

HURRICANE KATRINA: A NATION STILL UNPREPARED

**ADDITIONAL VIEWS ON WHITE HOUSE KATRINA
FAILURES, ADMINISTRATION LACK OF
COOPERATION WITH THE INVESTIGATION,
AND FAILURE TO ESTABLISH UNIFIED COMMAND**

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ADDITIONAL VIEWS ON THE WHITE HOUSE

As it did with the investigation that preceded the issuing of this report, the Committee has produced a thorough and thoughtful piece of work, which I am proud to have worked on and wholeheartedly support. Indeed, the conduct of this investigation and the drafting of the report should serve as a model for future such endeavors. In its comprehensiveness and non-partisanship, the Homeland Security and Governmental Affairs Committee's Katrina investigation did exactly what the American people have a right to expect from a Congressional investigation. For that, I am very grateful to Chairman Collins, with whom I have worked closely since we first announced last September our intent to investigate the tragedy that Katrina – and the flawed government response to it – wrought upon the citizens of the Gulf Coast.

I write separately here to express my additional views on three matters on which the Chairman and I were ultimately unable to reach a meeting of the minds: the role of the White House and the President in the events leading to and following last August's storm; the level of cooperation provided by the Administration to this investigation; and the failure to establish a unified command in Louisiana to respond to Katrina.

The Committee's efforts to understand the role the White House played in events leading up to, and following, the catastrophe were severely hindered by its failure to comply with Committee requests for information, documents, and interviews. As a result, we learned much too little about what the White House and the Executive Office of the President were doing during the critical days before and after Katrina struck.

Based on the information the Committee was able to obtain, I have reached the following conclusions.

- (1) As the head of the federal government, the President has a unique responsibility to ensure government preparedness and response at critical times. For Hurricane Katrina, the President failed to provide critical leadership when it was most needed, and that contributed to a grossly ineffective federal response to Hurricane Katrina.
- (2) The White House was aware long before Katrina struck that FEMA did not have the capability to handle a catastrophe, but failed to adequately address the critical shortcoming in preparedness.
- (3) The White House had been aware of the "New Orleans Scenario," a catastrophic hurricane hitting New Orleans. Despite this awareness, the White House failed to ensure that the federal government was prepared to respond to this catastrophic scenario.
- (4) Despite the clear warnings before landfall that Katrina would be catastrophic, the President and the White House staff were not sufficiently engaged and failed to initiate a sufficiently strong and proactive response.

(5) Although the President and the White House were following events after landfall, they seemed surprisingly detached until two days later, Wednesday, August 31, 2005.

(6) After the hurricane, the White House continued to demonstrate a lack of understanding of the magnitude of the catastrophe.

(7) The White House's failure to cooperate with this Committee's investigation wrongly deprived the Committee and the American people of the ability to assess a key aspect of the federal government's response to Hurricane Katrina.

Part I: The Role of the White House

As the head of the federal government, the President has a unique responsibility to ensure government preparedness and response at critical times. For Hurricane Katrina, the President failed to provide critical leadership when it was most needed, and that contributed to a grossly ineffective federal response to Hurricane Katrina.

A catastrophic event in the United States requires clear, decisive, and constant Presidential leadership.

The President is the head of the federal government. The Constitution vests executive power in him. He is personally charged with taking care that the nation's laws are faithfully executed. And while he has the apparatus of the entire federal government to aid him in discharging his Constitutional functions, he is no titular head of government. To the contrary, only he – or those working in the White House on his behalf – has the authority to order all federal agencies to take action, to resolve disputes among participating federal agencies, and to ensure that the government *as a whole* functions as it should in a time of crisis and catastrophe.

He has another, more symbolic role, which is also very important. As Presidential scholar Clinton Rossiter has written, the President is “the one-man distillation of the American people.”¹ President Bush showed the power of that role in the wake of 9/11, when he made clear to the nation that he was in control of the response.

But in the events leading up to and following Hurricane Katrina's landfall, the President and his staff did not provide early, urgent, and strong public leadership, and the nation suffered.

The White House was aware long before Katrina struck that FEMA did not have the capability to handle a catastrophe, but failed to adequately address the critical shortcoming in preparedness.

Throughout his term as FEMA Director, Michael Brown sounded the alarm to White House officials about the degradation of FEMA's capabilities and that warned the agency was not prepared to handle a catastrophe. For example, after the tsunami that struck Southeast Asia in 2004, Brown told President Bush that FEMA did not have the resources to respond to a catastrophe of that magnitude.²

Brown also repeatedly told White House Chief of Staff Andy Card, Deputy Chief of Staff Joe Hagin, and Deputy Chief of Staff Josh Bolten that FEMA did not have the capabilities to respond adequately to a catastrophe and sought additional resources.³ Brown said that he told these officials several times that "We [FEMA] weren't getting the money we needed; we weren't getting the personnel that we needed, that DHS was – I don't think I ever used with them the word emaciating us, but I described to them, you know, DHS was not really following the Homeland Security Act and giving [emergency preparedness and response] the muscle that it was supposed to have."⁴

We do not know what the White House did with Brown's requests, but we do know that FEMA was underfunded and unprepared heading into the 2005 hurricane season. As the chief executive of the federal government, the President bears responsibility for FEMA's lack of preparedness.

The White House had been aware of the "New Orleans Scenario," a catastrophic hurricane hitting New Orleans. Despite this awareness, the White House failed to ensure that the federal government was prepared to respond to this catastrophic scenario.

As discussed in the Committee's report, the threat of a Category 3 storm to New Orleans was well known, and the White House was among those who clearly knew of it. In early 2004, for example, Assistant to the President and Homeland Security Advisor General John A. Gordon traveled to New Orleans to receive a briefing on the region's catastrophic-hurricane planning efforts. The briefing was comprehensive and detailed. Gen. Gordon learned about the catastrophic consequences of a Category 3 hurricane striking New Orleans, and reported the information to the White House with a request for funding that resulted in the Hurricane Pam exercise, the first inter-governmental exercise to test preparation for and response to such a contingency.⁵

Another White House aide, Janet Benini, Director of Response and Planning for the White House Homeland Security Council, attended the Hurricane Pam exercise (although she did not work at the White House during the Katrina response).⁶ Benini also chaired the group that developed the National Planning Scenarios, a set of 15 plausible, high-consequence events used by the federal government to come up with preparedness goals and lists of emergency response capabilities necessary for federal, state and local responders, and one of the scenarios was a hurricane hitting New Orleans.⁷

Both Benini and Kirstjen Nielsen, the senior director for preparedness and response at the White House Homeland Security Council, received an e-mail in February

2005 indicating that flooding in New Orleans “could cause similar devastation” to the tsunami of 2004 in Southeast Asia.⁸

When Katrina landed in the United States in August 2005, we found a federal government that was unprepared for a catastrophic hurricane. The White House’s failure to ensure such preparedness is therefore particularly profound, in light of its understanding of the catastrophic New Orleans scenario for close to two years before Katrina hit.

Despite the clear warnings before landfall that Katrina would be catastrophic, the President and the White House staff were not sufficiently engaged and failed to initiate a sufficiently strong and proactive response.

The White House’s – and the President’s – knowledge of the risk of a massive storm to New Orleans became even more specific in the days leading up to Hurricane Katrina. Katrina was a lesser challenge to the nation’s emergency-management apparatus than the 9/11 attacks in one critical way: It was preceded by 72 hours of increasingly dire predictions. In the days before landfall, the White House received repeated warnings from top officials at the National Weather Service and the National Hurricane Center that Katrina’s impact would be catastrophic. FEMA and DHS’ National Infrastructure Simulation and Analysis Center echoed the alarm in direct messages to the White House, as did senior state officials.⁹

Saturday, August 27, 2005 (Two Days before Landfall)

These warnings began on Saturday, August 27, 2005, two days before landfall. FEMA Director Brown says he spoke directly to President Bush, saying that Katrina could be catastrophic – “the big one” that meteorologists, emergency-management experts, and government officials had feared for years.¹⁰

On Saturday, White House staff in Crawford, Texas, where the President was vacationing, members of the White House Homeland Security Council, and other White House offices participated in a noon video-teleconference call organized by FEMA. The potentially catastrophic nature of Katrina was discussed during this conversation as well.¹¹ Brown said:

I know I am preaching to the choir on this one, but I’ve learned over the past four and a half, five years, to go with my gut on a lot of things, and I’ve got to tell you my gut hurts on this one. It hurts. I’ve got cramps. So, we need to take this one very, very seriously.¹²

During the same call, a National Hurricane Center forecaster discussed the danger of Katrina’s storm surge:

Well, obviously, where it’s headed, you’re at the worst possible locations for storm surge. You remember Camille and its 26 feet. I would advise all the folks

that are in the potential path of this storm to be looking at their maximum off the storm surge models, the meows [maximum envelopes of water] and whatnot off of a Category 4 or 5 storm, and plan accordingly.¹³

Yet White House Deputy Chief of Staff Joe Hagin, the senior White House official participating in the FEMA video-teleconference, asked no questions after Michael Brown's severe forecast, limiting himself to a perplexingly optimistic assessment of FEMA's readiness: "We're here, and anything we can do, obviously, to support you, but it sounds like the planning, as usual, is in good shape, and good luck to the States and just know that we're watching, and we'll do the right thing as fast as we can."¹⁴

The warnings continued through the night. At 11:24 p.m., the White House received a National Weather Service – National Hurricane Center report, which said: "The bottom line is that Katrina is expected to be an intense and dangerous hurricane heading towards the North Central Gulf Coast... and this has to be taken very seriously."¹⁵

Sunday, August 28, 2005 (Day before Landfall)

There was another FEMA video-teleconference at noon on Sunday. This time, President Bush took part, along with officials from DHS, FEMA, Louisiana, and Mississippi.¹⁶ Dr. Max Mayfield, the director of the National Hurricane Center, predicted Katrina would be a "very dangerous hurricane," adding that the possibility that levees could be overtopped was a "very, very grave concern."¹⁷

Michael Brown reiterated his concern: "My gut tells me – I told you guys my gut was that this [missing] is a bad one and a big one," and that Katrina could be "a catastrophe within a catastrophe."¹⁸ Bill Doran, the chief of operations for Louisiana's Office of Homeland Security and Emergency Preparedness, said that the state was undergoing "planning for a catastrophic event."¹⁹

Neither the President nor his staff made any inquiries. The President offered only the following statement:

I want to assure the folks at the state level that we are fully prepared to not only help you during the storm, but we will move in whatever resources and assets we have at our disposal after the storm to help you deal with the loss of property. And we pray for no loss of life, of course.

Unfortunately, we've had experience at this in recent years, and I – the FEMA folks have done great work in the past, and I'm confident, Mike, that you and your team will do all you can to help the good folks in these affected states.

Again, I want to thank [Louisiana] Governor [Kathleen] Blanco and [Alabama] Governor [Bob] Riley and [Mississippi] Governor [Haley Barbour], Governor Bush of Florida, for heeding these warnings, and doing all you can possibly do with your state folks and local folks to prepare the citizenry for this storm.

In the meantime, I know the nation will be praying for the good folks in the affected areas, and we just hope for the very best.²⁰

The White House continued to receive warnings about the storm's projected force throughout the day.²¹ Early Sunday morning, it had been notified that Katrina had been upgraded to a Category 5 storm; at approximately 5 p.m. ET, DHS's Homeland Security Operations Center sent to the White House a report that included a National Oceanic & Atmospheric Administration update, which repeated Dr. Maxfield's warning about floodwaters overtopping New Orleans' levees.²²

The warnings continued throughout late Sunday night and early Monday morning, just hours before landfall. At 1:47 a.m. ET, the Homeland Security Operations Center sent the White House a report from DHS's National Infrastructure Simulation and Analysis Center, which predicted: "Any storm rated Category 4 or greater on the Saffir-Simpson scale will likely lead to severe flooding and/or levee breaching. This could leave the New Orleans area being submerged for weeks or months.... The magnitude of this storm is expected to cause massive flooding."²³

To his credit, the President did take at least two steps that showed some understanding of the urgency of the impending crisis: First, at the requests of Governors Blanco, Barbour, and Riley, the President issued a pre-storm declaration of emergency for the Gulf Coast states, which ensured that the federal government would finance many pre-landfall and post-landfall activities undertaken by state and local officials.²⁴ This had only been done once in the previous 15 years, when President Clinton issued four pre-landfall declarations, all for Hurricane Floyd in 1999. Second, on the day before landfall, at the urging of FEMA Director Brown,²⁵ the President called Governor Blanco to urge a mandatory evacuation of New Orleans; however, that call occurred "just before she walk[ed] into the news conference" with Mayor Nagin to announce the evacuation of New Orleans.²⁶ Therefore, the President call came too late, as the Governor and Mayor had already decided to announce the mandatory evacuation.

With the exception of these two steps, in the face of dire warnings of the catastrophe before landfall, there was a failure of presidential leadership and initiative.

Although the President and the White House were following events after landfall, they seemed surprisingly detached until two days later, Wednesday, August 31, 2005.

Secretary of Homeland Security Michael Chertoff has said that the President was "acutely aware of Katrina and the risk it posed" during the weekend before landfall.²⁷

“[W]e went into the weekend before,” Secretary Chertoff said, “with an understanding and with warnings that this was potentially the nightmare scenario that I think people have talked about for years in terms of New Orleans.”²⁸

Unfortunately, the President’s behavior didn’t reflect this. Instead of exercising the actual and symbolic leadership of the President, he seemed detached.

The President didn’t return to Washington until two days after Katrina hit,²⁹ sending a clear message to the rest of the federal government about the storm’s perceived importance in the federal hierarchy, and depriving the government of the clear and significant focus the storm required at that point. As Congressman Tom Davis, Chairman of the House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina aptly put it, “The director . . . of the National Hurricane Center said this was the big one,” but “when this happened . . . Bush is in Texas. Card is in Maine. The vice president is fly-fishing. I mean, who’s in charge here?”³⁰

The White House’s failure to set in motion a more proactive set of pre-landfall preparations by the federal government was part of the reason the response was so ineffective.

This presidential detachment is particularly unacceptable because of the flow of specific information coming into the White House about the growing catastrophe that was occurring on America’s Gulf Coast.

Monday, August 29, 2005 (Day of Landfall)

Katrina came ashore in Louisiana at 6:10 a.m. Central Time, Monday morning, August 29, 2005.³¹ As early as 11:13 a.m. ET, the White House’s own Homeland Security Council circulated a report with the following information:

- A levee in New Orleans had broken;
- Based on a report from the Homeland Security Operations Center, water was rising in the city’s Lower Ninth Ward;
- Based on a report from Governor Blanco, water was rising at one foot per hour; and
- Based on a report from Mayor Nagin, problems with a pumping station were undermining the city’s ability to relieve flooding.³²

Minutes later, the Homeland Security Operations Center e-mailed the White House that at 7:30 a.m. Central Time Mayor Nagin had announced that there was “water coming over the levee system in the Lower Ninth Ward;”³³ that the State of Louisiana’s Adjutant General, Maj. Gen. Bennett Landreneau, had confirmed that water was rising in the Lower Ninth Ward;³⁴ and that local officials had said that “floodwaters are

encroaching on roads in the lower-lying parishes of St. Bernard and Plaquemines.”³⁵

At noon, Hagin, who was traveling with the President on Air Force One, participated in a conference call with state and local officials who reported flooding of eight to 10 feet in St. Bernard Parish.³⁶ The President did not take part in the call.

