

## I. COMMENTS ON MAJORITY VIEWS

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The majority report includes over 90 findings. Taken together, these findings depict a deeply flawed response to one of the worst disasters in U.S. history.

The majority report finds massive failures in virtually every topic it addresses, including planning, execution, and leadership. As the majority report concludes, “[w]e are left scratching our heads at the range of inefficiency and ineffectiveness that characterized government behavior right before and after this storm.” The majority report finds “shortcomings and organizational inaction evident in the documents and communications the Committee reviewed.”

Some of these problems were obvious even before the investigation began. For example, Americans across the country saw for themselves during the televised coverage of the hurricane’s aftermath that “FEMA management lacked situational awareness” and suffered from an “overwhelmed logistics system.” And they saw how “massive” communications inoperability “impaired response efforts, command and control, and situational awareness.”

Other problems were discovered during the Committee’s investigation. The “Hurricane Pam” exercise had predicted how a massive hurricane could devastate New Orleans, and the majority report finds that officials failed to implement the lessons learned from this exercise. The majority report also finds that miscommunications between the Pentagon and Homeland Security Department created confusion and “near panic;” that “top officials” at the Departments of Health and Human Services and Homeland Security “delayed medical care” because they did not understand who controls the National Disaster Medical System; and that officials across the government “had varying degrees of unfamiliarity with their roles and responsibilities under the National Response Plan.”

Overall, the majority report paints a picture of leaders who failed to lead and an executive branch that failed to execute, resulting in a passive, disorganized response.

An internal review by the White House came to similar conclusions. During a briefing to the Select Committee on December 15, 2005, Ken Rapuano, White House Deputy Homeland Security Advisor, summarized more than 60 specific findings from the White House review of the government’s response to Hurricane Katrina.<sup>1</sup> These findings identified problems with almost every facet of the response, including planning, the military response, emergency communications, logistics, coordination with the private sector, training, public communications, environmental issues, shelter and housing, public health, and law enforcement.

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<sup>1</sup> Letter from Rep. Charlie Melancon and Rep. Gene Taylor to Select Committee Chairman Tom Davis (Dec. 15, 2005) (summarizing the contents of Mr. Rapuano’s briefing).

The Government Accountability Office also reached similar findings. On February 1, 2006, GAO reported that “responders at all levels of government — many victims themselves — encountered significant breakdowns in vital areas such as emergency communications as well as obtaining essential supplies and equipment.”<sup>2</sup> According to GAO, the cause of these breakdowns was an absence of “clear and decisive leadership,” “strong advance planning, training, and exercise programs,” and “capabilities for a catastrophic event.”<sup>3</sup>

What is most troubling about these findings is how closely they mirror problems identified after September 11, 2001. These same problems — a disjointed federal response, agencies that failed to share information, the absence of a clear chain of command, a lack of systems to communicate during the crisis — should have been resolved by the massive commitment of resources and government reorganization that took place after 9/11. The findings of the Select Committee, the White House, and the Government Accountability Office make clear that these problems have not been solved. What remains unclear is why the nation has made so little progress in preparedness, more than four years after 9/11.

In several areas, we have comments on specific findings made in the majority report. These are presented below.

#### **A. National Guard Performance**

First and foremost, we wholeheartedly agree with the majority finding that the National Guard performed admirably under the most trying of circumstances. These citizen soldiers came to the aid of their communities even as many of them lost their homes and loved ones to the storm. This assessment is unanimous.

White House Deputy Homeland Security Advisor Ken Rapuano told the Select Committee on January 27, 2005: “The National Guard was the most functional and robust presence in the region, and they did an incredible job.”<sup>4</sup> Phil Parr, the Deputy Federal Coordinating Officer for FEMA who was on the ground in New Orleans after Hurricane Katrina struck, testified before the Select Committee on December 14, 2005:

I cannot say enough good things about the Louisiana National Guard. Every person I spoke to lost either something or everything. There was

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<sup>2</sup> U.S. Government Accountability Office, *Statement by Comptroller General David M. Walker on GAO’s Preliminary Observations Regarding Preparedness and Response to Hurricanes Katrina and Rita* (Feb. 1, 2006) (GAO-06-365R).

