Exhibit "C" is an affidavit of Patricia W. Hatamyar, the current Associate Dean for Academic Affairs of Oklahoma City University School of Law, which verifies the teaching I did there.

Time quoted my first employer after law school who criticized my work. Had I been given more than a few minutes to respond, the media might have learned that same employer stated at the time in written reviews of my work, that I was "an asset to the firm," and that my work was "excellent," "first rate," and "outstanding." But such

personal records are hard to find within 45 minutes when you're a thousand miles away from home and in the middle of one of this nation's largest disasters.

Thankfully, I have many friends who have worked with me or known me for many years. One of those friends, attorney Andrew W. Lester, skewered the media for its disingenuous attacks on my background. But alas, the media didn't want the facts. So I ask the Committee to review his comments, attached as Exhibit "D".

My Experience at FEMA

Not only have I worked in municipal government most of my life, and understand the concepts of unified command for first responders, and the need for incident management systems for first responders, but I have had the experience of learning the organization from the ground up. In February, 2001, I was appointed General Counsel. In that position, I had the responsibility of learning about all of FEMA's programs, its history, its policies, its regulations. The General Counsel's office gave me a perspective that even few career civil servants have, of overseeing *all* of the programs within the organization.

Shortly after the September 11th attacks, the President named me the Acting Deputy Director of FEMA. Shortly afterwards I was confirmed as the Deputy Director. During that time I oversaw headquarter operations during FEMA's response to the attacks in New York and at the Pentagon. I conducted almost daily meetings on our response activities, ensuring that the Federal government's response was proper, efficient and effective.

During that time the President's Chief of Staff, Andy Card, asked me to serve on the President's Consequence Management Committee, a group of cabinet-level

secretaries and deputies who met regularly to oversee the Federal government response. This group was charged with deconflicting policies and ensuring a proper recovery for New York City. As the recovery for New York continued, I worked almost daily with the President's Domestic Policy Advisors and his special New York representative, to oversee the distribution of the \$20 billion in aid promised by the President to New York.

When the concept of a Department of Homeland Security began to develop, the White House again asked me to head a team in the Transition Planning Office to create the Emergency Preparedness & Response Directorate. Working closely with the President's advisors, the Transition Planning Office began drafting policies, procedures and organizational structures for the new department.

After the creation of the Department of Homeland Security, the President nominated me as the first Under Secretary for the newly-created Emergency Preparedness & Response Directorate, which included FEMA as its primary component. I served as the only person to have led a legacy agency, headed the transition team for the integration of the legacy agency into the department, and then to lead that new directorate.

During my tenure at FEMA, I have worked to respond to some of the largest disasters this country has faced, including the attacks of September 11th, the California wildfires, which threatened greater San Diego, the historic outbreak of tornadoes in the Midwest, and the historic four hurricanes to strike Florida in 2004. All told, I've led the response, I believe, to over 150 Presidentially declared disasters. All of those disasters were handled successfully by FEMA and the team that I and others had assembled to lead the Agency.

My experience prior to FEMA gave me a clear comprehension of the role of local, state, tribal and federal governments in responding to disasters. That experience provided me a unique understanding of the need for unified command structures, and solid incident management systems. But most importantly, it prepared me to advocate for a strong emergency management system, and the need for preparedness by individuals, local, state, tribal and federal governments in responding to disasters.

I would like to submit this statement for the record and would be pleased to answer any questions the Committee might have.

STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) ss.

AFFIDAVIT OF CARL REHERMAN

Carl Reherman, being first duly sworn, upon oath states:

