

The Flint Water Crisis and The Public Policy Process

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Abstract: This paper examines the Flint water crisis. How it happened, a blend of historical, technical, and political factors, and how a group of “citizen scientists” and grass root activists were able to push the crisis to the top of the federal government’s agenda. Three prominent theories of the public policy process are analyzed as they relate to the Flint water crisis.



Greetings from Flint by 'Indecline'

At the end of the day, we are not just victims, we're fighters. – Melissa May, February 17, 2016

— From *Flint Fights Back: Environmental Justice and Democracy in the Flint Water Crisis* by Benjamin Pauli

I. Introduction

Water is one of the most important resources on Earth, needed by every living organism to survive. Without water, life as we know it would not exist. For thousands of years the location of civilizations has been dictated by sources of water, not only for drinking but also for transportation, trade, and irrigation. In Michigan, we are fortunate to be surrounded by the largest body of fresh water on Earth. According to the Michigan Department of Environmental Quality (MDEQ), it is estimated that the five Great Lakes contain six quadrillion gallons (6,000,000,000,000,000) of fresh water (Michigan.gov 2017, 1). So, with such an abundance of clean, fresh water, how could something like the Flint water crisis, a public health crisis caused by poisoned water due to a combination of inappropriate water treatment and old, lead pipe infrastructure, happen here in Michigan? How it happened, a blend of historical, technical, and political factors, and how a group of “citizen scientists” and grass root activists were able to push the crisis to the top of the federal agenda is discussed through the lens of three theories of the public policy process.

The study of public policy process is the study of why the government does what it does. Several theories of the process have been proposed: Kingdon's Multiple Streams Theory (Kingdon 2011), Stone's Causal Stories Theory (Stone 1989), Baumgartner and Jones' Punctuated Equilibrium Theory (Baumgartner and Jones 1993), Schneider and Ingram's Social Construction of Target Populations Theory (Schneider and Ingram 1993), and Sabatier's

Advocacy Coalitions Framework Theory (Sabatier 1993). While these theories see the road to gaining government attention in different ways, the goal is common - getting placed on the government agenda, the first step to policy action. In December of 2016, the Water Infrastructure Improvements for the Nation (WIIN) Act of 2016 passed Congress authorizing \$170 million in response to the lead-contaminated water system in Flint, MI. I am using its passage to demonstrate how the theories of Multiple Streams, Causal Stories, and Social Construction of Target Populations explain the presence of the crisis on the government's agenda. The Flint water crisis is an interesting case of the policy process because it involves government at all levels, local, state, and federal, and its impact on the people of a once prosperous city struggling with the effects of depopulation and economic turmoil. While the passage of the WIIN Act of 2016 by no means set everything right in Flint, it did help open the nation's eyes to the basic human right of safe drinking water and the challenges many communities face in securing it.

II. The Problem

In 2013, with the goal of reducing treated water costs, The City of Flint, Michigan, under the control of an appointed emergency manager, decided to join the newly formed Karegnondi Water Authority (KWA) who was constructing a pipeline to transmit water from Lake Huron. The pipeline was not yet open so in the interim, Flint could have either stayed with their current provider, the Detroit Water and Sewerage Department (DWSD) or bring online the Flint Water Service Center (FWSC) backup facility which treats water from the Flint River. Agreements over a short-term contract with DWSD broke down and "Flint decided to use water from the Flint River treated at the FWSC" (Masten 2016, 23). The sparingly used FWSC plant was ill-equipped to deal with the change. Upgrades fell well short of recommendations made by private contractors. The staff was underprepared, often untrained and inexperienced. Many warnings and

concerns were voiced (Masten 2016, 23). Despite the warnings, The City of Flint switched its water supply to the Flint River on April 25, 2014 (Pauli 2020, 1). Failure to treat the water properly led to a variety of problems having to do with water quality and public health, most prominent among them lead contamination due to corrosion of the aged pipe infrastructure.