<sup>3</sup> *Id.*

<sup>4</sup> Briefing by Ken Rapuano, White House Deputy Homeland Security Advisor, to Select Committee (Jan. 27, 2005).

one gentleman who lost his wife, but he was still there working. They worked extremely hard. They were moving commodities. They kept control of the crowd. ... They were extremely professional. They were easy to work with. It was a pleasure. As a matter of fact, I'm even going to go so far as to say — because there's so many people I haven't mentioned and I'm not going to run down a list — but I worked with a National Guard unit in St. Bernard Parish from Colorado, also phenomenal people. So I just cannot say enough good things about working with the Louisiana National Guard.<sup>5</sup>

In an interview with the Select Committee staff on December 6, 2005, Mr. Parr explained further that, in addition to performing its own urgent mission, the National Guard was essentially making up for FEMA shortfalls.<sup>6</sup> For example, when FEMA failed to provide communications equipment to its officials in New Orleans, the National Guard made its own equipment available to FEMA. And when FEMA failed to provide vehicles so its officials could operate in flood conditions, Mr. Parr told the Select Committee that National Guard forces ferried FEMA officials back and forth across the street to attend meetings. The Guard was selfless and professional and did not allow adverse conditions to negatively affect its mission.

In particular, we acknowledge the sacrifice of Sergeant Joshua Russell of the Mississippi National Guard, who lost his life during the storm attempting to rescue an elderly couple. We agree with the testimony of Maj. Gen. Harold Cross, the Adjutant General of Mississippi, who stated:

Sergeant Russell so highly represents the dedication and commitment of our National Guard. He swore to defend this country against all enemies, foreign and domestic. He'd already served in Iraq. He died facing forward to the enemy, in this case a natural disaster, and his last moments on this earth were spent helping others at the risk of his own life. He's a true American hero.<sup>7</sup>

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<sup>5</sup> House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: Preparedness and Response by the State of Louisiana*, 109<sup>th</sup> Cong. (Dec. 14, 2005).

<sup>6</sup> Interview of Phil Parr, Deputy Federal Coordinating Officer, Federal Emergency Management Agency, by Select Committee Staff (Dec. 6, 2005).

<sup>7</sup> House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: Preparedness and Response by the Department of Defense, the Coast Guard, and the National Guard of Louisiana, Mississippi, and Alabama*, 109<sup>th</sup> Cong. (Oct. 27, 2005).

## B. FEMA's "Broken" Logistics System

We agree with the majority report that that FEMA's logistics system is inadequate. We concur that "FEMA management lacked situational awareness of existing requirements and of resources in the supply chain." This assessment came not only from the majority report, but the White House as well. In a briefing to the Select Committee on December 15, 2005, White House officials reported that their internal review had concluded that "priority needs were not met expeditiously," there was a "lack of real-time asset tracking," and FEMA's logistics system "failed to provide certain resources in an efficient and timely manner in order to meet the needs of victims and response personnel."<sup>8</sup>

FEMA officials agreed. For example, FEMA's top official in Mississippi, William Carwile, wrote in the days after the hurricane that the "system appears broken."<sup>9</sup> He described the same problems as officials in Louisiana, including a "dysfunctional" distribution system and inadequate supplies: "We were ordering 425 trucks of ice and 425 trucks of water a day and you're giving us 40."<sup>10</sup>

We add that the problems with FEMA's logistics system were well documented after the Florida hurricanes of 2004.<sup>11</sup> Solving these problems should have been a top priority for management at the Department of Homeland Security, and Congress should make this a key area for continuing oversight.

## C. Contracting Problems

We agree with the Select Committee's finding that "the failure at all levels to enter into advance contracts led to chaos and the potential for waste and fraud as acquisitions were made in haste." We also agree that "FEMA suffered from a lack of sufficiently trained procurement professionals," and that "procurement continues to be decentralized and lacking a uniform approach" at the Department of Homeland Security. We are disappointed, however, that the Committee did not go further in its examination of contracting issues. We recognize that this was

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<sup>8</sup> Briefing by Ken Rapuano, White House Deputy Homeland Security Advisor, to Select Committee (Jan. 27, 2005).

<sup>9</sup> E-mail from William Carwile, Federal Coordinating Officer, Federal Emergency Management Agency, to Michael Lowder, Deputy Director of Response, Federal Emergency Management Agency, et al. (Sept. 2, 2005).

<sup>10</sup> House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: Preparedness and Response by the State of Mississippi*, 109<sup>th</sup> Cong. (Dec. 7, 2005). See also *Barbour Beseches Congress*, Biloxi Sun Herald (Dec. 8, 2005).