The White House, and Hagin in particular, also received direct reports from FEMA Director Michael Brown.³⁷ No later than 6 p.m. CT Monday, Brown said, he had informed Hagin that New Orleans’ 17th Street levee had broken, and that the city was flooding.³⁸ Brown testified that he was certain that the information reached the President: “I never worried about whether I talked directly to the President because I knew that in speaking to Joe, I was talking directly to the President.”³⁹

Former FEMA Director Brown testified that he made some 30 calls to the President, White House Chief of Staff Andy Card, Deputy Chief of Staff Joe Hagin, and other senior White House officials throughout the weekend before landfall.⁴⁰ Because the White House refused to cooperate with the Committee’s requests, we don’t know what the President and his staff did with the information about the impending disaster from Brown and others. What questions did they ask? What instructions did they give? Card and Hagin were getting direct and unequivocal assessments of a catastrophe from the federal official charged with coordinating the response to the storm. Brown recalls telling Hagin in a Sunday afternoon call “how bad this one was going to be” and was “adamant” that the White House should understand his concern about New Orleans.⁴¹ Did Hagin tell the President, as Brown assumed? Were there discussions about marshaling federal assets? Were calls made from the White House to Secretary Chertoff? Did Card or Hagin reach out to other Cabinet secretaries? Did they contact Secretary Rumsfeld about the readiness of the military to enter the Gulf Coast to help? The White House has declined to answer such questions, and the Committee therefore cannot answer these most important questions.

What we do know is that instead of responding to the ominous reports from the Gulf, the President spent the day of landfall discussing Medicare in Arizona and California, as well as joining Arizona Senator John McCain at his birthday celebration.⁴²

At 4:40 p.m. New Orleans time, as Hurricane Katrina was flooding and battering the city, the President was in Rancho Cucamonga, California, delivering a speech on Medicare and new prescription drug benefits. He offered only this brief assessment of the unfolding crisis in the Gulf during a 30-minute speech:

We’re in constant contact with the local officials down there. The storm is moving through, and we’re now able to assess damage, or beginning to assess damage. ... For those of you who are concerned about whether or not we’re prepared to help, don’t be. We are. We’re in place. We’ve got equipment in place, supplies in place. And once the – once we’re able to assess the damage, we’ll be able to move in and help those good folks in the affected areas.⁴³

President Bush had offered similar assurances to survivors of the storm earlier in the day, during a “Conversation on Medicare” at the Pueblo El Mirage RV Resort and Country Club in El Mirage, Arizona:

When the storm passes, the federal government has got assets and resources that we’ll be deploying to help you.⁴⁴

As we now know – and the President should have known then – this was not the case: As the Committee has demonstrated throughout this report, various levels of government were not prepared to help.

The White House received additional reports that the levees had broken in the early hours of Tuesday, August 30 (the day after landfall), but continued to operate as if it hadn’t. At 12:02 a.m. ET, the White House received a report from the Homeland Security Operations Center that included this chilling assessment by the lone official FEMA had sent to New Orleans, public-affairs officer Marty Bahamonde: “There is a quarter-mile breach (sic) in the levee near the 17th Street Canal about 200 yards from Lake Pontchartrain allowing water to flow into the City... an estimated 2/3 to 75% of the city is under water.”⁴⁵

Another DHS situation report, at 6:33 a.m. ET, confirmed the extent of flooding and damage in New Orleans:

Widespread and significant flooding has occurred throughout the city of New Orleans, extending eastward, across the Mississippi gulf coast into coastal Alabama. The following flood reports have been received for the city of New Orleans:

* Industrial Canal at Tennessee St.: levee has been breached, with water to a depth of 5 feet at Jackson Barracks

* 17th St. at Canal Blvd.: levee has been breached - breach extends several 100 meters in length

* Much of downtown and east New Orleans is underwater, depth unknown at this time.

The U.S. Army Corps of Engineers estimates are in progress and project that it could take months to dewater the City of New Orleans.⁴⁶

A 10:23 a.m. ET report from the Homeland Security Operations Center detailed the locations of the breached levees and noted specific concerns about the 17th Street Canal and Tennessee Street levees.⁴⁷

These reports notwithstanding, no one from the White House participated in an inter-governmental conference call at noon organized by FEMA. Instead, the President

was at a naval base in San Diego, where, once again, he offered a falsely reassuring assessment of the crisis: “Our teams and equipment are in place and we’re beginning to move in the help that people need.”⁴⁸

In fact, it seems as if President Bush and, consequently, the Administration, did not grasp that Katrina was a catastrophe until later in the day – a full day and a half after landfall – when Michael Brown informed President Bush, Vice-President Cheney, Secretary Chertoff, and Deputy Chief of Staff Karl Rove in a telephone call that at least 90% of New Orleans’s population had been displaced and that responders “needed military assets; this was the big one.”⁴⁹ He added that FEMA “needed the help of the entire cabinet... DOD and HHS and everybody else.”⁵⁰

Brown testified that this, at last, may have been the turning point in the President’s comprehension of the catastrophe:

And as I recall my first statement to him was, you know, Mr. President, I estimate right now that 90 percent of the population of New Orleans has been displaced. And he is like, My God you mean it is that bad? Yes, sir, it was that bad.⁵¹

Brown added that he thought the officials on the call continued to fail to grasp how badly FEMA and the state were overwhelmed,⁵² but Brown’s alarm seems to have prompted a “discussion about convening the Cabinet.”⁵³

On Tuesday morning, while in California, White House Press Secretary Scott McClellan announced that the President would return to Washington, D.C. on Wednesday in order to “oversee the response efforts from there.”⁵⁴

Soon after, the President began to take steps to amplify and organize the government’s response. At 5:11 p.m., nearly 60 hours after landfall, President Bush, surrounded by his Cabinet, addressed the nation from the Rose Garden, announcing that he had convened the Cabinet and “directed Secretary of Homeland Security Mike Chertoff to chair a Cabinet-level task force to coordinate all our assistance from Washington.”⁵⁵ Notably, the task force demanded a list of available resources from each federal agency assigned responsibility in a disaster under the National Response Plan.⁵⁶ For example, FEMA was asked for “the inventory of all department agency operations/activity.... Are [there] any Federal powers or other processes that could be implemented to expedite the response or make it more efficient.... What are the plans for providing housing to ... displaced people by hurricane damage?”⁵⁷ These questions were being asked for the first time more than two days after landfall.

When Hurricane Rita threatened the Gulf Coast weeks later, the nation saw what can happen when the White House becomes more actively engaged in catastrophic preparedness before landfall. For example, on September 20, 2005, three days before landfall, the President participated in a hurricane briefing shortly after Rita had become a Category 1 hurricane.⁵⁸ After the briefing, the President announced that a Coast Guard Admiral would be stationed in Texas to coordinate the response⁵⁹ and later that day made

an emergency declaration for the State of Florida at the request of its Governor. On September 21, two days before Rita made landfall, the President also issued disaster declarations for Louisiana and Texas.⁶⁰ On September 22, the day before the storm hit, the President visited Texas to “get a firsthand look at the preparations”⁶¹ and then traveled to Northern Command, the domestic military headquarters in Colorado, where he participated in a series of briefings detailing the response and coordination between DOD, other government agencies, and state and local governments⁶²

In the case of Katrina, the President did not take equally meaningful action until two days after landfall. The President should have made these critical moves – returning to Washington; convening the Cabinet; taking stock of the federal government’s readiness for Katrina; making sure key White House staff were at their posts; and directly addressing the people of the Gulf Coast – before landfall.

After the hurricane, the White House continued to demonstrate a lack of understanding of the magnitude of the catastrophe.

Even several days after landfall, statements from the President and the White House suggested that they still did not understand or appreciate what had happened to New Orleans.

On the Thursday, September 1 edition of “Good Morning America,” the President said that “I don’t think anybody anticipated the breach of the levees.”⁶³ He was later given an opportunity to correct his statement, where the President said he was not misinformed and affirmed his view, continuing:

When that storm came by, a lot of people said we dodged a bullet. When that storm came through at first, people said, Whew. There was a sense of relaxation, and that’s what I was referring to. And I, myself, thought we had dodged a bullet. You know why? Because I was listening to people, probably over the [airwaves], say, the bullet has been dodged. And that was what I was referring to. Of course, there were plans in case the levee had been breached. There was a sense of relaxation in the moment, a critical moment.⁶⁴

But the President was wrong.

The levees breached soon after the storm came ashore,⁶⁵ as was noted in the reports that arrived at the White House.⁶⁶ The vulnerability of the levees to a catastrophic storm was known long before Katrina.⁶⁷ Besides, the city was threatened as much by flooding from overtopping as it was from breaches, a danger forewarned in the years before Katrina and reiterated in the months before landfall by federal agencies.⁶⁸

During a press conference in Mobile, Alabama on Friday following landfall, President Bush infamously said of Michael Brown, “Brownie, you’re doing a heck of a job.”⁶⁹ Brown’s performance was anything but worthy of praise. This comment was

totally at odds with what was apparent to all – that the federal government’s response, which was supposed to have been led in part by then FEMA Director Brown was grossly inadequate. It serves as an example of just how disengaged President Bush was from the failed response. It illustrates the President’s failure to understand Katrina’s devastation and the suffering of Katrina’s victims.

The White House received a massive amount of information from a wide range of authoritative sources describing in dire terms the catastrophe unfolding in the Gulf.⁷⁰ While some media reports inaccurately described the storm as a near-miss that had mostly spared the city, the President of the United States should have been fully and accurately informed and should have acted urgently on that information.

Decisive presidential leadership before and immediately after Katrina was missing. How much it could have mitigated the loss of life and anguish of survivors in the Gulf Coast will never be known.

Part II: Lack of Administration Cooperation in Investigation

The Administration's failure to cooperate with the Committee's investigation had regrettable consequences. In too many instances, we faced agencies and Departments that saw our efforts as a nuisance – and their response as up to their discretion. And the worst offender was the entity that should have stood above the fray and worked hardest with the Committee to uncover the government's failings in Katrina: the White House.

Despite President Bush's pronouncement early on that he recognized that "Congress also has an important oversight function to perform" and his commitment that "I will work with members of both parties to make sure this effort is thorough,"⁷¹ our Committee faced a White House less willing to cooperate with a Senate investigation than any I have witnessed in my nearly eighteen years in this body. That is why I ultimately concluded that the Committee should issue subpoenas to the White House to produce the material we asked for during our investigation. Unfortunately, the Chairman disagreed with that request, and so, we did not obtain all that I believe was necessary for a comprehensive investigation.

There are matters that we could not fully explore because of agency and Administration recalcitrance and, in some cases, intransigence. We don't know what we don't know – for example, as a result of the Justice Department's failure to produce large volumes of what the Committee had requested. But one thing we do know is that because we were denied the opportunity to fully explore the role the White House played in preparing for and responding to Katrina, we have little insight into how the President and his staff monitored, managed and directed the government's disaster preparedness in the post-9/11 world, how they coordinated the rest of the federal bureaucracy in response to Katrina, or how leadership was exercised by the only entity in the federal government with the authority to order all the others to act. Without this information, our investigation necessarily lacked the ability to fully and fairly analyze and assess a critical element of the response to Katrina.

We have plenty of circumstantial evidence to believe that there were significant failures of leadership at the top and actions that should have been taken but were not. But there remain too many important questions which cannot be answered conclusively because the White House did not provide the information necessary to do so.

Clearly, our government was unprepared to deal with the catastrophe of Katrina. Only through a thorough and comprehensive investigation of what went wrong could we be assured that the government will know what steps are necessary to get it right the next time. Full cooperation in this investigation was critical, but was denied.

The White House

A Chronology of Efforts to Obtain Information from the White House

On October 7, 2005, the Committee sent a letter, signed by Chairman Collins and myself, to White House Chief of Staff Andrew H. Card Jr. The letter was similar to those sent to over twenty federal agencies and Departments, as well as to the Governors of Louisiana, Mississippi and Alabama, the Mayors of New Orleans, Biloxi, Gulfport, and Mobile, and a number of other state and local agencies. The goal of these letters was to help the Committee collect a comprehensive set of documents and information that would allow it to understand what those at all levels of all relevant governments did or didn't do to prepare for and respond to Hurricane Katrina.

The White House letter sought a variety of documents and information. Some requests were basic, like those that asked the White House to identify its various components with emergency-preparedness and response responsibilities, to explain how the White House learns of and monitors hurricanes, and to provide an organizational chart of the relevant White House components. Others sought more detailed, Katrina-specific information, such as how the White House and the President first learned about the storm, who was responsible for processing requests from the Governors for emergency declarations, how much the White House understood about the vulnerability of New Orleans to flooding, and, perhaps most importantly, a description of what the White House specifically did to prepare for and respond to the hurricane. We also asked for documents related to all of these issues.

The closest cognates we have to the White House – the governors of the affected states – responded well to similar letters. Louisiana Governor Kathleen Blanco's office, for example, produced over 8,000 pages of substantive documents, including a large number of e-mails to or from the Governor herself, and granted the Committee access to all six members of her staff with whom we had requested interviews. Similarly, Mississippi Governor Haley Barbour's office provided us with the information the Committee asked for, including material directly involving his office and his staff, and the Committee interviewed both members of the Governor's staff whom we had asked to talk to. The cooperation we received from these offices greatly enhanced the Committee's ability to understand what happened, and helped ensure that we could be confident in our report's findings and conclusions.

The White House was an entirely different story. On November 3, 2005, we received its initial response. In a letter signed by Deputy Counsel to the President William K. Kelley, the White House started off well, pledging that "[t]he Administration is committed to cooperating with your Committee." Unfortunately, it then offered very little to show for that commitment. Mr. Kelley's letter and the accompanying documents made clear that the White House had little intention of giving the Committee what it had requested. His letter noted that the Committee had sought information and documents from other executive branch agencies and observed:

As is customary for any examination of an issue addressed by many components of the federal Government, the Administration's principal form of assistance will be through the production of information from those agencies and departments most directly involved in preparing for

and responding to Hurricane Katrina. . . . As is traditional for responses to Congressional Committee requests for information, the [White House] stands ready to assist your Committee in appropriate ways once the scope and content of the agencies' and departments' production of information can be assessed in relation to your Committee's remaining requirements.

As discussed further below, the views expressed by Mr. Kelley were neither customary nor traditional, but given them, it was not surprising that the near entirety of the nearly 4,000 accompanying pages of documents were publicly available. In fact, a portion of this production – White House press releases, copies of press conferences, and copies of press gaggles – could be found on the White House's web site. The production also included situation reports and updates that were sent to many recipients, only one of which was the White House, from other federal agencies and departments, as well as widely circulated emails sent by DHS as part of its responsibility under the National Response Plan to disseminate information throughout the federal government. These latter emails primarily consisted of DHS and FEMA press releases as well as Department "Talking Points." In sum, not only did Mr. Kelley's letter decline to answer a single one of the questions posed in the Committee's October 7 letter; it also did not bring with it much in the way of responsive or informative documents.

To make matters worse, the Committee soon learned that despite the White House's suggestion that the Committee seek its information elsewhere, the White House was in fact directing the federal agencies that were producing documents and witnesses for the Committee's investigation to withhold from the Committee any material or testimony relating to the agencies' or witnesses' interactions with the White House.