“Within weeks of the switch, residents began complaining about the color, smell, and taste of the water” (Masten 2016, 23). The city warned residents at the time of the switch that the water would take time to “level out” and people trusted this explanation and assumed the government agencies would alert the public if there was cause for concern (Pauli 2019, 255). In May 2014 officials at the MDEQ were notified of rashes caused by the water, there was a spike in water main breaks, and in October 2014 General Motors announced it would no longer use Flint River water at its engine plant, citing the high corrosiveness of the water. Faced with denials and inaction by officials, Flint residents began to organize, forming groups like Water You Fighting For? and the Coalition for Clean Water to find answers and push for action. As the city officials continued to reassure the public of the water’s safety, laypeople engaged in “popular epidemiology” (Pauli 2020, 7), gathering evidence of contamination. A group of activists partnered with engineers from Virginia Tech University to perform a water sampling study. The results showed system-wide lead contamination. Data published by local pediatrician Mona Hanna-Attisha showed that blood lead levels in children had increased significantly after the switch (Pauli 2020, 4). The water warriors finally had enough evidence to convince officials of the public health crisis occurring.

III. Multiple Streams

The first theory I am using to demonstrate how the WIIN Act of 2016 made it to the top of the government agenda is Kingdon’s Multiple Streams Theory. It postulates that government

action occurs when there is 1) a well-defined problem, 2) a solution to that problem, and 3) the politics are favorable. Each of these “streams”; problem, policy, and politics must coincide for there to be an opportunity for policy change (Kingdon 2011). As described above the grass root activist groups worked hard to determine if there was an actual problem with the drinking water. Indicators, a reason for government attention on a problem according to Kingdon, were found by both Virginia Tech scientists and Dr. Hannah-Attisha in the form of elevated lead levels in water and children’s blood. One might imagine that once this data was discovered it would constitute a focusing event, another of Kingdon’s reasons why government pays attention to a problem. A focusing event is one that is so overwhelming that it demands immediate attention with no advocates needed. That was unfortunately not the case, advocates were needed constantly to gain the required attention. Activists had to persistently work on problem definition, categorizing the problem as a human rights issue. In October 2015, the water supply was switched back to the Detroit water supplier, but this was not the final solution, and the problem was far from over.

The solution or policy stream in Kingdon’s theory is where policy entrepreneurs, people who invest their time and resources into changing policy, come up with possible solutions. The policy stream is about persuasion and takes time. A key person in this stream was U.S. Representative Dan Kildee, who urged Gov. Rick Snyder to request federal aid. In January 2016, the state of Michigan and President Obama declared a federal emergency in Flint, freeing up to \$5 million in federal aid. The president denied Gov. Rick Snyder’s request for a disaster declaration, which would have made available larger amounts, because the catastrophe was manmade, however more could be committed with Congressional approval (Cournoyer 2016). Much more money was needed. The final stream required, the politics stream, was favorable. Widespread media coverage created a national mood sympathetic to the citizens of Flint, the

victims of bureaucratic failure. Many members of the US Congress argued that the city's water problem was a state and local responsibility, and if aid were provided, would set a precedent requiring the federal government to fund repairs across the country, but Michigan Senators Debbie Stabenow and Gary Peters insisted that the situation in Flint required emergency action. A policy window opened and a plan to authorize funds for repairs in Flint was added to the WIIN bill, thus putting the issue on the government's agenda. S 612 was put to Congressional vote on December 8, 2016 and approved 360-61. It passed the Senate two days later 78-21 becoming Public Law No: 114-322 (CQ Press 1945; Cornyn 2016).