1. My name is Carl Reherman.
2. I have known Michael D. Brown, the former director of FEMA, for approximately 30 years.
3. Michael D. Brown was my student at Central State University (now called the University of Central Oklahoma), where I was political science professor.
4. He was one of the most memorable students I ever had, because of his classroom activity, his desire to learn, and his ability to take a stand and to defend it.
5. I have been registered as a Democrat for approximately 40 years.
6. I served in City of Edmond, Oklahoma, government for 16 years. I served on the Edmond Planning Commission from 1972 to 1976. I was elected to the Edmond City Council, where I served from 1976 to 1978. In 1978, I was elected as Mayor of the City of Edmond. I served in that capacity from 1978 to 1988.
7. During my tenure as Mayor of the City of Edmond, Michael D. Brown worked for the Edmond City Manager.
8. I have read and heard numerous media reports that the position Michael D. Brown held at the City of Edmond was essentially that of an intern. Those reports are false. Michael D. Brown's position at the City of Edmond was one of great significance and substance for the City of Edmond.
9. One of Michael D. Brown's duties was the establishment of an emergency contingency plan for the City of Edmond. The emergency plan Michael D. Brown worked on dealt with potential natural disasters, such as tornados, and manmade disasters, given the proximity to Edmond of Tinker Air Force Base and the Oklahoma City airport, and the fact that a major commercial railroad line runs through central Edmond.
10. I remember Michael D. Brown's work on the establishment of the emergency operations center and plan because its establishment was one of my top priorities as Mayor of Edmond at that time.

11. Michael D. Brown's work on the emergency operations center and plan was key to its successful implementation.

12. Michael D. Brown served as Chairman of the Oklahoma Municipal Power Authority for several years during the 1980s.

13. While I was Mayor of Edmond, Michael D. Brown ran for and was elected to the Edmond City Council.

14. Michael D. Brown served for several years as a member of the Edmond Economic Development Authority.

15. Michael D. Brown was the Executive Secretary of the Edmond Industrial Trust, which later became part of the joint City of Edmond – Edmond Chamber of Commerce Economic Development Authority. When that merger occurred, he was the Director of Economic Development for the Edmond Chamber of Commerce and the Edmond Economic Development Authority.

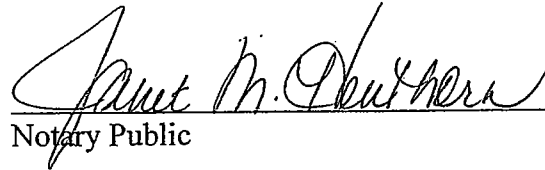
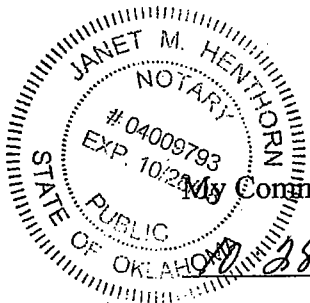
16. Michael D. Brown is a hard working, compassionate person, who has high standards.

17. I was recently elected Mayor of Chandler, Oklahoma, and have served in that capacity for approximately four months.



CARL REHERMAN

Subscribed and sworn to before me this 26th day of September 2005.


Notary Public

Commission expires:

10-24-08

STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) ss.

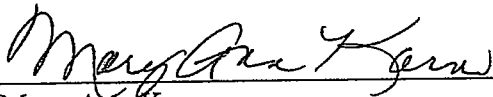
AFFIDAVIT

Mary Ann Karns, being first duly sworn upon oath, states as follows:

1. My name is Mary Ann Karns. I am an attorney licensed to practice law in the State of Oklahoma.
2. In May of 1977, I was appointed City Attorney for the City of Edmond, Oklahoma.
3. During the period of my employment with the City of Edmond, Michael D. Brown was employed in the City Manager's office as an assistant to City Manager Bill Dashner.
4. It was Mr. Dashner's practice to delegate a great deal of responsibility to those who worked for him. During that period, Mr. Brown frequently represented Mr. Dashner in working with the public and city staff on many issues.
5. Among the duties delegated to Mr. Brown was representing Mr. Dashner on a committee charged with creating an emergency response program for the City of Edmond. In the spring of 1977, the City of Edmond experienced high winds and flooding and found that it did not have procedures in place to co-ordinate its response. The fire chief, police chief and public works director were unable to communicate with one another by radio. There was no central command post. There was no policy for an incident commander.
6. The committee developed the initial emergency preparedness plans for the City, conducted its first-ever disaster exercise, and laid the groundwork for the development of its emergency operations center.
7. Mr. Brown's other duties included being the City Manager's representative on the team that conducted negotiations with the City's police and fire unions; serving on personnel boards; coordinating public relations activities; and developing a budget. Mr. Brown was also the city manager's liaison to the police and fire departments, with responsibility of ensuring that the council and manager's budget and other objectives were met.
8. Although I was no longer the City Attorney when Mr. Brown was elected to the City Council, I was active in the local business community and appeared before the City Council on behalf of clients during his tenure. In the form of government of Edmond, the

City Council has ultimate authority for the development and adoption of a budget; for setting policy; for approving capital improvements; and for developing new programs.