The Committee spent the next two months attempting to work these matters out at a staff level. Committee pressure yielded marginally more documents and a three-hour briefing from the White House's Deputy Homeland Security Advisor, Ken Rapuano. Many of the additional documents were of the same type as previously produced. The White House provided several emails, updates, and reports it had received from DHS's Homeland Security Operations Center (HSOC), consisting primarily of repackaged material that other agencies, including federal and state entities, sent to the HSOC. In many cases, the White House produced multiple copies of the same widely distributed material. As for material actually generated within the White House, though we did receive a small number of substantive emails from a very small number of lower-level White House Homeland Security Council (HSC) staff, those emails offered little insight into what the White House was actually doing, and we received nothing from the files of those in higher-level positions.

In short, the Committee did not receive information or documents showing what actually was going on within the White House and was still left with little insight into the White House's substantive actions in preparation for and response to Hurricane Katrina. And Mr. Rapuano's briefing, while informative, focused primarily on what the White House had learned about the federal response writ large; it did not address roles played

by specific White House officials or specific actions taken by the Executive Office of the President (EOP).

Frustrated by the White House's omissions (its failure to produce what the Committee had requested), as well as its commissions (its interference with productions and testimony from other agencies), the Committee sent Mr. Card a second letter on January 12, 2006. The letter, again signed by both Chairman Collins and myself, expressed concern about the White House's response to the investigation. It assessed the status of the White House production this way:

We have received several boxes of documents, which we do appreciate. However, a majority of that material was either publicly available or originated in other agencies, offering little insight into what the EOP knew or did during this catastrophic event. We also received a briefing from the Homeland Security Counsel (HSC), which we view as a constructive and useful attempt to convey to the Committee some information about the HSC's "Lessons Learned Review" as well as, generally, some of the key events the EOP was aware of in the days leading up to and following Hurricane Katrina. The briefing did not, however, address roles played by specific EOP officials or specific actions taken by the EOP. As a result, to date, we have yet to receive the bulk of what we requested, and the Committee is unable to fully understand and assess actions involving White House personnel during the preparations for and response to Hurricane Katrina.

The Committee's letter saved its harshest language for its assessment of the White House's directions to agency counsel to keep White House-related information from the Committee: "This practice," the Committee wrote, "simply must cease." It continued:

We are willing to discuss claims of executive privilege asserted by the White House, either directly or through a federal agency. But we will not stand for blanket instructions to refuse answering any questions concerning any communications with the EOP.

The Committee's letter also took issue with another of the White House's arguments: that the White House was acting within tradition by telling the Committee that it must wait for the White House's response until after other agencies provided theirs: "Respectfully," Chairman Collins and I wrote:

We are aware of no such tradition. Indeed, this Committee, as well as others, has repeatedly conducted investigations of matters involving this and previous White Houses and has never held White House requests in abeyance.

In an effort to end the impasse, the Committee offered the White House a significantly pared-down list of priorities and asked that it produce particular documents and provide specific individuals for interviews by January 23, 2006.

On January 27, 2006, we received the White House's response. In a letter again signed by Mr. Kelley, the White House once again paid homage to "Congress's important role in examining events surrounding Hurricane Katrina and the need for the Executive Branch to assist those inquiries." Then, once again, it declined to provide what the Committee had asked for. Instead, it offered to address our requests through a combination of a briefing and additional documents. It declined to furnish any of the requested witnesses.

As for our complaint about the White House's hindering of our efforts to obtain from other agencies information related to the White House, Mr. Kelley explained that the White House was allowing agency personnel to "discuss factual and operational communications involving nearly all EOP personnel other than a relatively small number of officials most directly involved in supporting the President's actions and determinations." This category was later described to Committee staff as including all individuals at the level of Deputy Assistant to the President and above and all individuals, regardless of level, in the Chief of Staff's office. While Mr. Kelley's letter suggested that this left a wide area of inquiry open to the Committee, the reality was that it walled off documents and testimony involving virtually anyone in the White House who had any level of responsibility or involvement with Katrina, regardless of whether that person actually had anything to do with advising the President.

On February 3, 2006, the Committee received its second briefing from Deputy Homeland Security Adviser Ken Rapuano, and by February 8, it had in hand the additional documents the White House promised in its January 27 letter. Mr. Rapuano's briefing, while again helpful in answering questions about the activities of some of the federal agencies and about the White House, offered few of the additional specific details we had sought about the White House's actions. Again, the documents did not differ markedly in type from those we had received already: we had obtained virtually all of them previously from other agencies; consequently, they offered little new insight. As an example, we asked for all White House documents related to the deployment of federal troops to the Gulf Region. Given the weighty implications of deploying our premier fighting force on domestic soil, and the controversies surrounding the timing of those deployments and the allegations that Governor Blanco was responsible for the delay, we believed that access to this information from the White House was critical to understanding and informing the American people of this important part of the Katrina story. But the documents provided by the White House consisted mainly of situation reports, most of which already had been produced to us by the Pentagon, and did not address the issue of troop deployment.

Around the time of this exchange, the Committee gained virtually its only significant insight into what actually happened within the White House immediately before and after Katrina's landfall. We learned this information only because former

FEMA Director Michael Brown refused to decline to answer the Committee's questions about his communications with the White House absent an assertion of executive privilege by the President. When the President declined to invoke that privilege, Mr. Brown testified before the Committee on Friday, February 10, and shortly thereafter sat for a more detailed, transcribed interview with our staff. In both instances, Mr. Brown made clear that he saw the White House as a critical player in the preparations for and response to Hurricane Katrina.

Mr. Brown testified that, before landfall, he had conveyed to the President that, depending on where it struck, the storm could be catastrophic.⁷² He also told the Committee that he believed that on Monday, August 29, the day of Katrina's landfall, he spoke with Deputy White House Chief of Staff Joe Hagin on at least two occasions to inform him of the situation on the ground in New Orleans.⁷³ Mr. Brown testified that in a call with Mr. Hagin – placed after Mr. Brown received FEMA employee Marty Bahamonde's eyewitness account of the extent of the devastation – “I think I told [Hagin] that we were realizing our worst nightmare, that everything we had planned about, worried about, that FEMA, frankly, had worried about for 10 years, was coming true.”⁷⁴ According to Mr. Brown's interview, by Monday evening there was no doubt that Mr. Hagin knew from Mr. Brown that the 17th Street Canal levee had broken and that New Orleans was flooding.⁷⁵ Additionally, at approximately 10 p.m. that night, White House Chief of Staff Andy Card informed Mr. Brown in an e-mail exchange that Mr. Hagin had kept him “well-informed” of Mr. Brown's reports. Mr. Brown reiterated to Mr. Card that “[t]his is a bad one.”⁷⁶

Just as importantly, Mr. Brown made clear that he believed that informing and seeking action from the White House was capable of producing faster results than contacting the designated leader of the federal response, Homeland Security Secretary Michael Chertoff.⁷⁷ Mr. Brown's testimony made clear that he believed that the White House had a significant role to play in coordinating and helping to manage the response to Katrina. After putting that testimony together with what our investigation had already revealed about the federal government's activities during the week after landfall, I concluded that the Committee would be remiss if it did not follow up on the multiple questions regarding White House action left unanswered by Mr. Brown's testimony and the rest of our investigation.

In sum, despite the Committee's broad and detailed requests, intended to enable an understanding of the actions taken by the White House during Hurricane Katrina, we had received interviews with none of the requested White House witnesses, written answers to none of the questions posed in our October 7, 2005 letter to the White House, and roughly 17,000 pages of documents, the vast majority of which consisted of publicly available material, material otherwise generated by other agencies, and reports and updates from DHS's Homeland Security Operations Center. In addition, we failed to receive from federal agencies an unknown volume of responsive material as a result of White House orders to withhold anything related to or referencing virtually anyone of significance in the White House.

After reviewing that response, I wrote Chairman Collins on March 15, 2006, asking her to issue subpoenas to (1) the White House for the documents requested in our joint January 12 letter; (2) to five members of the White House staff most involved in the response, ordering them to sit for Committee depositions; and (3) to each federal agency to which we previously sent request letters, compelling them to produce previously withheld White House-related material.⁷⁸ The Chairman declined. And I believe that the investigation is the worse for it.

Analysis of the White House's Arguments

I do not believe that the White House, or any executive branch agency, must automatically turn over material to a Congressional committee simply because it has been asked to do so. What I do believe – indeed, know – is that Congressional committees have significant authority to seek and obtain material from the White House and executive branch agencies when they are conducting legitimate oversight or investigations on matters within their jurisdiction, absent an assertion of a valid privilege to the contrary. During our months of efforts to obtain the information we sought from the White House, we heard no satisfactory reason for the White House's limited response.

I have already referenced the fallacy of the White House's assertion that it appropriately directed the Committee elsewhere for its information. As noted above, Chairman Collins and I rejected that argument in our January 12, 2006 letter to Mr. Card. And, in a November 29, 2005 report, the non-partisan Congressional Research Service (CRS) agreed that the White House was wrong to assert that custom or tradition allows it to point Congressional investigative committees elsewhere to seek information or that the White House is permitted to defer answers to specific requests until *it* has assessed the Committee's needs:

Without question, under Senate rules, your Committee has jurisdictional responsibility and authority to conduct an investigation of the preparations for and response to Hurricane Katrina by all governmental entities that had roles, responsibilities and authorities in dealing with that catastrophic event. That investigative authority reaches the White House and concerned elements of the Executive Office of the President. We are aware of no legal authority that allows a targeted entity, whether it is a government agency, including the EOP, or private party, to dictate to a jurisdictional committee the manner, order or timing of the exercise of its exercise of investigative authority.⁷⁹

Mr. Kelley's January 27, 2006 letter also suggested that our requests implicated "very important Executive Branch interests," including "avoiding the burden on officials most directly supporting the President, threatening to impair the President's ability to discharge his constitutional duties; preserving the confidentiality required to support Presidential decision-making; and adhering to the course of dealings between the

branches, in analogous contexts, regarding the occasions for broad inquiry into EOP policymaking and deliberations.”

But the Committee tried to accommodate those interests to the extent they were legitimate. In informal conversations throughout the fall and then in the Chairman’s and my January 12, 2006 letter, the Committee sought to prioritize its requests, but that prioritization yielded precious little additional information in return. Perhaps even more importantly, the virtually complete immunity from our inquiry claimed by the White House to protect its asserted interests was far out of proportion with those interests and highly inconsistent with the manner in which Congressional investigations have been conducted in the past.

Our Committee has repeatedly conducted investigations touching on or directly involving the White House. But never before have I seen a White House that not only denies the Committee most relevant information, but also precludes the Committee from receiving from other agencies most material relating to the White House’s involvement. In his January 27, 2006 letter, Mr. Kelley asserted that the White House was giving the Committee access to material involving “factual and operational communications involving nearly all EOP personnel other than a relatively small number of officials most directly involved in supporting the President’s actions and determinations.” But, as already discussed, this exception neutralized the rule: Virtually anyone in the White House whose actions had operational significance to the preparation for and response to Katrina falls into the category made off-limits to us.

And, of course, we were denied our requested interviews with even those lower-level employees about whom the White House said it was willing to give us information. This has left us unable to obtain any real sense of what the White House did or didn’t do to direct or assist the federal response to Katrina. And it has kept us from obtaining key information from executive branch agencies about the government’s response to Katrina. For months, Committee staff repeatedly asked White House staff for precedent for the White House’s sweeping assertion of near-immunity from inquiry. We were given none.

The Congressional Research Service confirmed that the White House position was wrong. According to a February 9, 2006 CRS memorandum prepared for the Committee:

the Supreme Court has held that “[t]he scope of [Congress’] power of inquiry . . . is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution,” “encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes,” and is at its peak when the subject is alleged waste, fraud, abuse or maladministration. [citations omitted] In the last 80 years, Congress has consistently sought and obtained documents and testimony that reflects deliberations in agencies, including almost every office and bureau in the Department of Justice and the Executive Office of the President (EOP). There have been some 75 instances in which EOP

officials have testified before congressional committees, a list that includes chiefs of staff to the President, White House counsels and National Security Advisers.⁸⁰ [emphasis added]

In short, while I certainly recognize that there are important Executive Branch interests at stake whenever the Congress seeks to conduct oversight – interests which I believe we tried to accommodate – the White House failed to recognize in return that there are countervailing and constitutionally based Legislative Branch interests at stake as well, namely the uncontested authority of the Congress to inquire into the Executive Branch’s administration of federal programs.

It is the traditional view of the Congress that the only basis on which the Executive Branch may ultimately resist providing information requested by a Congressional Committee is an assertion by the President of executive privilege. This Constitutional safeguard ensures that the legislative branch’s determination that its constitutional functions require certain information may be outweighed only if the President is willing to conclude and assert that his constitutional interests demand otherwise. Of course, even then, the privilege is a qualified one and may be overcome, but the competing interests can’t even be weighed if the President is unwilling to meet Congress’s assertion of Constitutional authority with an equivalent assertion of his own. In the words of this Committee’s former Chairman Fred Thompson, when addressing the previous Administration’s efforts to resist a document request on a basis short of executive privilege:

If the President is claiming special status because he is President, then his assertion is really one of executive privilege and not attorney-client privilege. While I can still remember [Watergate Committee chair] Sam Ervin’s repeated admonitions that no man is above the law and that we are entitled to every man’s evidence, I still concede that executive privilege can be a valid claim, under some circumstances. However, the President must assert it.⁸¹ [emphasis added]

This is a point the Committee itself recognized when Mr. Brown testified. Having asked the White House whether the President wished to assert executive privilege and having heard that it did not, the Chairman instructed Mr. Brown to answer questions regarding his contacts with the White House.⁸²

It is due to this experience with Mr. Brown that I must respectfully disagree with one of the reasons the Chairman provided for declining my request to issue subpoenas, namely that it would merely force the President to assert executive privilege.⁸³ Based on the experience with Mr. Brown – and the fact that a significant portion of the material the Committee requested likely falls outside any legitimate claim of privilege – I firmly believe a subpoena would have been met with at least a modicum of compliance that would have aided the Committee’s investigation significantly. After all, previous Administrations repeatedly have been willing to provide information of this sort to Congress. The current Administration also has provided to investigators even material

that clearly could have been subject to a claim of privilege. Both the President and the Vice-President, for example, sat for a personal interview with the 9/11 Commission. Surely, the White House would have provided the Committee with more information than it did had it faced a Congressional subpoena.

Before leaving this topic, I want to comment on one more issue raised by at least some Administration representatives in response to our information and document requests. In seeking to justify the demonstrably lower level of cooperation seen from this Administration than from its predecessor, we heard that a different standard should apply in this investigation because of the absence of any allegations of criminal conduct.

I could not disagree more. Congress surely has a role to play in the investigation of conduct that may violate the law, and I have fully supported such investigations in the past, regardless of the political affiliation of the Administration. But if the case for White House cooperation is more persuasive for one type of investigation than the other, surely it would be for an investigation like the one into Katrina.

To the extent Congressional investigations involve allegations of criminal wrongdoing, a Congressional investigation simply isn't necessary to discover facts or hold perpetrators responsible, as it is likely to be accompanied by a parallel investigation by the Department of Justice, as we've seen with many of the recent scandal investigations.

