

THE “AMERICAN RED CROSS SUNSHINE ACT”

FACT SHEET

- The American National Red Cross’ (“Red Cross”) response to Hurricane Katrina in 2005 revealed significant flaws with its disaster response processes and resulted in allegations of financial mismanagement.¹ Additionally, survivors complained that the Red Cross arrived late in the aftermath of the storm, that it was not prepared to respond to a disaster of the scope and scale of Hurricane Katrina, and, most troubling, that it was not capable of providing timely and effective relief services to economically-disadvantaged and minority communities.²
- In 2007, in the aftermath of the Hurricane Katrina, Congress amended the Red Cross’ charter to address internal management weaknesses and strengthen performance of disaster services. At the time, Congress deliberately included explicit language to grant the U.S. Comptroller General, head of the Government Accountability Office, authority investigate certain activities carried out by the Red Cross.³
- After an earthquake jolted Haiti in January 2010, the Red Cross raised nearly a half billion dollars.⁴ Almost immediately, the Red Cross’ response in Haiti was criticized. Reported challenges ranged from the failure to provide clean water and sufficient tarps for earthquake survivors, to inability to draw down funds, to the lack of transparency in its disaster response activities.⁵ Indeed, to this day, it is unclear how the Red Cross spent all of the money it raised for disaster relief in Haiti, and some documents suggest funds were spent hastily and haphazardly in response to criticism that it was not spending funds quickly enough.⁶

¹ Stephanie Strom, “Red Cross Sifting Internal Charges Over Katrina Aid,” *The New York Times* (Mar. 24, 2006), <http://www.nytimes.com/2006/03/24/national/nationalspecial/24cross.html?pagewanted=all> (last visited Sept. 15, 2015).

² U.S. House Committee on Homeland Security Democratic Staff, “Trouble Exposed: Katrina, Rita, and the Red Cross – A Familiar History,” 5 (Dec. 15, 2005) (<http://hsc-democrats.house.gov/about/subcommittees.asp?ID=57&SubSection=0&Issue=0&DocumentType=0&PublishDate=0&subcommittee=8>) (last visited September 15, 2015).

³ The American National Red Cross Governance Modernization Act of 2007, Pub.L.No. 110-26, 121 Stat. 103, *codified at* 36 U.S.C. 300101, et seq. See also Kevin Kosar, “The Congressional Charter of the American National Red Cross: Overview, History, and Analysis,” *Congressional Research Service*, RL33314 (Mar. 15, 2006) (describing the history of the American National Red Cross and the issues considered leading up to the 2007 charter overhaul).

⁴ Justin Elliott & Laura Sullivan, “How the Red Cross Raised Half a Billion Dollars for Haiti and Built Six Homes,” *ProPublica* and *NPR* (June 3, 2015), <https://www.propublica.org/article/how-the-red-cross-raised-half-a-billion-dollars-for-haiti-and-built-6-homes> (last visited September 15, 2015).

⁵ Center for Economic and Policy Research, “Why Doesn’t the American Red Cross Want People to See ‘Haiti: Where Did the Money Go?’” (Jan. 25, 2012), <http://www.cepr.net/blogs/haiti-relief-and-reconstruction-watch/why-doesnt-the-american-red-cross-want-people-to-see-ghaiti-where-did-the-money-go/> (last visited Sept. 15, 2015)

⁶ Laura Sullivan, “In Search Of The Red Cross’ \$500 Million In Haiti Relief,” *NPR* (June 3, 2015), <http://www.npr.org/2015/06/03/411524156/in-search-of-the-red-cross-500-million-in-haiti-relief> (last visited Sept. 15, 2015).

- When Hurricane Sandy struck the East Coast in October 2012, reports once again emerged that the Red Cross was not performing its response mission effectively.⁷ In particular, Red Cross took days to establish a presence in parts Staten Island, Brooklyn, and Queens.⁸ The Staten Island borough president called the Red Cross' response "an 'absolute disgrace.'"⁹ Indeed, months after the storm, survivors criticized the Red Cross' case management processes and failure to provide much needed support and housing assistance to those who remained displaced.¹⁰ The Red Cross' response to Hurricane Sandy underscored that the organization continued to struggle to carry out both its primary mission – immediate response and mass care – as well as additional recovery activities.
- Reports that the Red Cross continued to struggle to carry out its mission in the aftermath of the Haiti earthquake and Hurricane Sandy, coupled with a failure of the Red Cross to provide clear answers regarding how it made decisions to spend money it raised to assist with disaster relief, how it determined what services to provide during disaster response, and how it built relationships with community partners to ensure effective delivery of disaster services, led Ranking Member Thompson to request that the Government Accountability Office (GAO) open an investigation into the Red Cross' disaster response activities.
- Regrettably, when GAO began asking questions of the Red Cross about management and disaster response activities, the Red Cross' response was to ask Ranking Member Thompson to call off the investigation. Even though the Red Cross made deliberate attempts to evade oversight, Ranking Member Thompson refused to call off the GAO.
- The GAO ultimately completed the investigation Ranking Member Thompson had initially requested in September 2013. The report, entitled *American Red Cross: Disaster Assistance Would Benefit from Oversight through Regular Federal Evaluation*, was released on September 16, 2015, and made the following findings:
 - Although the Red Cross is subject to high-level Federal oversight through annual filings with the Internal Revenue Service related to its tax-exempt status and the Department of Defense for audits of its financial statements, the submissions provide general information about Red Cross expenditures, services, and financial statements.
 - Federal agencies - such as the Federal Emergency Management Agency, the United States Agency for International Development, and the U.S. Department of State - that provide funding to the Red Cross through grants or interagency agreement monitor the Red Cross' use of funds for compliance with the grant requirements or interagency agreement.