Further Affaint saith not.



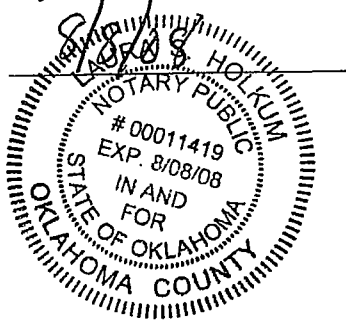
Mary Ann Karns

SUBSCRIBED AND SWORN to before me this 3rd day of September, 2005.



NOTARY PUBLIC

My Commiission Expires:



STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) SS.

AFFIDAVIT OF PATRICIA W. HATAMYAR

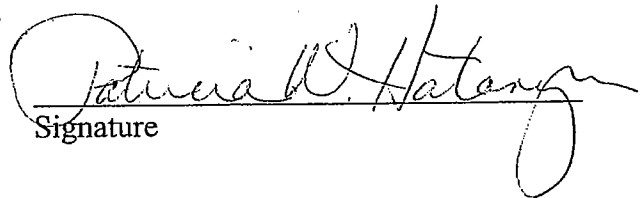
I, Patricia W. Hatamyar, being first duly sworn on oath, state:

1. I am the Associate Dean for Academic Affairs at Oklahoma City University School of Law, Oklahoma City, Oklahoma, and have held this position since August 2003. As Associate Dean for Academic Affairs, I coordinate the retention of adjunct professors of law and have access to the law school's records regarding present and former adjunct professors of law.

2. As indicated on Exhibits A and B attached hereto, Michael D. Brown taught as an Adjunct Professor of Law at Oklahoma City University School of Law in the Spring 1988 semester and the Summer 1989 semester. The courses Mr. Brown taught were State and Local Government and Legislation, respectively.

3. Exhibits A and B attached hereto are true and correct copies of the class schedules for Oklahoma City University School of Law for the Spring 1988 and Summer 1989 semesters.

FURTHER AFFIANT SAYETH NOT.

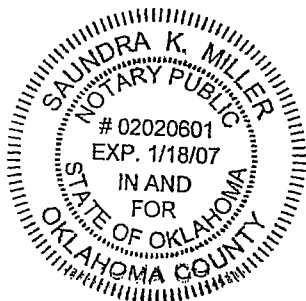

Signature

Subscribed and sworn to before me this

23 of September, 2005.


Notary Public

My commission expires: 01-18-07



SPRING 1988

1/12/88

Day DivisionFIRST YEAR REQUIRED

<u>TICKET#</u>	<u>COURSE#</u>	<u>CR.</u>	<u>COURSE NAME</u>	<u>PROFESSOR</u>	<u>DAY</u>	<u>TIME</u>	<u>RM.</u>
10	8403-01	3	Civil Procedure II §1	Creel	M-W-F	11-11:50	113
12	8403-02	3	Civil Procedure II §2	Hellman	M-W-F	11-11:50	117
14	7223-01	3	Contracts II §1	Dillon	M-W	1-2:15	115
16	7223-02	3	Contracts II §2	Gibson	M-W	1-2:15	113
18	7403-01	3	Property II §1	Barton	T-Th	10:30-11:45	113
20	7403-02	3	Property II §2	Downing	T-Th	10:30-11:45	117
22	7602-01	2	Torts II §1	Morgan	M-W	9-9:50	113
24	7602-02	2	Torts II §2	Silver	M-W	9-9:50	117
26	7023-01	3	Criminal Law §1	Silver	T-Th	1-2:15	117
28	7023-02	3	Criminal Law §2	LeFrancois	T-Th	1-2:15	113
30	8972-01	2	L.R. & W. II §1	Shadid	Thurs.	3-4:50	406
32	8972-02	2	L.R. & W. II §2	Findeiss	T-Th	4-4:50	113
34	8972-03	2	L.R. & W. II §3	Newby	T-Th	4-4:50	115
36	8972-04	2	L.R. & W. II §4	Verity	T-Th	3-3:50	117