Thankfully, there has been no such criminality on the part of government workers alleged here; instead, this was an investigation into wholesale errors, and, in many cases, incompetence. No other independent investigator with the authority to go fully where the facts lead has or will review this matter, and so the need for a full and fair review by the Congress is absolutely critical.⁸⁴

The Department of Homeland Security

The Department of Homeland Security (DHS) presents a different case. In contrast to the White House, DHS did provide the Committee with a significant amount of information and access to a large number of witnesses – material without which the Committee could not have conducted its investigation or issued its report. But the Department did so in an often slow, spotty, and incomplete manner. On one hand, we received a large amount of information and many witnesses from the Federal Emergency Management Agency (FEMA). But on the other, when we sought documents and witnesses from elsewhere in the Department, and particularly from DHS leadership, the Department frequently dragged its feet, taking an adversarial posture and ultimately producing only a small fraction of the documents and witnesses that reasonably could have been expected. For example, it took until January 13, 2006 for the Department to produce a single witness from outside FEMA or the Coast Guard. Similarly, we did not receive documents from the Homeland Security Operations Center – an entity at the center of DHS's emergency response mandate – until January 12, 2006. And despite increasingly urgent requests for the document, it took the Department until January 11,

2006 to give the Committee the Catastrophic Incident Supplement to the National Response Plan, a foundational document that the Committee could have used to question witnesses more knowledgeably had it only had it sooner. When combined with the Department's practice of waiting until the last minute to tell us who it would supply as witnesses and providing a witness's e-mails and documents as late as the night before a scheduled interview, there is no doubt that the way in which the Department responded to the Committee's document, information, and witness requests significantly hampered the Committee's ability to conduct its investigation. As a result, though we have gathered key facts, we still do not have as complete a picture as we would have liked of DHS's preparations and response to Katrina. Given Secretary Chertoff's public statements asserting the importance of learning the lessons, "even painful lessons," from Katrina, reasonably we had hoped for more.⁸⁵

Chronology of DHS's Production

It was clear from the start that much of this Committee's investigation would turn on information provided by and about the Department of Homeland Security. DHS is the department given the official responsibility to lead and coordinate preparations for and response to disasters, whether natural or man-made. Various DHS component agencies had significant operational responsibilities in the response as well; eventually, some 16 DHS offices became involved in the response.⁸⁶ This included not only the high-profile involvement of agencies such as FEMA and the U.S. Coast Guard, but also the National Communications System (NCS), an agency charged with coordinating the federal government's disaster communications support, and the Department's law enforcement assets – Immigration and Customs Enforcement (including the Federal Protective Service), the U.S. Secret Service, Customs and Border Patrol, among others – many of which provided assistance with public safety and security in the Gulf Coast after Katrina.

Therefore, on September 28, 2005, the Committee sent four letters to DHS: (1) to FEMA; (2) to the Coast Guard; (3) to NCS (through the Assistant Secretary for Infrastructure Protection); and (4) to Secretary Chertoff for the remainder of the Department. These letters asked for a range of information and documents related to the Department's and its components' response to Katrina. In addition, in the weeks and months that followed, the Committee sought to interview witnesses with relevant knowledge from throughout the Department.

Responses to the Committee's four request letters to DHS were due October 27, 2005. The following day, FEMA produced its first documents to the Committee; the Coast Guard followed with a small production approximately a week later. And even before these documents arrived, the Committee began interviewing FEMA witnesses, beginning with Marty Bahamonde, an External Affairs employee who was stationed in New Orleans during the storm, on October 7, 2005. Interviews with Coast Guard witnesses began not long thereafter.

During this time, however, the Committee received no response at all to its two other request letters, to the National Communications System and to Secretary Chertoff

for the remainder of DHS. Concerned as time continued to pass, in November, Committee staff sent to DHS a short list of initial witnesses from other parts of the Department that we thought it important to interview.

Notwithstanding this request, no witnesses from outside FEMA or the Coast Guard were made available for interviews at that time. And by the end of the year – three months after the request letters had been sent – only a small number of documents had been produced in response to the letter to Secretary Chertoff. No documents related to NCS had been produced at all. On December 30, 2005, Senator Collins and I expressed our concerns directly to Secretary Chertoff. We wrote him that we did not have the “documents, information, and access to Department personnel that we need to conduct a thorough and timely investigation” and included a prioritized list of documents, information, and witnesses that we wanted in the following two weeks.

On January 9, 2006, we received a disappointing response from Philip Perry, the General Counsel of DHS, in which he offered little that was new, but made clear that much of what we asked for would not be forthcoming in the requested time frame. Specifically, he indicated that the Department was declining to respond to any of the information requests the Committee had submitted and stated only that the Department “should” be able to provide the Committee with a “substantial number” of the priority documents by the revised January 13, 2006 deadline (in fact, only a small number were provided by that date). He indicated that three of the twelve priority non-FEMA witnesses we had requested would be made available for interviews, but made no further commitments on the remaining ones.

Finding little reassurance in Mr. Perry’s response, I wrote to Chairman Collins on January 12, 2006, requesting that the Committee issue subpoenas to DHS. Three and a half months after sending our initial request letter and with three weeks of intensive Committee hearings on Hurricane Katrina rapidly approaching, the letter argued, the time had come to insist on the additional documents, information, and witness that were crucial if we were to attain an accurate understanding of what occurred in the days leading up to and following Katrina, and how the government’s response could be improved in the future. Chairman Collins declined to issue a subpoena to DHS, but she did personally intervene with the Secretary and insisted upon greater cooperation.

DHS’s cooperation in the following weeks – effectively the final weeks of the investigation before attention would turn to crafting the report – improved, somewhat, with some additional witnesses and documents produced to the Committee. With respect to non-FEMA matters, however, it never reached the level we had the right to expect from the Department.

In the end, 300,000 of the approximately 344,000 pages of documents that DHS produced to us – 87% – were produced by FEMA. The National Communications Systems produced approximately 3,100 pages of documents (roughly one box’s worth), with its first materials not provided to the Committee until January 18, 2006. The Coast Guard provided a total of some 7,400 pages of documents. Approximately 33,000 pages

of documents – the rough equivalent of fewer than a dozen boxes –were produced in response to the Committee’s letter to Secretary Chertoff from the remainder of DHS, including its law enforcement components, the Homeland Security Operations Center, and front-office personnel.

Interviews broke down in somewhat the same fashion: The Committee conducted formal interviews with 46 FEMA, or ex-FEMA, employees; 11 representatives of the Coast Guard; 2 National Communications System employees; and 12 individuals from the remainder of DHS.

Apart from the numbers, it is clear that DHS failed to fully comply with the majority of the requests for documents and information contained in all but one of the Committee’s original letters. The same goes for a significant portion of even the priority requests set out in the Committee’s letter of December 30, 2005.⁸⁷ DHS did eventually make available all but one of the non-FEMA witnesses on Senator Collins’ and my December 30, 2005 priority list,⁸⁸ although subsequent requests for additional non-FEMA DHS witnesses were, with two exceptions, ignored.

Specific Concerns

Limitations on witness interviews

Significant delays in producing witnesses. The Department did not provide the Committee with any witnesses from its leadership staff, from the Homeland Security Operations Center, from the National Communications System – indeed, from any component outside FEMA or the Coast Guard – until January 13, 2006, a full three months after the Committee began to conduct investigative interviews. In contrast, by mid-October, the Committee staff had already begun to speak to state and local officials in Louisiana and Mississippi, as well as to FEMA and Coast Guard personnel. By mid-November, interviews were underway with Department of Defense personnel, as well as with the U.S. Army Corps of Engineers, among others. The significant delay in providing witnesses from DHS’s leadership, the Homeland Securities Operation Center, NCS and the Department’s law enforcement components inevitably constrained the Committee’s investigation. The late start in interviewing these important witnesses, as intensive weeks of hearings were underway and the investigation was coming to a close, meant that there was simply insufficient time to follow up effectively on new information that invariably and predictably came to light in those interviews. Unlike the Committee’s scrutiny of the performance of FEMA or the state of Louisiana, for example, the examination of the actions of other parts of DHS was not permitted to evolve organically based on what was learned at each stage. Although the Committee was ultimately able to uncover important and enlightening facts even from the limited number of witnesses and documents made available, we simply cannot know where those facts would have led if we had been allowed greater time to pursue leads to their logical conclusions.

Failure to produce additional witnesses. Even within the significant time constrains, the Committee staff was able to identify a relatively small number of

additional DHS witnesses who appeared to have information important to the investigation; efforts to bring in these additional non-FEMA, non-Coast Guard witnesses were largely ignored.⁸⁹

For example, as discussed in Chapter 19 of the report, we discovered during the course of our investigation that the Homeland Security Operations Center (HSOC), the central organization within DHS charged with maintaining situational awareness, issued a report at 6:00 pm on the day Katrina made landfall stating that preliminary reports indicated that the levees had not been breached.⁹⁰ This unfortunate report, issued despite considerable evidence to the contrary, may have falsely reassured a variety of government officials, who went home Monday, August 29 ignorant of the ongoing catastrophe in New Orleans, and it may well have contributed to a delayed federal response. Therefore, Committee staff sought to interview the HSOC's Senior Watch Officer who was on duty at the time and who would have been responsible for issuing that erroneous report. Notwithstanding Committee staff's request, the individual was never made available. The Department, moreover, has never provided any explanation for not complying with the Committee's request.

DHS also failed, without explanation, to produce, in response to a Committee staff request, Scott Weber, Senior Counselor to the Secretary and the member of the Secretary's immediate staff responsible for FEMA-related issues.⁹¹

DHS limitations on the terms under which witness interviews were conducted. Even when DHS made witnesses available, it often did so under conditions that limited the effectiveness of the interview. It became routine for DHS counsel to produce witnesses with unreasonably short notice, limiting Committee staff's ability to prepare. In one case, for example, staff was informed only Tuesday morning that a FEMA witness would be made available that afternoon; when questioned, the witness revealed that *he* had been informed of the interview by the previous Thursday or Friday and had arrived in Washington on Monday afternoon.⁹² In some cases, none of the witness's e-mails or other documents were made available to the Committee before the interview.

Perhaps the practice that most directly restricted the ability of staff to gather information was DHS Counsel's unilateral insistence, in almost all the interviews with DHS employees outside of FEMA and the Coast Guard, on limiting the time the witness would be made available to a single session lasting 3-4 hours.⁹³ This artificial time constraint was not imposed (or accepted) by other agencies or in other contexts. Thus, for example, staff conducting interviews with state and local officials in Louisiana were routinely given access to significant witnesses for extended periods of time: Among others, Major General Bennett Landreneau, Adjutant General of Louisiana, was interviewed for approximately eight hours and Terry Ebbert, Director of New Orleans' Office of Homeland Security and Public Safety, sat three times for interviews for a total of approximately 10 hours. The Department of Defense, for its part, made Lieutenant General Russell Honoré, Commander of First Army and Commander of Joint Task Force-Katrina, available for a seven-hour long interview. But with high-level staff at

DHS, relatively short time limits were almost always imposed.

A particularly notable example of this was the interview Committee staff conducted with Robert Stephan. Mr. Stephan wore, by his own count, five “hats” at DHS at the time Katrina hit. Among others, he was Acting Under Secretary for Information Analysis and Infrastructure Protection; Director of the Interagency Incident Management Group; and Manager of the National Communications System. He also had led the development of the National Response Plan, the central document guiding the federal response. By virtue of these various responsibilities, Mr. Stephan appeared to possess a wealth of information important to the Committee’s investigation, and as the relatively short period that had been allotted for his interview came to a close, it was obvious that the range of critical topics had only begun to be explored. Appropriately, my staff asked to continue the interview at another time.⁹⁴ Mr. Stephan, however, was not made available again to Committee staff.

Inadequate Document Production

As outlined above, DHS produced only a fraction of the documents and information requested by the Committee – particularly in response to those requests contained in the three letters that were sent to components of the Department other than FEMA – and failed to fully comply even with many of the Committee’s priority requests. Notably, DHS at no time asserted any basis for withholding the material from a legitimate Congressional inquiry, nor, in most cases, did its lawyers seek to reach agreement with the Committee on the scope of the material to be produced. Rather, it frequently appeared to be the case that DHS simply unilaterally decided what material it would and would not produce to the Committee. As a result, there are gaps, perhaps significant, in the materials (and, in particular, the non-FEMA materials) that the Committee has in its possession. A handful of prominent ones are noted below.

FEMA budget documents. Although DHS produced a substantial number of documents the Committee requested from FEMA, the Department largely refused to provide documents related to FEMA’s budget. As the report discusses, concerns were raised by several FEMA witnesses that FEMA’s budget was not sufficient to fulfill its mission and about DHS’s “taxing” of FEMA to support the overall operations of the Department, and how these budget matters may have affected FEMA’s preparedness for a catastrophic disaster such as Katrina. DHS refused to provide all but a very few of the relevant requested documents – a request made in the Committee’s original September 28, 2005 letter and reiterated in the priority list submitted to DHS on December 30, 2005. As with other areas in which DHS declined to produce documents, information, or witnesses, the Department did not cite any authority that would exempt it from the Committee’s oversight jurisdiction other than its own preference. This refusal has prevented the Committee from fully addressing and resolving these issues.⁹⁵

HSOC documents. As is evident from the Committee’s report, the problems in maintaining accurate situational awareness during the storm became a focus of the investigation. For that reason, both in the Committee’s original September 28, 2005

letter and in its December 30, 2005 priority request, we sought all the communications into or out of the HSOC that related to Katrina in the days immediately before and after landfall. DHS, however, chose to produce to the Committee only e-mails that were sent from or to a computer account associated with the Senior Watch Officer on duty;⁹⁶ although some 45 agencies staff desks at the HSOC, information coming in to these individuals was ignored.

The significance of this came to light in one instance where the Committee obtained, through other sources, an e-mail that the Coast Guard had sent to the HSOC at 1:51 pm on the day of landfall, informing the HSOC that a levee in New Orleans had breached;⁹⁷ this e-mail, though obviously important and clearly within both the Committee's original and priority requests, had not been produced to the Committee.

In another area of concern, though sources at the Coast Guard indicated to us that the Coast Guard had produced documents to DHS responsive to many of the Committee's requests, DHS had not turned all of them over to the Committee. Because DHS has not produced a log of withheld documents, however, we do not know if DHS is deliberately withholding documents, based on a claim of privilege or otherwise, or whether it simply determined that the documents were not responsive.

No answers to information requests. Finally, DHS declined to answer any of the requests for information contained in each of the four letters that were sent to the Department – even basic information such as which components of the Department were involved in the response to Katrina,⁹⁸ or the identities of key personnel at the National Communications System. DHS has not posed any objection to the questions raised, although in his January 9, 2006 letter, Mr. Perry asserted that DHS “cannot fully respond to several of these questions before it completes its lessons learned process and has a trustworthy understanding of the underlying facts” – though he did not identify to which questions he objected on these grounds. He also argued that so much information has already been provided to staff through documents and interviews that the Committee already had much of the information it sought; and that if the Committee would provide access to transcripts of witness interviews, DHS would produce responses more quickly. These arguments are unpersuasive, especially when they apply across the board even to requests to which the Department surely knows the answer and to which none of its objections apply. For example, we asked for a statement of when the National Response Plan was activated and which annexes were activated. There is no reason why that information cannot have been provided by the Department during the past six months.

The Department of Justice

The Department of Justice (DOJ) was highly uncooperative with the Committee. DOJ has important responsibilities under the National Response Plan, most significantly for maintaining security during a disaster when local and state law enforcement personnel are overwhelmed. In addition, the Department, as the Executive Branch's principal legal advisor, surely played a role in offering advice on the very controversial issues involved in deploying the military to aid the Katrina response, among other matters. DOJ was

necessarily a critical part of our investigation.