IV. Causal Stories

Another public policy theory that explains how the Flint water crisis rose to the agenda is Deborah Stone's Causal Stories and the Formation of Policy Agendas (Stone 1989). This is the politics of accidents versus deliberate intent. Causal stories tell the story of someone or a group of people causing something negative in the world with the key distinction being whether it was accidental or intentional. Issues intentionally caused by people have a stronger claim to be a public policy problem. In Stone's typology there are actions; unguided and purposeful, and there are consequences; intended and unintended. Those responsible for the situation claimed that the water poisoning was an inadvertent cause, an unfortunate accident that no one could have foreseen. This claim might have stuck were it not for egregious acts of incompetence, neglect, and omission discussed next.

A major reason for the Flint water crisis was a failure of cooperative federalism. "Federalism introduces complexity, jurisdictional rivalries, confusion, and delay into the management of environmental problems. Authority over environmental issues inherently is fragmented among a multitude of governmental entities." (Rosenbaum 2020, 41). Many of the

things that could go wrong about cooperative federalism did during the crisis; time delays, miscommunications, misinterpretations, finger-pointing, bureaucratic competition. In addition, several outright illegal, unethical, and incompetent acts were committed. Loopholes were exploited in the Safe Drinking Water Act's (SDWA) Lead and Copper Rule (LCR) sampling procedure like pre-flushing pipes and using narrow-neck sampling bottles to minimize the presence of lead (Pauli 2020, 6). MDEQ excluded samples from its lead level report in order to bring results within the federally mandated levels and casted doubt on the Virginia Tech results, a classic strategy to avoid blame reminiscent of the tobacco companies in the 90s. The Department of Health and Human Services also casted doubt Dr. Hannah-Attisha's data, claiming the high lead level results may be due to seasonal changes rather than the switch in water sources. MDEQ admitted to misinterpreting the LCR as its reason for not enforcing corrosion controls at the plant (Kennedy 2016).

In a rare move on January 21, 2016, the EPA issued a Section 1431 of the SDWA administrative order, stating the presence of lead in the city's water supply is primarily due to the lack of corrosion control treatment (orthophosphate) after the city switched water supplies. Section 1431 equips the EPA with broad emergency powers, authorizing the agency to take any action it deems necessary when it comes to contaminates causing health problems. An indication of the severity of this action is that of 1,183 administrative orders issued by the EPA since 2009, only 3 involved the SDWA, but yet again delays occurred. Months of back-and-forth disagreements between the EPA and MDEQ over things like the LCR requirement, the legality of the emergency powers, and EPA deference to Michigan in enforcement actions caused delays (Fewell 2016, 13). Findings by the Flint Water Advisory Task Force (FWATF) of March 2016 overwhelmingly placed blame on state officials but also called out the EPA, "EPA failed to

properly exercise its authority prior to January 2016. The agency's conduct casts doubt on its willingness to aggressively pursue enforcement" (FWATF 2106, 12/116).

The two primary dimensions of a causal story are empirical and moral. The empirical dimension contains the facts about causation and while the MDEQ tried to manipulate the story to achieve their desired results, the proponents' facts eventually could not be denied. Proponents also had the moral dimension on their side, specifically the lead poisoning of innocent children and the long-term effects that they will suffer from it. Over time, some will argue too much time, the causal story shifted from one of unintentional cause to one of intentional, neglectful cause. Once classified as Intended and Purposeful the desired intervention by the federal government became possible.

V. Social Constructions of Target Populations

Anne Schneider and Helen Ingram's views on the social construction of target populations offers yet another theory for the trajectory of the Flint water crisis. This theory argues that the way certain groups of people are viewed is socially constructed and this construction determines the types of policy solutions the government directs towards the problems that affect these groups (Schneider and Ingram 1993). A social construction is a cultural image of a group made of symbols, images, and stereotypes which may not actually correspond with reality. According to Schneider and Ingram, elected officials' main goals are to be reelected and to address public policy problems. The social construction of target populations explains how elected officials craft public policy to achieve these two goals. The convergence of power and social constructions creates four types of target populations; Advantaged who are powerful and positively constructed, Contenders who are powerful but negatively constructed, Dependents who are powerless and positively constructed, Deviants who are both powerless and

negatively constructed. Politicians wish to be seen construing benefits upon the positively constructed categories.