ANNUAL ELECTIVES

38	8433	3	Corporations	Fishman	M-W-F	10-10:50	115
40	8043	3	Wills & Estates II	Downing	M-W-F	11-11:50	115
42	9074	4	Trial Practice	Lyman	T-Th	3-4:50	405
44	7233	3	Constitutional Law II	Arrow	M-W-F	1-1:50	117
46	8844	4	Income Tax	Temple	T-Th	1-2:50	115
48	8623	3	Remedies	Coulson	T-Th	8-9:15	117

ADDITIONAL COURSE OFFERINGS

50	7313	3	Criminal Procedure II	Cantrell	M-W-F	11-11:50	406, 1
52	9003	3	Labor Law	Weeks	T-Th	9:30-10:45	406
54	9042	2	American Indian Law	Arrow	M-W	4-4:50	113
56	8023	3	State & Local Gov.	M. Brown	T-Th	4-5:15	117
58	8153	3	Oil & Gas	Kenderdine	T-Th	11-12:15	115
64	7943	3	Sales	Gibson	T-Th	11-12:15	406

* SEMINARS

50	8982	2	Selected Topics in Consumer Law	Morgan	Wed.	3-4:50	116
52	9872	2	Selected Topics in Products Liability Law	Lawrence	Tues.	3-4:50	116

* Note: Commencing with the spring 1988 semester, students may now satisfy the upper class writing requirement by Directed Research. See the posted notice for the rules and requirements governing this new option.

SPRING 1988
Evening Division

1711788
1/25/88

FIRST YEAR REQUIRED

<u>TICKET#</u>	<u>COURSE#</u>	<u>CR.</u>	<u>COURSE NAME</u>	<u>PROFESSOR</u>	<u>DAY</u>	<u>TIME</u>	<u>RM.</u>
11	7222-30	2	Contracts II	Weeks	Tues.	6-7:50	117
13	7602-30	2	Torts II	Lawrence	Thurs.	6-7:50	117
15	7304-30	4	Property I	Barton	M-W	6-7:50	117
17	8972-30	2	L.R. & W. II §1	Lee	Mon.	8-9:50	117
19	8972-31	2	L.R. & W. II §2	Cole	Tue.	8-9:50	117
21	8972-32	2	L.R. & W. II §3	Smith	Wed.	8-9:50	117

SECOND YEAR REQUIRED

23	8143-30	3	Legal Profession	Lewis	T-Th	7:30-8:45	113
25	7323-30	3	Criminal Procedure I	LeFrancois	T-Th	6-7:15	113
27	8402-30	2	Civil Procedure II	Creel	Mon.	7:30-9:20	113

ANNUAL ELECTIVES

29	8243-30	3	Administrative Law	Hellman	M-W	6-7:15	113
31	7233-30	3	Constitutional Law II	Cantrell	M-W	6-7:15	115
33	8203-30	3	Secured Transactions	Dillon	T-Th	6-7:15	406
35	8043-30	3	Wills & Estates II	Kenderdine	T-Th	6-7:15	115
37	9074-30	4	Trial Practice	Lyman	T-Th	7:30-9:20	115
39	8013-30	3	Estate & Gift Tax	Temple	M-W	7:30-8:45	115

ADDITIONAL COURSE OFFERINGS

41	8012-30	2	Business Planning	Fishman	T-Th	5-5:50	115
43	9132-30	2	State Securities Reg.	Bryant	Wed.	6-7:50	406
45	9812-30	2	Banking Law	Busey	T-Th	6-6:50	120
47	8613-30	3	Juvenile Law	S. Brown	M-W	7:30-8:45	120
49	8662-30	2	Interviewing, Neg. & Counseling	Parrish	M-W	5-5:50	405
51	9363-30	3	Estate Planning	Cogdell	T-Th	7:30-8:45	120

* SEMINARS

55	9372-30	2 **	Selected Topics in Oil & Gas Law	Dancy	Thurs.	7:30-9:20	116
57	9512-30	2 ***	Advanced Family Law. Marital Property	Thompson	Wed.	7:30-9:20	116

* Note: Commencing with the spring 1988 semester, students may now satisfy the upper class writing requirement by Directed Research. See the posted notice for the rules and requirements governing this new option.