Yet DOJ was utterly uncooperative throughout our investigation. The Committee sent its initial request letter on October 7, 2005, asking for information and documents by November 3, 2005. On October 24, 2005, we received our first communication back from the Department, in which it simply acknowledged receipt. Not until November 18, 2005, did DOJ produce its first installment of documents. The Department ultimately produced a very limited quantity of documents (approximately 2,000 pages) and answered only some of the questions that the Committee asked in its October 7, 2005 letter and none of those asked in its February 21, 2006 follow-up list of prioritized items. Most disturbingly, DOJ's refusal to make any witnesses available for transcribed interviews ultimately required the Committee to serve its only witness subpoenas of the investigation on the Department.

These deficiencies seriously impeded the Committee's ability to investigate DOJ's preparations for and response to Hurricane Katrina. Most significantly, the delay in providing to us information or interviews necessarily kept us from pursuing important leads generated by the little information we had received. For example, on August 30, 2005, the head of the Louisiana State Police, Colonel Henry Whitehorn, wrote to FBI Director Robert Mueller requesting "any assistance you can provide," noting that New Orleans had "suffered massive damage"; that the state police were "utilizing all state assets to stabilize the situation" but that "looting continues to be a significant problem."⁹⁹ Yet at his January 26, 2006 interview, William Mercer, Principal Associate Deputy Attorney General, said that DOJ was limited in its ability to provide law-enforcement assistance because the request did not come sooner, and from the Governor.¹⁰⁰ This assertion made us especially interested in DOJ's response to the Committee's request to identify all requests for assistance that it received and its response to those requests, including "the date and time orders were issued to fulfill the request"; "the entity within the Department tasked to provide the assistance"; and "the key personnel involved in processing and responding to the request." But DOJ never answered this question, nor did it provide us with the documents we requested that would have shed light on DOJ's reaction to the Whitehorn letter at the time. As a result, we are left unable to fully understand why DOJ did not respond to the letter from Col. Whitehorn, either by soliciting the letter from the governor it claims was required or otherwise,¹⁰¹ and why it took the position that it hadn't received an adequate request.

As for the documents we did receive, the production was, plainly, incomplete. For example, we received documents from Mr. Mercer's files reflecting communications with individuals in the Attorney General's office and showing the significant – albeit belated – involvement of that office in the Katrina response, but we received virtually no materials originating in the Attorney General's office itself.¹⁰² Mr. Mercer's documents also show discussions on the National Response Plan with Senior Counsel for National Security Affairs James McAtamney, but McAtamney's files were not produced.¹⁰³ We have received no after-action reports or similar documents examining the response of the Department or its various components to Katrina, raising the troubling possibility that DOJ has made no systematic efforts to examine its own conduct for future benefit.

Equally disturbingly, we received a scant amount of e-mails from many component agencies involved in the response, including, notably, the FBI. FBI e-mails likely would have offered insight into the circumstances under which FBI operated in the first days of the response. Hundreds of FBI agents were deployed to the area, but we have no e-mails concerning this deployment exchanged between personnel at FBI headquarters; between agents in the field; or between headquarters personnel and agents in the field. E-mails produced by DHS law-enforcement officials convey a sense of confusion about the respective roles of DOJ, FBI, and DHS, and suggest that there was, at least for a time, a “turf war” between the FBI and DHS.¹⁰⁴ This investigation is not complete without full insight into these issues.

Finally, because the Department has attempted to excuse its tardy response to Katrina by claiming that its authority to provide the types of support contemplated under the National Response Plan is limited by federal statute,¹⁰⁵ it is important that we see any internal DOJ documents that analyze DOJ’s authority and that reflect when this issue was researched and/or resolved.

In short, DOJ’s response was one of the investigation’s true disappointments. By treating the requests of a duly authorized Congressional investigative committee so cavalierly, I cannot but conclude that DOJ obstructed the Committee’s investigation and prevented the Committee – and, through it, the American people – from knowing the full story of the government’s failed response to this catastrophe.

The Department of Health and Human Services

The Department of Health and Human Services (HHS) also did not cooperate with our efforts to obtain information. HHS plays a significant role in the federal response to disasters. The National Response Plan charges it with coordinating the federal government’s health and medical assistance to state and local authorities. During Katrina, HHS deployed over 2,100 U.S. Public Health Officers to assist in the response. HHS also sent over \$38 million of medical supplies to affected states through its Division of the Strategic National Stockpile at the Centers for Disease Control and Prevention, providing essential supplies to a region where large parts of the health-care system were damaged or destroyed. As the Federal Government’s primary agency for public health and medical assistance, HHS was also responsible for ensuring that other federal medical assets, such as the National Disaster Medical System, were used effectively.

The Committee raised serious questions about the federal government’s fulfillment of its mandate, ranging from the role it played in evacuating hospital and other acutely ill patients from New Orleans to recovering the bodies of Katrina’s victims. We could not truly assess the adequacy of the federal medical response to Katrina nor make informed judgments for future recommendations without a comprehensive assessment of HHS’s actions. For that, we needed HHS to have answered the questions and provided the documents the Committee had requested in its September 28, 2005 letter.

Yet, HHS was often unresponsive to the Committee's requests and, to this day, its production remains incomplete. Key witnesses have not been interviewed and important information remains undelivered. Delays in providing access to information and witnesses severely hampered the ability of investigators to fully examine HHS's performance prior to and during Katrina.

Perhaps most disturbingly, HHS did not respond to the Committee's September 28, 2005 information request until February 24, 2005.¹⁰⁶ Even then, the HHS response had major gaps and shortcomings. For example, the Committee's original request asked HHS to provide all emergency and contingency plans for all Department elements and relevant regional offices that were in effect at the time of Katrina. What HHS gave us included, in essence, only one headquarters-level plan.¹⁰⁷ The Committee requested after-action reports for emergency events and drills for the past five years. While the Department's response identified sixty events and drills in this time frame, not a single after-action report was provided until April 7, 2006. In several cases, such as two Committee questions about the provision of mental-health services, there was no response whatsoever. Similarly, the Committee asked HHS to describe the extent to which two volunteer credentialing systems were used to help process volunteer medical personnel seeking to provide medical care in Mississippi and Louisiana during Katrina, but no response was provided.

The Committee's original request also requested "copies of all communications, including, but not limited to, all records or logs of such communications" for numerous activities related to HHS's response. HHS did not begin to provide relevant documents until December 2, 2005. Without exception, the responses for "all communications" were incomplete. For example, no records or logs of communications were provided. This was true even with regard to information logged into the HHS electronic incident-tracking system described by the Department (at the Committee's request). Even documents produced by HHS were incomplete. For example, numerous e-mails provided in response to the Committee's request did not include attachments – even when the sole purpose of the e-mail was to transmit the attachment.

Frustrated by this unacceptable lack of compliance, Chairman Collins and I wrote to HHS Secretary Michael Leavitt on January 13, 2006, expressing concern about the Department's response. The letter noted that HHS "has been slow and disorganized - failing to provide attachments to e-mails, preparatory or pre-landfall materials, interrogatory responses, and basic situation reports."¹⁰⁸ The letter went on to identify priority items for production and stated that "[a]t this point, nearly four months after we first requested the Department's assistance, we must insist on a production of the requested documents by Wednesday, January 25, 2006." Not having received a satisfactory answer, on February 17, 2006, we again wrote to Secretary Leavitt asking for a status report, no later than February 24, 2006, detailing when final production would be complete. Some of the priority materials were finally provided on February 24, 2005. Still, a great deal of material remained outstanding.

HHS's response to requests to interview Department employees was also

unsatisfactory. Although two informational briefings were provided to Committee investigators on December 9, 2005, by staff of the Office of Public Health Emergency Preparedness, and on January 12, 2006, by officers of the U.S. Public Health Service who deployed to Katrina, HHS resisted efforts to schedule staff interviews. The first did not take place until Monday, January 30, 2006. Ultimately, the Department did make a number of requested witnesses available. However, the delay in initiating the process hampered the ability of investigators to conduct a thorough investigation and left inadequate time to interview several important witnesses.

Failure to Establish a Unified Command

I want to comment on one more issue. The report places primary blame on the State of Louisiana for the inability of all the response agencies to establish a unified command in that state during the first week after landfall. In my view, the issue is far more complex.

I believe that the failure to establish a unified command resulted from three factors: The severity of the disaster; the failure of FEMA to have adequate numbers of personnel with sufficient expertise and training to cope with a disaster of this magnitude; and the failure of the state of Louisiana to have sufficient expertise and trained personnel to cope with a disaster of this magnitude.

As the report acknowledges, local, state, and federal response agencies were responsible for establishing a unified command under the Incident Command System (ICS). As the lead federal response agency, FEMA shared this responsibility. The evidence before the Committee is that the ability of many of the local responders to participate in a unified command was severely impaired by extensive flooding and the destruction of much of the communications infrastructure. Neither FEMA nor Louisiana had a sufficient number of trained personnel to establish an Incident Command System and a unified command in the face of such extensive damage and the incapacitation of local officials. Both FEMA and Louisiana had to train additional personnel during the crisis.

Bill Lokey, the FEMA Federal Coordinating Officer in Louisiana, told the Committee, “The locals were overwhelmed. We were going to be overwhelmed. There was no way, with my experience and what I had to bring to the table, I was taking a knife to a gunfight.”¹⁰⁹ Lokey said that FEMA employees, including those in Baton Rouge responding to Katrina, had not had sufficient ICS training,¹¹⁰ and that FEMA’s requirement that National Emergency Response Team (ERT-N) members be proficient in ICS by January 1, 2006, was just “wishful thinking” because “we’ve had no training dollars [and] we’ve had no opportunity to bring the folks together.”¹¹¹ William Carwile, FEMA’s Federal Coordinating Officer in Mississippi, testified similarly: “Those of us who were somehow responsible for the teams felt very uncomfortable that the teams weren’t really ready to go.”¹¹² As a result, William King, FEMA’s Chief of Planning in Louisiana during Katrina, reported, FEMA had to train its own people in the midst of the response: “We had to what I call ‘crawl, walk, run’ it and do the training of people and

implement it over several days.”¹¹³ Tony Robinson, FEMA’s Operations Section Chief in Louisiana during Katrina, agreed that FEMA would have been able to respond better if it had more personnel available for deployment.¹¹⁴

This testimony leads me to conclude that neither FEMA nor Louisiana had a sufficient number of trained personnel to establish the appropriate command and control structure in Louisiana. As FEMA and Louisiana shared the responsibility to establish a unified command, FEMA and Louisiana share the accountability for the failure to do so.

Joseph Lieberman, U.S.S.
May __, 2006

ENDNOTES

¹ Clinton Rossiter, *The American Presidency*, 1987, p. 4.

² Committee staff interview of Michael Brown, former Director of FEMA, conducted on Feb. 23, 2006, transcript p. 141.

³ Committee staff interview of Michael Brown, former Director of FEMA, conducted on Feb. 23, 2006, transcript p. 143.

⁴ Committee staff interview of Michael Brown, former Director of FEMA, conducted on Feb. 23, 2006, transcript pp. 137-138, 141. Brown did not address these concerns publicly or in writing with Congress. However, during his appearance in front of the U.S. House Select Bipartisan Committee to Investigate Preparation for and Response to Hurricane Katrina on September 27, 2005, Brown alluded to having had some conversations with members of Congress, though not with any members of this Committee regarding FEMA's emaciation. When asked about the "emaciation" of FEMA, Mr. Brown suggested that for several years, he privately discussed how FEMA would become extremely limited in both personnel and financial resources hindering its capacity to handle a disaster. In response to a question about Mr. Brown expressing his concerns about FEMA privately, but not publicly, Mr. Brown stated: "I can go to bed at night and sleep because I know I fought that battle." Testimony of Michael Brown, FEMA Director, U.S. House Select Bipartisan Committee to Investigate Preparation for and Response to Hurricane Katrina, Sept. 27, 2005, "Hearing on Hurricane Katrina: The Role of the Federal Emergency Management Agency." In addition, later in the hearing when asked why he expressed his views about FEMA's emaciation privately versus publicly, Mr. Brown testified that he wanted to work within the system to make the needed changes. Testimony of Michael Brown, FEMA Director, U.S. House Select Bipartisan Committee to Investigate Preparation for and Response to Hurricane Katrina, Sept. 27, 2005, "Hearing on Hurricane Katrina: The Role of the Federal Emergency Management Agency."

⁵ Committee staff interview of Gary Jones, Director, FEMA Region VI, conducted on Jan. 11, 2006, transcript pp. 48-49, 149-152; Committee staff interview of Wayne Fairley, Response Operations Branch Chief, FEMA Region VI, conducted via phone on Jan. 18, 2006, p. 2, 57-58.

⁶ E-mail from Eric Tolbert to Janet Benini and Ron Castleman, July 1, 2004, 4:24 p.m. ET.

⁷ E-mail from Janet Benini to Eric Tolbert and Ron Castleman, July 1, 2004, 4 p.m. ET ("The Louisiana Hurricane is one of the potentially 'catastrophic' scenarios we've been working on at HSC...").

⁸ E-mail from Stephen Black to Kirstjen Nielsen and Janet Benini, Feb. 22, 2005, 4:41 p.m. Provided to the Committee; filed as bates no. WHK 001059-1061.

⁹ The White House does not dispute that the President received these warnings and communications before landfall: "The President 'received regular briefings, had countless conversations with Federal, State, and local officials, and took extraordinary steps prior to landfall.'" U.S. Assistant to the President for Homeland Security and Counterterrorism, *The Federal Response to Hurricane Katrina Lessons Learned*. Washington: Government Printing Office, Feb. 2006, p. 28-29. But the White House did not detail in either its report, *The Federal Response to Hurricane Katrina Lessons Learned*, Frances Fragos Townsend's February 13, 2006 speech at the National Emergency Management Association's mid-year conference, or elsewhere any specific details about the briefings or conversations. U.S. Assistant to the President for Homeland Security and Counterterrorism, *The Federal Response to Hurricane Katrina Lessons Learned*. Washington: Government Printing Office, Feb. 2006, p. 28-29, 174.

¹⁰ Testimony of Michael Brown, former Director, FEMA, before the U.S. Senate, Committee on Homeland Security and Governmental Affairs, *Hurricane Katrina: The Roles of U.S. Dept of Homeland Security and FEMA Leadership*, Feb. 10, 2006, transcript p. 114-115; interview with former FEMA Director Michael Brown, before U.S. House Select Committee staff, Feb. 11, 2006, p. 11 (testifying that during a call to the President, he said that Hurricane Katrina could be "the big one").

¹¹ FEMA Daily Video Teleconference, Aug. 27, 2005, pp. 22-23.

¹² Michael Brown, FEMA Daily Video Teleconference, Aug. 27, 2005, p. 22. Provided to Committee.

¹³ Bill Reed, FEMA Daily Video Teleconference, Aug. 27, 2005, p. 5-6. Provided to Committee.

¹⁴ Joseph Hagin, FEMA Daily Video Teleconference, Aug. 27, 2005, p. 24. Provided to Committee.

