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## LESSONS LEARNED FROM “THE FIFTH PLAGUE”

*Amos N. Guiora\* & Erin M. Page†*

“The Fifth Plague” was designed to explore the legal and policy aspects of planned responses by various government agencies to a bioterrorist attack. To that end, the simulation brought together local, state, national, and international officials.

### I. COLLABORATION AND COOPERATION

“The Fifth Plague” demonstrated the importance of collaboration between various government agencies and with the general public. It is critical that areas of responsibility be clearly delegated so that different agencies can collaborate more effectively. Furthermore, as made clear in the simulation, government agencies must know how to effectively communicate to the public.

The conference highlighted the media’s critical role in disseminating information during the course of terrorism attacks. To that end, conference participants addressed at length how best to communicate with the public and what—and when—information should be released. Reporters who participated in the conference addressed a number of issues, including the interplay between the media and government agencies, the public’s right to know and the government’s need to protect the people, even at the cost of not disclosing information.

“The Fifth Plague” also brought to the fore issues in cooperation. How do you get corporations and other private parties to do the right thing and to cooperate without sanctions? Mr. Yarrish, a local farmer who participated in the simulation exercise, stated emphatically that should he suspect an outbreak of foot and mouth disease (FMD) on his farm, he would immediately contact a veterinarian or a State agency. Why? Because he understood his legal requirement to do so and that otherwise he could risk losing his entire farm. The fear of a sanction motivated his cooperation.

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## II. EMERGENCY RESPONSE

Another much discussed theme at the conference was overreaction to a bioterrorist attack. The issue can best be summarized by the following dilemma: when is a state official obligated to contact federal officials? As was made clear during the course of the conference, there is a fine line between a measured response and a harried response.

In addition, the critical legal issue of the tension between state and federal powers was addressed in depth. Hurricane Katrina demonstrated the inherent conflict between the two levels of government. Conference participants unanimously agreed that a conflict between state and federal government reduces the efficiency and time of a response thereby, potentially, unnecessarily endangering the public

## III. QUARANTINE

One of the most discussed issues of the day was quarantine and enforcement of public health measures. To prevent disease outbreaks or slow the spread in a bioterrorist attack, the government may enforce vaccinations of individuals and animals alike, regardless of the known dangers.

At what point can we require mandatory testing or destruction of property? These questions come with risks. Potentially, individuals will avoid reporting that they observed an illness amongst their cattle. In the case of a bioterrorist attack such as small pox or an illness that affects humans, it is conceivable that people will avoid seeking expensive medical care. A potential bioterrorism attack requires government officials to determine where to draw the line with respect to limiting individual rights; quarantine policy is but a manifestation of this dilemma in terms of limiting individual rights.

Quarantine of a farmer's cattle and farm also has major economic impacts. In the case of FMD, the government may eventually have to destroy cattle, which directly impacts a farmer's economic viability. The government might potentially compel businesses to share data that they otherwise would want to keep private. Companies might be forced to produce vaccines. What are the implications of these reductions in choice? When do the limitations and the adverse effects on economic freedom become too great?

## IV. QUESTIONS RAISED

While contributing to the resolution of issues directly related to the government's response to a possible bioterrorism attack, "The Fifth Plague" also brought to the fore a number of questions. Does the law provide sufficient guidelines as to the measures that can be taken and cannot be taken in a bioterrorist attack or other crisis? When exactly can a state of emergency

be declared? When is it acceptable to limit civil rights and individual liberties in the name of the greater good? What dangers are involved when we limit rights?

#### V. CONCLUSIONS

“The Fifth Plague” not only highlighted legal and policy issues demanding the attention of government officials, it also demonstrated that enormous “response-related” measures have been undertaken by the relevant agencies. There is a clear need for continued simulations and exercises similar to “The Fifth Plague” in order to ensure that all levels of government are prepared for possible attacks. It is our hope that others will build off the contribution of “The Fifth Plague” with respect to the legal and policy aspects of a bioterrorism attack. The model utilized for the preparation for the conference—integrating legal, policy, scientific, and media expertise—will need to be implemented if, heaven forbid, there is an actual attack.