** Prerequisite: Oil and Gas

SUMMER TERM 1989

TIME	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
10-11:50 a.m.	Conflicts Creel-117		Conflicts Creel-117	Conflicts Creel-117	
1-2:50 p.m.	Intellectual Property M. Lee-117	Intellectual Property M. Lee-117		Intellectual Property M. Lee-117	
4-5:50p.m.	First Amendment Olson-117	Legislation M. Brown-117 Legal Writing\$2 Newby-115 Legal Writing\$1 Findeiss-120	First Amendment Olson-117	Legislation M. Brown-117 Legal Writing\$2 Newby-115 Legal Writing\$1 Findeiss-120	
5:30-7:20p.m.		Debtor-Creditor Busey-406		Debtor-Creditor Busey-406	
6-7:50p.m.	Criminal Law Lester-117 Evidence Weeks-113 Oil & Gas I Hart-115 Legal Method Morgan-120	Criminal Law Lester-117 Evidence Weeks-113 Oil & Gas I Hart-115 Legal Method Morgan-120 Legal Writing\$3 Shadid-120	Criminal Law Lester-117 Legal Method Morgan-120	Criminal Law Lester-117 Evidence Weeks-113 Oil & Gas I Hart-115 Legal Writing\$3 Shadid-120	
8-9:50p.m.	Property II Vogel-117 Environ Law Dancy-113	Environ Law Dancy-113	Property II Vogel-117	Environ Law Dancy-113	

The Washington Wringer
By Andy Lester

"Where do I go to get my reputation back?" Ray Donovan, President Reagan's Labor Secretary, poignantly asked that question when, after the media had adjudged him guilty, he was acquitted in court of corruption charges. Michael Brown, head of FEMA might ask the same question. While Brown was doing everything humanly possible to help the victims of the largest natural disaster in American history, America's media served as accuser, prosecutor, judge and jury to convict him as today's *bete noir*.

The story is an old one. A government official becomes a target. Reporters nose around. People from the person's past come out of the woodwork with stories, innuendo, and out-and-out lies.

While trying to do the job, the official responds. The first fire gets quenched, but another starts, then another, and then another.

The media start quoting themselves, as if the original false report is gospel. Then, reporters hear the bugle call – "Questions have been raised." That's the death knell. Once "questions have been raised," the truth doesn't matter. Now the official has "attracted controversy," and must go.

Michael Brown, my long time friend, is the latest victim. It's not right; it's not fair; but it's happened. To show this, let's take a look at what FEMA is and what it does. Then, let's review what happened.

By federal government standards, FEMA is tiny. According to its web site, FEMA has only about 2,600 full time employees.

Many believe that FEMA is responsible for rescuing people, serving as "first responders," taking charge of recovery efforts, even calling out the National Guard. Not so. Those jobs belong primarily to state and local officials.

In fact, many disasters don't involve FEMA. "FEMA is only brought in after the governor of the state requests a federal disaster designation from the President."

What does FEMA do? Generally, it helps the states, those primarily responsible for disaster relief, conduct their business. FEMA funnels federal funds, essentially an effort to distribute the cost of emergencies throughout the country. And it acts as a federal umbrella for state disaster agencies.

What happened here? The disaster was enormous. The relief effort appeared slow. Someone had to pay. Several days passed when, as the *New York Times* put it, Brown had the audacity to "display[] striking candor." Apparently, telling the truth is considered "boneheaded."

The sharks smelled blood. It was time to dig up dirt. The blogosphere came to the rescue.

Suddenly, a swirl of stories appeared that Brown had been forced out of his last job. Who broke the story? Not the major media. It was a web site, aptly named *horsesass.org*. The story was false. But the media kept repeating it.