¹⁵ Andrew Akers, email to Homeland Security Operations Center Senior Watch Officer, Aug. 27, 2005, 11:24 p.m. Provided to the Committee; filed as bates no. WHK 05865-5867. The other addressees for the email are DL-NSC-WHSR, Bethany Nichols, Elliot Langer, Kirstjen Nielsen, Joel Bagnal, Elizabeth Farrell, Julie Bentz, Daniel Kaniewski, Matthew Broderick, Frank DiFalco, Bob Stephan, John Chase, Tom Dinanno, Edward McDonald, Gail Kulish, Tom Paar, Michael Jackson, John Wood, National Interagency Coordination Center, Secretary Briefing Staff, Homeland Security Operations Center, Homeland Security Information Network. Attached to that e-mail was “Fast Analysis Report (Update to Reflect Category 5 Status) to DHS IP on Hurricane Katrina, Gulf Coast,” the Department of Homeland Security’s National Infrastructure Simulation & Analysis Center, Aug. 28, 2005, p. 1.

¹⁶ Daily Video Teleconference, Aug. 28, 2005, pp. 1, 14-16, 20.

¹⁷ Dr. Max Mayfield, FEMA Daily Video Teleconference, Aug. 28, 2005, p. 2, 6. Provided to Committee.

¹⁸ Michael Brown, FEMA Daily Video Teleconference, Aug. 28, 2005, p. 37. Provided to the Committee. During his staff interview on February 23, 2006, Mr. Brown discussed a telephone call with Joe Hagin after the noon VTC. He described the conversation as follows: “And Hagin and I were having a conversation just about ...how bad this one was going to be and, you know, dad-gamut all the--I mean, I was really bitching at Hagin about all of the planning I’d been asking for and you know, the catastrophic planning we’d been wanting to do, you know, now--and now here we are, and, you know, saying to him, you know, dad-gamut, why didn’t I quit earlier--then, you know, you guys knew I wanted to quit. I mean, we’re having this sparring match about all of this stuff that I was really mad about because I knew I was walking into this hornets’ nest,... I’m really ticked off, because I know how bad this thing’s going to be.” Committee staff interview of Michael Brown, former Director of FEMA, conducted on Feb. 23, 2006, p. 34. Brown further described the conversation: “...I’m just adamant that they understand my concern about New Orleans. I mean, I don’t know how to get this across to people that I have pushed and pushed for catastrophic disaster planning; we had chosen New Orleans as the first place to do catastrophic disaster planning; and now, damn it, here was a, you know, a Cat 5 bearing down on--on New Orleans.” Committee staff interview of Michael Brown, former Director of FEMA, conducted. on Feb. 23, 2006, p. 36-37.

¹⁹ Bill Doran, FEMA Daily Video Teleconference, Aug. 28, 2005, p. 16-17. Provided to Committee.

²⁰ President Bush, FEMA Daily Video Teleconference, Aug. 28, 2005, p. 14-15. Provided to Committee. The White House’s own report, *The Federal Response to Hurricane Katrina Lessons Learned*, describes the President as actively engaged the weekend prior to landfall, communicating with state and local officials and offering federal assets. The White House’s report also cites the August 28 videoconference call as the mechanism used by the President to communicate with officials and offer federal assets. U.S. Assistant to the President for Homeland Security and Counterterrorism, *The Federal Response to Hurricane Katrina Lessons Learned*. Washington: Government Printing Office, Feb. 2006, p. 28, 174. But on March 2, 2006, Trent Duffy, a spokesman for the President, downplayed the utility of that call: “I hope people don’t draw conclusions from the president getting a single briefing...[h]e received multiple briefings from multiple officials, and he was completely engaged at all times.” Robert Block. “Tape of Pre-Katrina Briefing Shows Bush Was Warned Of Dangers,” *Wall Street Journal*, Mar. 2, 2006, p. A3.

²¹ E-mail from breakingnews@foxnews.com to BREAKINGNEWS Subscribers, Aug. 28, 2005, 7:51 a.m., bates no. WHK-08489 (printed out by Landon Gibbs).

²² Steven York, email to Andrew Akers and others, Aug. 28, 2005, 5:21 p.m. Provided to Committee; filed as bates no. WHK 05319-05320. The other addressees of this email are Homeland Security Operations Center Senior Watch Officer, DL-NSC-WHSR, Bethany Nichols, Elliott Langer, Kirstjen Nielsen, Joel Bagnal, Elizabeth Farrell, Julie Bentz, Daniel Kaniewski and copied to Matthew Broderick, Frank DiFalco, Bob Stephan, John Chase, Tom Dinanno, Edward McDonald, Gail Kulisch, Tom Paar, Michael Jackson (DepSec), John Wood, NICC, Secretary Briefing Staff, Homeland Security Operations Center Homeland Security Information Network; Email from Breaking News (Fox News), Aug. 28, 2005, 7:51 a.m. Provided to the Committee; filed as bates no. WHK 08489.

²³ E-mail from Andrew Akers to Homeland Security Operations Center Senior Watch Officer, Aug. 29, 2005, 1:47 a.m. (including attachment Provided to Committee; filed as bates no. WHK 15894. The other addresses of the email are DL-NSC-WHSR, Bethany Nichols, Elliott Langer, Elliott, Kirstjen Nielsen, Joel

Bagnal, Elizabeth Farrell, Julie Bentz, Daniel Kaniewski, Richard Davis, Michael Barton, Matthew Broderick, Frank DiFalco, Bob Stephan, John Chase, Tom Dinanno, Edward McDonald, Gail Kulisch, Tom Paar, Michael Jackson (DepSec), John Wood, NICC, Secretary Briefing Staff, HSOC HSIN,

²⁴ The White House lauded the President's issuance of the emergency declarations as "extremely rare, and indicative of the recognition that Katrina had the potential to be particularly devastating." U.S. Assistant to the President for Homeland Security and Counterterrorism, *The Federal Response to Hurricane Katrina Lessons Learned*. Washington: Government Printing Office, Feb. 2006, p. 27.

²⁵ Committee staff interview of Michael Brown, former Director of FEMA, conducted on Feb. 23, 2006, p. 33; White House Briefing, Dec. 13, 2005.

²⁶ Louisiana Office of the Governor, *Overview of Governor Kathleen Babineaux Blanco's Actions in Preparation for and Response to Hurricane Katrina*, Dec. 2, 2005, p. 6 (stating that she received the call from the President "just before she walks into the news conference," at which she announced with Mayor Nagin the mandatory evacuation of New Orleans).

²⁷ Testimony of Secretary of Homeland Security Michael Chertoff, before the U.S. Senate Committee on Homeland Security and Governmental Affairs, hearing on "Hurricane Katrina: The Homeland Security Department's Preparation and Response," Feb. 15, 2006, p. 11.

²⁸ Testimony of Secretary of Homeland Security Michael Chertoff, before the U.S. Senate Committee on Homeland Security and Governmental Affairs, hearing on "Hurricane Katrina: The Homeland Security Department's Preparation and Response," Feb. 15, 2006, p. 11.

²⁹ "President Outlines Hurricane Katrina Relief Efforts," White House press release, Aug. 31, 2005, 5:11 p.m. EDT, at 1, at <http://www.whitehouse.gov/news/releases/2005/08/print/20050831-3.html>.

³⁰ Spencer Hsu and Amy Goldstein, "Administration Faulted on Katrina," *Washington Post*, Feb. 2, 2006, p. A5.

³¹ Richard D. Knabb, Jamie Rhome, and Daniel Brown, National Hurricane Center, *Tropical Cyclone Report, Hurricane Katrina*, Dec. 20, 2005, p. 3, at http://www.nhc.noaa.gov/pdf/TCR-AL122005_Katrina.pdf. Accessed March 30, 2006.

³² E-mail from Daniel Kaniewski to Dan Bartlett and others, Aug. 29, 2005, 11:13 a.m. Provided to Committee; files as bates no. OVP 004795. The other addressees are Todd Beyer, Bill Burck, Trent Duffy, Joseph Hagin, Brian Hook, Brett Kavanaugh, Emily Kropp, William McGurn, Stephen McMillin, Harriet Miers, Bruce Miller, Susan Ralston, Kenneth Rapuano, Scott Sforza, Kristen Silverberg, Heidi Smith, Frances Townsend, and copied to Steven Atkiss, Jessica Bennett, Stephen Black, Jamie Brown, John Burke, Shannon Burkhart, John Currin, Robert DeServi, DL-HSC-BTS, DL-HSC-CHEM-BIO, DL-HSCEXECSEC, DL-HSC-Front, DL-HSC-PPR, DL-NSC-WHSR, Lindsey Drouin, Debbie Fiddelke, Erin Healy, Taylor Hughes, Lauren Kane, Karyn Richman Kendall, Matthew Kirk, Ross Kyle, Jeannie Mamo, Christopher Michel, Alexander Mistri, John Mitnick, Derrick Morgan, Erin Nagle, Neil Patel, Dana Perino, Douglas Pitkin, Heather Roebke, Daniel Wilmot, Candace Wysocki, DeWitt Zemp,. ("Flooding significant throughout the region and a levee in New Orleans has reportedly been breached sending 6 to 8 feet of water throughout the 9th Ward area of the city. Per the Governor, water is rising at 1 foot per hour and the New Orleans mayor reports problems with a pumping station, causing flooding. HSOC reports that due to the rising water in the 9th Ward, residents are in their attics and on their roofs."). The President's knowledge of when New Orleans' levees breached has been the subject of much media attention. In the week after landfall, the President himself made statements regarding the levee breaches. For instance, on Friday, September 2, 2005, during a press conference in Biloxi, Mississippi, the President stated: "The levees broke on Tuesday in New Orleans. On Wednesday, we -- and Thursday we started evacuating people. A lot of people have left that city. A lot of people have been pulled out on buses. It's -- I am satisfied with the response. I'm not satisfied with all the results. They started pulling people off roofs immediately. They started rallying -- we started rallying choppers to get people off rooftops, started saving lives. I mean, thousands of peoples' lives have been saved immediately, and that's good news. This is one of the worst storms in our nation's history. New Orleans got hit by two storms, one the hurricane, and then the flood. And it's going to take a monumental effort to continue moving forward, but we will." The White House. "President Tours Biloxi, Mississippi Hurricane Damaged Neighborhoods," press release, Sept. 2, 2005, Provided to Committee; filed as bates no. WHK 01656, 01658. As set forth herein, the President's

statements contradict the reality of the situation as several pieces of evidence show the levees breached on Monday.

³³ Insung Lee, email to Kirstjen Nielsen, Aug. 29, 2005, 11:16 a.m. Provided to the Committee; filed as bates no WHK 16111. The other addressees of the email are Homeland Security Operations Center Senior Watch Officer, Matthew Broderick, Frank DiFalco, Interagency Incident Management Group, and Homeland Security Operations Center-All-Desks.

³⁴ Insung Lee, email to Homeland Security Operations Center Senior Watch Officer, Aug. 29, 2005, 11:32 a.m., Provided to the Committee; filed as bates no. WHK 11923. The other addressees of the email are DL-NSC-WHSR; Bethany Nichols, Elliott Langer, Kirstjen Nielsen, Joel Bagnal, Elizabeth Farrell, Julie Bentz, Daniel Kaniewski, Richard Davis, Michael Barton, Matthew Broderick, Frank DiFalco, Bob Stephan, John Chase, Tom Dinanno, Edward McDonald, Gail Kulisch, Tom Paar, Michael Jackson(DepSec), John Wood, NICC; Secretary Briefing Staff; HSOC.HSIN.

³⁵ Insung Lee, email to Homeland Security Operations Center Senior Watch Officer, Aug. 29, 2005, 11:32 a.m., Provided to the Committee; filed as bates no. WHK 11923. The other addressees of the email are DL-NSC-WHSR; Bethany Nichols, Elliott Langer, Kirstjen Nielsen, Joel Bagnal, Elizabeth Farrell, Julie Bentz, Daniel Kaniewski, Richard Davis, Michael Barton, Matthew Broderick, Frank DiFalco, Bob Stephan, John Chase, Tom Dinanno, Edward McDonald, Gail Kulisch, Tom Paar, Michael Jackson(DepSec), John Wood, NICC; Secretary Briefing Staff; HSOC.HSIN.

³⁶ Video Teleconference, Aug. 29, 2005, p. 24. Provided to Committee.

³⁷ On the noon video teleconference, Brown said he spoke with President Bush at least twice on the day of landfall, likely prior to noon. Brown stated: "I talked to the President twice today, once in Crawford and then again on Air Force One." Michael Brown, FEMA Daily Video Teleconference, Aug. 29, 2005, p. 14. Provided to Committee. Brown also testified that he spoke to White House Deputy Chief of Staff Joe Hagin on at least 2 occasions on the day of landfall. Testimony of Michael Brown, former FEMA Director, before the U.S. Senate, Committee on Homeland Security and Governmental Affairs, Feb. 10, 2006, hearing on "Hurricane Katrina: The Roles of US Dept of Homeland Security and FEMA Leadership," transcript p. 32; Andy Card, email to Michael Brown Aug. 29, 2005 9:51 p.m. Provided to Committee (showing that Brown spoke with Hagin on August 29 to provide updates of the situation in New Orleans.) . Interestingly, when asked whether he spoke directly to the President on the night of landfall concerning Mr. Bahamonde's over flight, Brown said he could not recall if he spoke to the President then. Brown stated: "I really don't recall if the President got - normally during my conversations with Deputy Chief of Staff Hag[i]n, sometimes the President would get on the phone for a few minutes, sometimes he wouldn't, and I don't recall specifically that night whether he did or not." Testimony of Michael Brown, former FEMA Director, before the U.S. Senate, Committee on Homeland Security and Governmental Affairs, Hurricane Katrina: The Roles of DHS and FEMA Leadership, Feb. 10, 2006, p. 42

³⁸ Committee staff interview of Michael Brown, Director of FEMA, conducted on Feb. 23, 2006, pp. 23-25. ("Question: Is there any reason for us to doubt that after you talked to Joe Hagin 5 or 6 o'clock on Monday evening, August 29th, that he then knew from you that the 17th Street Canal levee had broke and the city was flooding? Answer: I don't think there is any reason for any of us to doubt that they knew that. Question: Okay. And that they knew that at least in part from your phone conversation with Joe Hagin, correct? Answer: That's correct."). The substance of the Brown's reports to the White House on August 29 concerned the situation on the ground in New Orleans, including the early reports from Marty Bahamonde, a FEMA Public Affairs official and the only FEMA official on the ground in New Orleans the day of landfall. More specifically, Brown said he spoke with Hagin on Monday evening to discuss Bahamonde's report of his New Orleans flyover over New Orleans, but could not recall whether he specifically told Hagin in that call that the levees had broken. Committee staff interview of Michael Brown, Director of FEMA, conducted on Feb. 23, 2006, p. 21 ("...I think I used the phrase to Joe that, you know, our - - the worst nightmare is occurring ... I can't recall all of the words I used other than, this is, you know, our worst - - this is the worst scenario; this is, you know my worst fears are coming true. You know, I used the phrase, you know we have breaches of the canals..."); Testimony of Michael Brown, before the U.S. Senate Committee on Homeland Security and Governmental Affairs, Feb. 10, 2006, hearing on "Hurricane Katrina: The Roles of U.S. Dept of Homeland Security and FEMA Leadership," transcript p. 40 ("I think I

told him that we were realizing our worst nightmare, that everything we had planned about, worried about, that FEMA, frankly, had worried about for 10 years was coming true.”) Brown said he told Hagin or White House Chief of Staff Andrew Card about the levee breaches late in the afternoon on Monday because he recalled they were “debating” at the state Emergency Operations Center whether the levees were breached or overtopped. Testimony of Michael Brown, before the U.S. Senate Committee on Homeland Security and Governmental Affairs, Feb. 10, 2006, hearing on “Hurricane Katrina: The Roles of U.S. Dept of Homeland Security and FEMA Leadership,” transcript p. 131; committee staff interview of Michael Brown, Director of FEMA, conducted on Feb. 23, 2006, p. 15-16; deposition of Michael Brown, before the House Katrina Select Committee Staff, Feb. 11, 2006, p. 114. Brown also received an e-mail from White House Chief of Staff Andy Card at 9:51 p.m., Monday, in which Card acknowledged Brown’s continued contact with White House Deputy Chief of Staff Joe Hagin and said: “Joe Hagin has kept me well-informed of your reports.” Andy Card, e-mail to Michael Brown, Aug. 29, 2005, 9:51 p.m. Provided to Committee. Mr. Brown responded and stated: “Thanks for writing, Andy. This is a bad one.” E-mail from Michael Brown to Andy Card, Aug. 29, 2005, 10:00 p.m. Provided to Committee.