From December of 2011 to April 2015, Flint was governed by a succession of four emergency managers (EMs) who were appointed by the governor of Michigan. The chief objective of the non-elected EMs was to reestablish fiscal solvency and were answerable only to the state treasurer. This insulation from the voting public and strong financial mandate resulted in reckless decisions imposed on a population against its will in an attempt to save money. Furthermore, Michigan's EM law had differentially affected people of color, about 50% of Michigan's African American population had, at some point, lived under an EM as opposed to a small portion of its white population (Hawthorne 2017, 223). This unequal use of the law raises concerns over racially charged assumptions about which communities are suited for self-governance (Pauli 2020, 3). In effect the citizens of Flint were forced into the voiceless, powerless Dependent category by the application of the EM.

Over time and with relentless hard work and pressure, grass-roots activists were able to successfully mobilize and move the Flint target population closer to the Advantaged category and slowly, people in policy making positions began to pay attention, a core necessity for policy to gain agenda status. In March 2016, the FWATF, appointed by Governor Rick Snyder, and "charged with conducting an independent review of the contamination of the Flint water supply" (FWATF 2016, 6/116) found that "The causes of the crisis lie primarily at the feet of the state by virtue of its agencies' failures and its appointed emergency managers' misjudgments" (FWATF 2016, 2/116) with the bulk of the blame on the MDEQ (FWATF 2016, 72/116). "Emergency managers charged with financial reform often do not have, nor are they supported by, the necessary expertise to manage non-financial aspects of municipal government" (FWATF 2016,

12/116). It also stated, “The Flint water crisis is a clear case of environmental injustice” (FWATF 2106, 13/116). By the time the vote for the WIIN Act came up in December 2016, the social construction of the Flint residents was positive, a combination of Dependents calling for justice and equity, and Advantaged claiming their benefit is society’s benefit. The WIIN Act passed, overwhelmingly indicating most politicians believed that aiding this target population was good public policy and would be good for their reelection.

VI. Discussion and Conclusion

Even after the WIIN Act was passed in December 2016 it did not come close to solving the problems caused by the crisis. While the WIIN Act did improve water infrastructure in Flint, it did not address all the issues that led up to this disaster, from social inequality to a local government that prioritized money over the health of the people. The government that was supposed to be caring for Flint still has major problems which must be repaired through the right kinds of policy. Water as a human right available to everyone regardless of socio-economic status is gaining recognition much in part because of this crisis. Another message from the Flint water crisis to reflect on is the breakdown of democracy. Emergency managers were appointed, not elected, leading them to prioritize fiscal solvency above all else, answering only the governor and not the general public. This resulted in disregard of the basic human rights of underprivileged Flint residents and allowed the Flint Water Crisis to happen in the first place.

Many lessons can be taken from Flint’s failure about the good and bad use of policy. While some policy can harm the environment and a whole community of people, other types of policy can remedy it. It will be a long road to recovery for Flint but with strong leadership and foresighted planning Flint will heal and the lessons learned will hopefully prevent future disasters like this from occurring.

Abbreviation Key

DWSW - Detroit Water and Sewerage Department, currently called Great Lakes Water Authority
EM – Emergency Manager
EPA – U.S. Environmental Protection Agency
FWATF – Flint Water Advisory Task Force
FWSC – Flint Water Service Center or the “plant” that was treating the Flint River water
LCR – Lead and Copper Rule
MDEQ – Michigan Department of Environmental Quality. MDEQ was renamed the Michigan Department of Environment, Great Lakes and Energy (EGLE) by Gov. Gretchen Whitmer on April 22, 2019
SDWA – Safe Drinking Water Act
WIIN - Water Infrastructure Improvements for the Nation Act of 2016

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