Brown had served as the first Commissioner of the International Arabian Horse Association. A major part of his job was to prosecute wrongdoing by IAHA judges; some were among the world's leading trainers of these highly prized, highly priced animals. Tom Connelly, IAHA president when Brown resigned, put it well when he said that Brown "was unpopular, if the person he was investigating was your trainer."

I know the facts of Brown's tenure with the IAHA. I was his lawyer. I was there. The story the media portrayed is untrue. Brown had done his job with distinction. He had been attacked both publicly and in court by people with lots of money. He stood in the breach. He did his job despite the attacks. And he prevailed. He left IAHA on his own terms. He was not forced out.

Yet the truth might get in the way of a good story. In any event, repeating the stories made Brown "controversial."

Once "questions have been raised," anything is fair game. The next step – smear Brown, and smear anything in his past. *The New Republic* got the jump.

Paul Campos, a Colorado University law professor, wrote that Brown is "a failed former lawyer—a man with a 20-year old degree from a semi-accredited law school who hadn't attempted to practice law in a serious way in nearly 15 years and who had just been forced out of his job in the wake of charges of impropriety." The professor writes well: in one sentence, he skewered Brown with at least six falsehoods (that count omits the numerous others throughout the article).

To get to Brown, Campos smeared Oklahoma City University School of Law as "to put it charitably, [not] a well-known institution," citing, as if it mattered, his own ignorance of it. His article, dripping with snobbery, may play well with certain sectors. Apparently, *TNR* thinks so.

I'm surprised, though, that the professor didn't complain when President Clinton nominated Robert Henry, then the Dean of the same "semi-accredited" law school, to serve on the Tenth Circuit Court of Appeals. That's the federal circuit that covers both Oklahoma and Colorado, where Prof. Campos teaches. Judge Henry has served with distinction for over a decade.

The *TNR* piece was just the start. The top hatchet job came just over a day later, from *Time*. Filled with lies, the *Time* article did the trick. A few hours after it was posted, Brown was asked to return to Washington.

Time's indictment: Brown's resume says he was an "assistant city manager" in Edmond, Oklahoma, when in actuality he was an "assistant to the manager." Having been heavily involved with municipal government in Oklahoma for 23 years, including representing the City of Edmond itself, that strikes me as a distinction without a difference. To make it significant, *Time* twisted Edmond city spokesperson Claudia Deakin's comments to fit what *Time* wanted. Deakins has complained about *Time's* inaccuracies; *Time* hasn't bothered to retract its article.

Had *Time* sought the truth, it could have talked with current Edmond Mayor Sandra Naifeh, former Mayor Carl Reheman, or former City Attorney Mary Ann Karns, who served with Brown. They could have confirmed the accuracy of Brown's resume.

Time claimed that Brown's resume falsely states that he was an adjunct professor. So did several others, all citing *Time*. Having been a guest lecturer for Brown one day back in 1988 when he was an Adjunct Professor at Oklahoma City University law school, I was surprised to hear this too was "controversial."

Time ended its piece with a statement from Stephen Jones, Brown's first boss after law school. Jones, who faced widespread criticism for his handling of Timothy McVeigh's defense, claimed that Mike's work at the firm was "not serious and somewhat shallow." Interesting. Too bad *Time* didn't bother to look at the written reviews Jones gave Brown at the time. There, Jones called Brown "an asset to the firm" and described Brown's work as "excellent," "first rate," and "outstanding."

Neither *Time* nor most of the other major media let facts deter them. In the midst of America's worst natural disaster, they shamelessly repeated false stories told by people with ancient personal grudges.

Regardless of the facts, it's now conventional wisdom that the man who successfully headed up the national response to over 150 presidentially declared disasters, including some of the largest in history, didn't have sufficient experience.

The Washington personal destruction machine claims another victim. Michael Brown becomes another name in the pantheon of chewed up, spit out public servants. The media and politicians move on, worrying not a bit about what's right or true.

The Michael Brown I've known for 23 years is a good, honest, compassionate, competent leader. He will endure. He's not the first to be put through the Washington wringer. I pray, though, that he is the last.

Lester, a lawyer in Edmond, Oklahoma, is a former United States Magistrate Judge.