³⁹ Testimony of Michael Brown, former FEMA Director, before the U.S. Senate, Committee on Homeland Security and Governmental Affairs, Feb. 10, 2006, hearing on “Hurricane Katrina: The Roles of DHS and FEMA Leadership,” pp. 42-43.

⁴⁰ Testimony of FEMA Director Michael Brown, U.S. Senate Committee on Homeland Security and Governmental Affairs, Feb. 10, 2006, hearing on “Hurricane Katrina: The Roles of the Department of Homeland Security and FEMA Leadership,” p. 88.

⁴¹ Committee staff interview with Michael Brown, Former Director, FEMA, conducted on Feb. 23, 2006, pp. 34-36.

⁴² White House Press Release, Aug. 29, 2005, 10:06 a.m. PDT, “President Participates in Conversation on Medicare,” at <http://www.whitehouse.gov/new/releases/2005/08/print/20050829-5.html>, accessed on Apr. 26, 2006; White House Press Release Aug. 29, 2005, 2:40 p.m. PDT, “President Discusses Medicare, New Prescription Drug Benefits,” at <http://www.whitehouse.gov/news/releases/2005/08/print/20050829-11.html>, accessed on Apr. 26, 2006; White House Press Release, Aug. 29, 2005, at http://www.whitehouse.gov/news/releases/2005/08/images/20050829-5_p082905pm-0125-515h.html, accessed on Apr. 26, 2006 (including a picture of the President with Senator McCain holding a birthday cake and the caption, “President George W. Bush joins Arizona Senator John McCain in a small celebration of McCain’s 69th birthday”).

⁴³ The White House, “President Discusses Medicare, New Prescription Drug Benefits,” press release, Aug. 29, 2005, <http://www.whitehouse.gov/news/releases/2005/08/20050829-11.html>. Accessed on March 7, 2006.

⁴⁴ The White House, “President Participates in Conversation on Medicare,” press release, Aug. 29, 2005, <http://www.whitehouse.gov/news/releases/2005/08/20050829-5.html>. Accessed on March 7, 2006.

⁴⁵ HSOC Spot Report #13: The Report further stated: “Only one of the main pumps is reported to still be working but cannot keep up with the demand and its longevity is doubtful.” The White House received this report at 12:02 a.m., Tuesday, Aug. 30, 2005. Michael Izner, e-mail to Homeland Security Operations Center – Homeland Security Information Network and others, Aug. 30, 2005, 12:02 a.m. Provided to Committee; filed as bates not WHK 07158-07160. The other addressees for the e-mail are DL-NSC-WHSR, the National Interagency Coordination Center, as well as the following officials, Bethany Nichol, Elliott Langer, Kirstjen Nielsen, Joel Bagnal, Elizabeth Farrell, Julie Bentz, Daniel Kaniewski, Richard Davis, Michael Barton and copied to Matthew Broderick, Frank DiFalco, Bob Stephan, John Chase, Tom Dinanno, Edward McDonald, Gail Kulish, Tom Parr, Michael Jackson, and John Wood.

⁴⁶ Michael Izner, email to DL-NSC-WHSR, Aug. 30, 2005, 6:33 a.m. Provided to Committee; filed as bates no. WHK 06264. The other addresses of the email are Bethany Nichols, Elliott Langer, Kirstjen Nielsen, Joel Bagnal, Elizabeth Farrell, Julie Bentz, Daniel Kaniewski, Richard Davis, Michael Barton, and copied to Matthew Broderick, Frank DiFalco, Bob Stephan, John Chase, Tom Dinanno, Edward McDonald, Gail Kulisch, Tom Paar, Michael Jackson, (DepSec), John Wood, (COS), NICC, Secretary Briefing Staff, HSOC.HSIN, HSOC.SWO.

⁴⁷ E-mail from Insung Lee to DL-NSC-WHSR and others, Aug. 30, 2005, 10:23 a.m. Provided to Committee; filed as bates no. WHK 07910. The other addressees of the email are Bethany Nichols, Elliott Langer, Kirstjen Nielsen, Joel Bagnal, Elizabeth Farrell, Julie Bentz, Daniel Kaniewski, Richard Davis, Michael Barton, Matthew Broderick, Frank DiFalco, Bob Stephan, John Chase, Tom Dinanno, Edward

McDonald, Gail Kulisch, Tom Paar, Michael Jackson, John Wood, (COS), NICC, Secretary Briefing Staff; HSOC.HSIN, HSOC.SWO, HSOC.FEMA, HSOC.DOD, HSOC.State&Local

⁴⁸ The White House, "President Commemorates 60th Anniversary of V-J Day," press release, Aug. 30, 2005, <http://www.whitehouse.gov/news/releases/2005/08/images/20050830-1.html>. Accessed on March 11, 2005.

⁴⁹ Committee staff interview of Michael Brown, Director of FEMA, conducted on Feb. 23, 2006, p. 89-90; Deposition of Michael Brown before the House Katrina Select Committee, Feb. 11, 2006, p. 111-112 (warning the President, Vice President, Secretary Chertoff, and Deputy Chief of Staff Karl Rove that "probably 90 percent of the population of New Orleans had been displaced, that we had a true catastrophic disaster on our hands, that this was probably one of the most serious things that the country had faced; that it was. We needed to be doing everything possible.").

⁵⁰ Committee staff interview of Michael Brown, Director of FEMA, conducted on Feb. 23, 2006, transcript p. 89-90.

⁵¹ Committee staff interview of Michael Brown, Director of FEMA, conducted on Feb. 23, 2006, transcript p. 97-98.

⁵² Committee staff interview of Michael Brown, Director of FEMA, conducted on Feb. 23, 2006, transcript p. 97-98.

⁵³ Committee staff interview of Michael Brown, Director of FEMA, conducted on Feb. 23, 2006, transcript p. 89-91.

⁵⁴ The White House. "Press Gaggle by Scott McClellan, Naval Air Station North Island, San Diego, California," press release, Aug. 30, 2005, 9:34 a.m. PDT. Provided to Committee; filed as bates no. WHK 01632-01633. ("QUESTION: This is more -- this is more symbolic. Cutting short his vacation is more symbolic because he can do all this from the ranch, right? McCLELLAN: No, I think -- no, I disagree. Like I said, this is one of the most devastating storms in our nation's history, and the President, after receiving a further update this morning, made the decision that he wanted to get back to D.C. and oversee the response efforts from there.").

⁵⁵ The White House, "President Outlines Hurricane Katrina Relief Efforts," press release, Aug. 31, 2005. Provided to Committee; filed as bates no. WHK 01636-01637.

⁵⁶ Committee staff interview with Laurence Broun, conducted on March 21, 2006, transcript pp. 15-16.

⁵⁷ Insung Lee, email to Homeland Security Operations Center, Senior Watch Officer, Aug. 31, 2005, 12:41 p.m. Provided to Committee; filed as bates no. WHK 12588-12598. The other addressees of the email are DL-NSC-WHSR, Bethany Nichols, Elliott Langer, Kirstjen Nielsen, Joel Bagnal, Elizabeth Farrell, Julie Bentz, Daniel Kaniewski, Richard Davis, Michael Barton, Matthew Broderick, Frank DiFalco, Bob Stephan, John Chase, Tom Dinanno, Edward McDonald, Gail Kulisch, Tom Paar, Michael Jackson, (DepSec), John Wood, (COS); NICC; Secretary Briefing Staff; HSOC.HSIN; IMD.

⁵⁸ "President's Remarks to the Travel Pool in Louisiana," White House, Sept. 20, 2005, 3:40 p.m. CDT, at <http://www.whitehouse.gov/news/releases/2005/09/20050920-2.html>, accessed on Apr. 26, 2006.

⁵⁹ "Press Briefing White House Briefing, September 20, 2005; Remarks by President George W. Bush to the travel pool in Louisiana. White House Regular Briefing, Sept. 22, 2005, <http://www.whitehouse.gov/news/releases/2005/09/20050920-3.html>; accessed on April 24, 2006.

⁶⁰ "Press Briefing by Scott McClellan," White House, Sept. 22, 2005, 12:38 p.m. EDT, at <http://www.whitehouse.gov/news/releases/2005/print/20050922-2.html>, accessed on Apr. 26, 2006.

⁶¹ "President Briefed on Hurricane Rita Preparations at FEMA," White House, Sept. 23, 2005, 12:32 p.m. EDT, at <http://whitehouse.gov/news/releases/2005/09/print/20050923.html>, accessed Apr. 26, 2006.

⁶² White House Press Gaggle (as released by the White House) September 24, 2005 aboard Air Force One en route to Austin, TX

⁶³ Good Morning America, "President George W. Bush Exclusive Interview," Sept. 1, 2005.

⁶⁴ The White House. "President, Lieutenant General Honore Discuss Hurricane Relief in Louisiana," press release, Sept. 12, 2005. Provided to Committee; filed as bates no. WHK01723.

⁶⁵ "Tropical Cyclone Report Hurricane Katrina 23-30 August 2005," National Hurricane Center, December 20, 2005 p. 9 ("The surge overtopped large sections of the levees during the morning of 29 August east of New Orleans, in Orleans Parish and St. Bernard Parish, and it also pushed water up the Intracoastal Waterway and into the Industrial Canal. The water rise in Lake Pontchartrain strained the floodwalls along the canals adjacent to its southern shore, including the 17th Street Canal and the London Avenue Canal. Breaches along both the Industrial Canal east of downtown New Orleans and the 17th Street Canal

northwest of downtown appear to have occurred during the early morning on 29 August, possibly even before the eye made initial landfall in Louisiana. Breaches along the London Avenue Canal north of downtown appear to have occurred later that night.”).

⁶⁶ E-mail message from Daniel J. Kaniewski, Director of Response and Recovery Homeland Security Council, The White House, August 29, 2005 11:13 a.m., p.1 (“Currently Katrina has 127 mph sustained winds, making it a Category 3 storm. Katrina is moving northward, located 22 miles to the east of New Orleans. Flooding is significant throughout the region and a levee in New Orleans has reportedly been breached sending 6 to 8 feet of water throughout the 9th Ward area of the city. Per the Governor, water is rising at 1 foot per hour and the New Orleans mayor reports problems with a pumping station, causing flooding. HSOC reports that due to the rising water in the 9th Ward, residents are in their attics and on their roofs.”).

⁶⁷ “Southeast Louisiana Hurricane Preparedness Study,” 1994, by U. S. Army Corps of Engineers, Federal Emergency Management Agency, and National Weather Service, pp. 5-2 (“Although designed to provide substantial levels of protection, these levees and floodwalls are subject to overtopping during catastrophic events. The surge inundation maps show that for slow moving category 3, category 4, or category 5 storms, only those reaches of St. Tammany Parish located north of 1-12 would be outside of the potential limits of storm surge.”); Federal Emergency Management Agency, “Background Information to Accompany Region VI Hurricane Plan For New Orleans, Corps of Engineers Analysis of the Flood Problem in New Orleans,” p. 1 (“The most dangerous storm would be a slow-moving category 3 or stronger hurricane on a path that carries it northward 20 to 30 miles west of and parallel to the Mississippi River until it is near New Orleans. The worst case would be if a storm on that path then re-curved to the north and continued inland....There could be extensive and severe erosion of levees and perhaps complete breaches....Each of the affected parishes has a series of one or more levees which normally form a protective ring around the inhabited area, although, if a severe hurricane produces flooding higher than the levees are designed for, the surge could overtop the levees and cause massive flooding. Storm surge, rain water, and natural run-off can fill these bowl-shaped areas after a hurricane. Some areas do not have hurricane protection levees, and in those areas, storm surge can rise and recede quickly. But when a hurricane storm surge overtops ring-levees and fills the bowl, the protective levees may actually trap flood-water, prevent it from draining out, and prolong the flooding.”), in Sherry Wainwright, FEMA Region VI, “Hurricane Plan for Louisiana, Attachment to the Regional Supplement to the Federal Response Plan,” May 2002, provided to the Committee; Southeast Louisiana Hurricane Evacuation and Sheltering Plan, Jan. 2000, p. II-1 (“...worst case Category 3, 4 or 5 Hurricane Scenario for the Greater New Orleans Metropolitan Area, as determined by the National Weather Service (NWS) Sea, Lake and Overland Surge from Hurricanes (SLOSH) Model, could cause a maximum inundation of 20 feet above sea level in some of the parishes in the Region, not including tidal effects, wind waves and storm rainfall.”); State of Louisiana Hazard Mitigation Strategy – Volume I State of Louisiana Hazard Mitigation Plan, Apr. 15, 2005, p. I-46 (“In Louisiana, storm surges are large waves of Gulf waters that sweep across coastlines where a tropical storm makes landfall. Generally the more intense the storm, the greater the height of the storm surge; the higher the storm surge, the greater the damage to the coastline...Shallow coastal bathymetry increases the magnitude of a storm surge. The coastal bathymetry of southeastern Louisiana, with its low, flat topography and land surface elevations that in many places dip below sea level, can experience storm surges up to 100 miles inland. Category 3 storms can bring depths up to 24 feet as far north as the City of New Orleans. Category 5 storms can produce depths as high as 36 feet. Furthermore, lakes along the coast, namely, Lake Maurepas, Lake Borgne, and Lake Pontchartrain, exacerbate the effects of coastal flooding because of wave effects that can regenerate over inland lakes.”).

⁶⁸ Committee staff interview with Dr. Wilson Shaffer, National Weather Service, conducted Feb. 24, 2006, transcript, p. 56 (Sea, Lake, and Overland Surge from Hurricane (SLOSH) storm surge studies in New Orleans reported to emergency preparedness officials in 2004 and 2005, stating that “[t]he big change that we saw was that we were going to start seeing some flooding now with a few category 2 hurricanes,” without any mention of levee breaches); “Hurricanes: Nature’s Weapons of Mass Destruction,” presentation by Dr. Wilson Shaffer, National Weather Service to the Louisiana Emergency Preparedness Association, June 1, 2005, (including a computer projection showing extensive overtopping of New Orleans levees from composite of Category 3 hurricanes, as well as a slide entitled, “Louisiana’s Vulnerability to Hurricane Storm Surge”); e-mail from Brett Herr, U. S. Army Corps of Engineers official in New Orleans District Office to Jay Baker, Mar. 15, 2004 (“[N]ew surge inundation maps show significant portions of Orleans and Jefferson Parish that are susceptible to flooding from slow-moving

Category 2 and fast Category 3 hurricanes. We had previously thought that the city would...fare pretty well for these types of storm. The new maps will result in significantly longer [evacuation] clearance times for these scenarios.”), bates no. DHS-FEMA-0025-0002638.