⁷ David M. Halbfinger, "Anger Grows at Response by Red Cross," *The New York Times* (Nov. 2, 2012), <http://www.nytimes.com/2012/11/03/nyregion/anger-grows-at-the-red-cross-response-to-the-storm.html? r=0> (last visited Sept. 15, 2015);

⁸ *Id.*

⁹ *Id.*

¹⁰ See also Ali Wolf, "Sandy Victims Blast Red Cross Assistance Efforts," *New York 1*, (Jan. 17, 2013), http://www.ny1.com/archives/nyc/all-boroughs/2013/01/17/sandy-victims-blast-red-cross-assistance-efforts-NYC_175578.old.html.

- Although state attorneys general have the authority to investigate the Red Cross, their investigations are generally limited to allegations of mismanagement or misuse of charitable funds. Notably, however, the GAO found that “state attorneys general are unlikely to investigate the Red Cross because, with limited resources, these offices prioritize investigations of newer, less established organizations.”¹¹
 - The Red Cross performs some internal after-action reviews, but generally does not make those results public.
 - Ultimately, GAO found that neither government agencies nor nonprofit charity watch groups conduct regular, ongoing oversight over the Red Cross’ delivery of disaster services.
- GAO recommended that Congress consider establishing a mechanism for conducting regular, independent, Federally-led or supported evaluations of Red Cross for public dissemination.¹²

¹¹ U.S. Gov’t Accountability Office, GAO-15-565, “American Red Cross: Disaster Assistance Would Benefit from Oversight through Regular Federal Evaluation,” 27 (2015).

¹² *Id.* at 38-9.

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As Introduced By the Honorable Bennie G. Thompson, (D-MS)
on September 16, 2015

Sec. 1. Short title.

Sec. 2. Government Accountability Office Oversight.

This section clarifies the authority of the Comptroller General of the United States to review the American National Red Cross’ (“Red Cross”) involvement in any Federal program or activity the U.S. government carries out under law, including any program or activity that the corporation carries out in connection with events for which the Government provides leadership or support under the national preparedness system. It further clarifies that the Comptroller General shall have access to and the right to examine relevant records, including those related to financial transactions and internal governance, and shall be permitted to interview any relevant employee or volunteer of the American National Red Cross. The section also establishes enforcement mechanisms that the Comptroller General may employ should the American National Red Cross not provide requested information.

Sec. 3. Internal Reporting and Dispute Resolution.

This section clarifies the role of the Office of the Ombudsman. In particular, it directs the Office of the Ombudsman to enhance dispute resolution regarding concerns raised to the Office by internal and external stakeholders regarding the American National Red Cross, regularly report to the Board of Governors information on trends and patterns on concerns communicated to the Office of the Ombudsman, and to carry out such other duties and responsibilities as may be provided in the bylaws or a resolution of the Board of Governors.

Sec. 4. Inspectors General Oversight.

This section requires the Inspectors General of three agencies – Department of Treasury, Department of Homeland Security, and the U.S. Agency for International Development—to audit the Red Cross’ activities once every three years on a rotating cycle. Specifically, the Treasury Inspector General for Tax Administration is required to perform an audit of the Red Cross within one year of the bill’s enactment. The Department of Homeland Security Inspector General is directed to perform an audit of the Red Cross within two years of enactment. Finally, the United States Agency for International Development Inspector General is directed to perform an audit of the Red Cross within three years of enactment.

Sec. 5. Accessing the Ombudsman.

This section requires that the Red Cross to make prominent on its website information on how to submit to the Office of the Ombudsman of the Red Cross concerns about the organization.

Sec. 6. Department of Homeland Security Pilot Program.

This section requires the Secretary of Homeland Security, acting through the Under Secretary for Science and Technology, to conduct a one year pilot program with the Red Cross to research and develop mechanisms for the Department to better leverage social media to improve preparedness and response capabilities.

Sec. 7. Annual Report.

This section requires the Secretary of Homeland Security to submit to Congress annually a report on the extent to which the Department of Homeland Security partnered with the Red Cross in furtherance of preparedness and response activities.

Sec. 8. Rule of Construction.

This section clarifies that none of the provisions in the bill may be construed to hinder, reduce, impede, or otherwise impact the ability of a State to conduct oversight or investigations of the Red Cross.