⁶⁹ CNN Live today, “President Bush Visits Gulf Coast: Early Warnings – Part 2, September 2, 2005.

⁷⁰ White House briefing to the Committee staff, Feb. 3, 2006.

⁷¹ Speech of President George W. Bush, Jackson Square, New Orleans, Louisiana, September 15, 2005.

⁷² Testimony of Michael Brown, Director of FEMA, before the U.S. Senate, Committee on Homeland Security and Governmental Affairs, The Roles of U.S Dept of Homeland Security and FEMA Leadership, Feb. 10, 2006, transcript p. 114-115.

⁷³ Testimony of Michael Brown, Director of FEMA, before the U.S. Senate, Committee on Homeland Security and Governmental Affairs, The Roles of U.S Dept of Homeland Security and FEMA Leadership, Feb. 10, 2006, transcript p. 32; Andy Card, email to Michael Brown, Aug. 29, 2005, 9:51 p.m.

⁷⁴ Testimony of Michael Brown, Director of FEMA, before the U.S. Senate, Committee on Homeland Security and Governmental Affairs, The Roles of U.S Dept of Homeland Security and FEMA Leadership, Feb. 10, 2006, transcript p. 40; Committee staff interview of Michael Brown, Director, FEMA, conducted on Feb. 23, 2006, transcript p. 21.

⁷⁵ Committee staff interview of Michael Brown, Director of FEMA, conducted in Washington, D.C. on Feb. 23, 2006, p. 24-25. The following exchange occurred: **Question:** Is there any reason for us to doubt that after you talked to Joe Hagin 5 or 6 o'clock on Monday evening, August 29th, that he then knew from you that the 17th Street Canal levee had broke and the city was flooding? **Answer:** I don't think there is any reason for any of us to doubt that they knew that. **Question:** Okay. And that they knew that at least in part from your phone conversation with Joe Hagin, correct? **Answer:** That's correct

⁷⁶ Andrew H. Card, Jr., email to Michael Brown, Aug. 29, 2005, 9:51 p.m. Provided to the Committee; Michael Brown, email to Andy Card, Aug. 29, 2005, 10:00 p.m. Provided to the Committee.

⁷⁷ Testimony of Michael Brown, Director of FEMA, before the U.S. Senate, Committee on Homeland Security and Governmental Affairs, The Roles of U.S Dept of Homeland Security and FEMA Leadership, Feb. 10, 2006, transcript p. 65-66.

⁷⁸ At the time, I did not seek a subpoena to the Office of the Vice President (OVP), to which the Committee sent a separate request letter, because that Office provided, in some respects, more responsive and useful material than did the rest of the White House. The OVP produced to the Committee a variety of material referencing or originating with its high-level staff, and it did not seek to assert the absolutist position put forth by the White House Counsel's office on behalf of the rest of the White House. While I am skeptical that we received a full production from the OVP and believe that the Committee should have pushed harder for a larger production, I nonetheless did not include the OVP in my subpoena request because I did not conclude that its response reached the level of egregiousness demonstrated by the rest of the White House.

⁷⁹ Congressional Research Service Memorandum to Senate Homeland Security and Governmental Affairs Committee, November 29, 2005, p. 13.

⁸⁰ Congressional Research Service Memorandum to Senate Homeland Security and Governmental Affairs Committee, February 9, 2006, p. 3 (emphasis added).

⁸¹ 12/20/95 Cong. Record, p. S18972. (emphasis added).

⁸² Testimony of Michael Brown, Director of FEMA, before the U.S. Senate, Committee on Homeland Security and Governmental Affairs, The Roles of U.S Dept of Homeland Security and FEMA Leadership, Feb. 10, 2006, transcript pp. 30-31.

⁸³ March 15, 2006 letter from Chairman Collins to Ranking Minority Member Lieberman, page 1.

⁸⁴ True, the General Accountability Office and some agency Inspectors General have conducted their own investigations, but none, to our knowledge, are as comprehensive as the Committee's, nor have any received greater cooperation from the White House (to the extent that they have even asked for it).

⁸⁵ Testimony of Michael Chertoff, Secretary of Homeland Security, before the U.S. House, Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hurricane Katrina: The Role of the Department of Homeland Security*, Oct. 19, 2005, p. 4 (“it is important as we go

forward that we learn lessons, even painful lessons, from past experiences, things that worked well and things that didn't work well.”)

⁸⁶ Secretary Michael Chertoff, Questions for the Record, Senate Homeland Security & Governmental Affairs Committee “Hurricane Katrina: The Homeland Security Department’s Preparation and Response” February 15, 2006 (response dated March 8, 2006), p. 33.

⁸⁷ Because only individuals at DHS know if they have produced to us all the responsive documents they have, it can be difficult for a requestor to state definitively whether a request has been fully complied with. However, there are areas where the nonresponsiveness is obvious – for instance, in the case of information requests that there has been no attempt to answer or in requests, such as that for Secretary Chertoff’s schedule or documents in his possession, for which clearly no material has been produced. In other cases, a small fraction of the material requested may have been produced but the request has nonetheless clearly not been complied with. Thus, for example, in a January 30, 2006 letter to the majority staff director, which was shared with my staff, Gus Coldebella, Deputy General Counsel of DHS attached a table purporting to show the extent of DHS’s compliance with the priority document requests included in the Committee’s December 30, 2005 letter. A cursory look at the table might suggest that most of the requests have been complied with, but in fact any such suggestion would be highly misleading. For example, the December 30 letter asked for all documents related to the Federal Protective Service’s preparation for or response to Hurricane Katrina, including any actions taken at the Superdome and the Convention Center; what Mr. Coldebella’s letter lists as produced in response comprises simply the emails for a single individual, the head of the Federal Protective Service. *See* Letter from Gus P. Coldebella to Michael Bopp, January 30, 2006.

⁸⁸ Committee staff agreed to forego interviewing the remaining individual on the list.

⁸⁹ The Committee was permitted to interview only two individuals who were not on the December 30, 2005 priority list: the Director of the Federal Protective Service and the Chief of the Critical Infrastructure Protection Division of the National Communications System – both in preparation for a hearing focused on law enforcement and communications issues, respectively.

⁹⁰ Department of Homeland Security, Hurricane Katrina DHS SITREP #7, Monday, August 29, 1800 hours, filed as bates no. DHS 0001181.

⁹¹ Committee staff interview of John Wood, Chief of Staff to the Secretary, Department of Homeland Security, conducted on January 27, 2006, transcript p. 38.

⁹² Committee staff interview of William E. King, Branch Chief, Region V, Radiological Emergency Preparedness Program, Technical Services Branch, Federal Emergency Management Agency, conducted on Jan. 17, 2006, transcript pp. 178-179.

⁹³ The only exceptions to this were Matthew Broderick, Director of the HSOC, whose interview lasted for approximately a total of six hours over the course of two sessions in a single day; and Wendell Shingler, Director of the Federal Protective Service, who was interviewed in a second session lasting less than 40 minutes two weeks after his initial interview, in order to clarify a particular issue.

⁹⁴ Specifically, at the end of the session with Mr. Stephan, the General Counsel for the Minority stated: “If I may, and I don't mean this in any way -- there are a whole lot of -- we are sort of circumscribed by time here, and I must tell you, you have been most informative, extremely insightful in a lot of ways. But it doesn't begin to get to a whole lot of other issues that we want to spend time with, with somebody who is so central to so many aspects of DHS in connection with a catastrophe. I would like to meet with you again. I would like to ask that this be continued. I would like to get documents, particularly e-mails, from you. And that's central to any good investigation. So while we may finish here today, it's a very strong position of the minority that we really do have to speak with you again, and we need to have documents that are central to what you were doing, particularly the e-mails. And I would like to have this session be continued on that basis.” Committee staff interview of Robert Stephan, Assistant Secretary for Infrastructure Protection, DHS, conducted on Jan. 13, 2006, transcript pp. 148-149.

Mr. Stephan’s interview represented a convergence of a number of DHS’s uncooperative practices. In addition to unreasonably limiting the time of the interview, DHS counsel also produced Mr. Stephan several hours before he had been scheduled to appear and in lieu of another witness who had been

scheduled for that time. Moreover, none of Mr. Stephan's emails had been produced before his appearance for the interview.

⁹⁵ Although DHS eventually made the then-Chief Financial Officer, Andrew Maner, available for an interview on February 2, 2006, the virtual absence of any budget-related documents significantly limited the effectiveness of any questioning Committee staff could pursue.

⁹⁶ Subsequently, DHS also produced to the Committee documents that were posted on the Homeland Security Information Network (HSIN) portal.

⁹⁷ Lt. Robert Walls, email to LANTMHLS Watch; RCCAlameda; CommandCenPAC; Command Center - D1; CC1; Command Center - LANTD5; D7CommandCenter; D8 Command Center; Ninth District Command Center; CommandCenD11; D13(cc); D14ccDutyOfficer; D17-PF-Jun-Command Center; hsoc.uscg@dhs.gov; fldr-NRC; D05-SMB-D5MHLSWatch; D05-SMB-LANTCmdCtr; D05-SMB-LANTMHLSWatch; D8IMTWatch; tsoc.st@dhs.gov; est-mcc-dot@dhs.gov; CMC-01@rspa.dot.gov; cmc-02@dot.gov; uscg.iimg@dhs.go, Aug. 29, 2005, provided to the Committee.

⁹⁸ We recently received information in answer to this specific question only by including it, in a modified form, in a question for the record to Secretary Chertoff after his appearance before the Committee. Secretary Michael Chertoff, Questions for the Record, Senate Homeland Security & Governmental Affairs Committee "Hurricane Katrina: The Homeland Security Department's Preparation and Response" February 15, 2006 (response dated March 8, 2006), pp. 33-41. Other questions remain unanswered, however.

⁹⁹ Letter, Col. Henry Whitehorn to FBI Director Robert Mueller, Aug. 30, 2005. Provided to Committee; filed as bates no. FBI 000000003.

¹⁰⁰ Committee staff interview of William Mercer, Principal Associate Deputy Attorney General, Department of Justice, conducted in Washington, DC, on Jan. 26, 2006, transcript pp. 29-30 ("But I guess if the question is how did the requests come in, let me turn to those. Because that's a very significant part of the Federal statute here. In Title 42--and I think the provision is 42 USC 10501--a governor, not a state attorney general, not a mayor--a governor can ask the Attorney General of the United States to deploy Federal law enforcement resources if the governor makes a proffer saying, "We can't meet the responsibilities that we need to carry out for public safety, and I request that you deploy Federal resources to assist." And we got a letter from Governor Barbour on Saturday the 3rd. And we responded that same day. It was faxed in on the 3rd, we met with the Attorney General on Saturday. He issued the order on Saturday. . . . And Governor Blanco faxed us a letter the next day."). Mr. Mercer also said that the Office of the Deputy Attorney General did not receive "any direct requests from a state or local official until [it] got the letter from Governor Barbour on the 3rd of September." Committee staff interview of William Mercer, Principal Associate Deputy Attorney General, Department of Justice, conducted in Washington, DC, on Jan. 26, 2006, transcript p. 24. Apparently Mr. Mercer also did not consider a request addressed to the head of the FBI to be a "direct request" to the appropriate office; *id.* at pp. 30-31 (same).

¹⁰¹ Mr. Mercer, asked whether anyone from DOJ had spoken with the governor's office about the requirement of a gubernatorial request, responded that he did not know. Committee staff interview of William Mercer, Principal Associate Deputy Attorney General, Department of Justice, conducted in Washington, DC, on Jan. 26, 2006, transcript pp. 44-45.

¹⁰² *See, e.g.*, William Mercer, email to Ted Ulloy, Kyle Sampson, and Jeffrey Taylor, Sept. 1, 2005, 1:30 a.m. Provided to Committee; filed as bates no. DAG 000000064 (forwarding a memorandum written by Mercer that has never been produced to us. In the transmittal email, Mercer offers to put the information into bullet points and notes that "there are some important things to pass along to the AG" concerning Mercer's discussions with the U.S. Attorneys from Baton Rouge and New Orleans).

¹⁰³ *See, e.g.*, James McAtamney, Senior Counsel for National Security Affairs Transmittal slip with cover notes and ESF-13 excerpt to Ted Ullyot and Bill Mercer. Provided to Committee; filed as bates no. DAG 000000100-106. We do not have McAtamney's emails except to the extent they were produced as part of Mercer's files.

¹⁰⁴ *See, e.g.*, Matthew Broderick, e-mail to John Clark, Sept. 4, 2005, 4:23 p.m. Provided to Committee; filed as DHS-HSOC-0004-0006525. ("The dispute is whether FBI or ICE is the lead. I believe we have designated the ICE SAC as the lead. DHS and DOJ co-share this ESF and usually (terrorist related) FBI is lead. This is a good chance for us to be.").

¹⁰⁵ 42 USC § 10501 ("Emergency Federal Law Enforcement Assistance Program").

¹⁰⁶ Undated document, “U.S. Department of Health and Human Services Response to the Senate Homeland Security and Governmental Affairs Questions regarding Katrina,” received by the Committee on February 24, 2006.

¹⁰⁷ “Concept of Operations Plan (CONOPS) for Public Health and Medical Emergencies,” HHS, January 2005, OPHEP 16285 – OPHEP 16315

¹⁰⁸ Letter from Chairman Collins and Sen. Lieberman to Secretary Michael Leavitt, January 13, 2006.

¹⁰⁹ Committee staff interview of William M. Lokey, Chief, Operations Branch, Response Division, Federal Emergency Management Agency, January 20, 2006, pp. 75-76.

¹¹⁰ Committee staff interview of William M. Lokey, Chief, Operations Branch, Response Division, Federal Emergency Management Agency, January 20, 2006, pp. 192-193. At the time Katrina hit, FEMA had not yet produced an Incident Management Handbook to adapt ICS to FEMA operations. Committee staff interview of William M. Lokey, January 20, 2006, p. 194. *See* FEMA ERT-N Draft Concept of Operations (6-6-05), files as bates no. DHS-FEMA-0115-0000010.

¹¹¹ Interview of William M. Lokey, Chief, Operations Branch, Response Division, Federal Emergency Management Agency, January 20, 2006, p. 191. William Carwile, the FCO for Mississippi, also complained about the lack of training dollars for ERT-N teams. Committee staff interview of William Carwile, former Federal Coordinating Officer, Region IX, Federal Emergency Management Agency, December 6, 2005. pp. 22-23, 43.

¹¹² Committee staff interview of William Carwile, former Federal Coordinating Officer, Region IX, Federal Emergency Management Agency, December 6, 2005. p. 47.

¹¹³ Committee staff interview of William King, Branch Chief, Region V, Radiological Emergency Preparedness Program, Technical Services Branch, Federal Emergency Management Agency, January 17, 2006, p. 28.

¹¹⁴ Committee staff interview of Tony Robinson, Director, Response and Recovery Division, Region VI, Federal Emergency Management Agency, Operations Section Chief, and then Deputy Federal Coordinating Officer for Special Projects, November 15, 2005, p. 40.