<sup>11</sup> Department of Homeland Security, Office of the Inspector General, *Emergency Preparedness and Response Could Better Integrate Information Technology with Incident Response and Recovery* (Sept. 2005) (OIG-05-36).

caused in part by the Committee's short deadline, and we urge standing congressional committees to take up where the Select Committee left off.

On November 2, 2005, the Select Committee held a hearing on the government's use of contractors to prepare for and respond to Hurricane Katrina and other catastrophic events.<sup>12</sup> This hearing raised troubling questions about the government procurement system's ability to respond. The government and contractor representatives who testified were unable to answer many basic questions about the scope, price, and terms of contracts awarded in response to Hurricane Katrina.

For example, the witness from the Army Corps of Engineers was unable to provide an estimate of the government's average cost to install blue tarps on damaged roofs. When asked about reports that the government was being charged almost \$2,500 for two hours of work installing blue tarps, Colonel Norbert Doyle, Acting Principal Assistant Responsible for Contracting, acknowledged the concern, stating: "That does seem like a lot of money."<sup>13</sup> He offered to have a "paper put together to explain what we think the average cost per roof really is," and to supply that to Committee members.<sup>14</sup> This document was never provided.

Similarly, the witness from FEMA, Senior Procurement Executive Patricia English, was unable to explain whether the installation of travel trailers for displaced residents could move at a more rapid pace, whether there were travel trailers at staging areas that had not been delivered to victims, or how long it would take for FEMA to renegotiate the sole source contract with Bechtel to provide temporary housing.<sup>15</sup> Although she offered to provide the Select Committee with responses to these and other questions, the Select Committee never received this information.

Ms. English also testified about the lack of adequate contingency contracts, agreeing that FEMA was not prepared to have "adequately responded to the disaster."<sup>16</sup> When she was asked to explain what percentage of contracts for response and recovery were taken up on an emergency basis rather than a contingency basis, she offered to get back to the Committee. The information was not provided.

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<sup>12</sup> House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: The Federal Government's Use of Contractors to Prepare and Respond to Catastrophic Events*, 109<sup>th</sup> Cong. (Nov. 2, 2005).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

In response to yet another unanswered question, this one regarding FEMA's policy for reimbursing localities for debris removal, Greg Rothwell, the Chief Procurement Officer for DHS, acknowledged that "many of our answers are going to frustrate the committee" and promised to provide requested information at a later date. The information was not provided.

The Select Committee also obtained evidence that FEMA failed to properly execute a contract to recover dead bodies after the storm. FEMA contacted a company called Kenyon International Emergency Services to perform body recovery, but then delayed the company from starting its work for several critical days. According to company officials, the federal handling of this contract was so poor that the company eventually chose to deal directly with Louisiana Governor Kathleen Blanco.<sup>17</sup> When asked why the federal government did not have a contingency contract in place for these services prior to the hurricane, FEMA Director Michael Brown testified:

I don't know. And that was a mistake, one that we should look at and make sure we don't do in the future. I do know that, at some point, it was either 3,000 or 10,000 body bags were ordered. But that doesn't account for the fact that we should have had the contract with Kenyon in place before Katrina made landfall.<sup>18</sup>

As a result of this lack of information, Rep. Melancon wrote to Chairman Davis on November 9, 2005, requesting that the Committee submit 27 questions for the record to the witnesses who appeared at the hearing.<sup>19</sup> But the Select Committee received no responses to these questions.

Finally, although we agree with many of the majority findings on contracting, we strongly disagree that Congress should conduct less oversight. The majority report, referring specifically to the government's \$236 million contract with Carnival Cruise Lines, finds that "intense public scrutiny could limit the willingness of private sector companies to offer assistance during future disasters." In fact, congressional oversight protected the interests of taxpayers by raising important questions about whether it was reasonable to pay Carnival over \$214,500 to house a family of five for six months.<sup>20</sup>

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<sup>17</sup> Briefing by Robert Jensen, President and CEO of Kenyon International, to Select Committee Staff (Sept. 28, 2005). *See also Company Accused Feds of Disaster Dithering; Body-Recovery Firm Instead Turns to State*, New Orleans Times-Picayune (Oct. 28, 2005).

<sup>18</sup> House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: The Role of the Federal Emergency Management Agency*, 109<sup>th</sup> Cong. (Sept. 27, 2005).

<sup>19</sup> Letter from Rep. Charlie Melancon to Select Committee Chairman Tom Davis (Nov. 9, 2005).

<sup>20</sup> *See, e.g.*, Letter from Rep. Henry A. Waxman, Ranking Minority Member, House Committee on Government Reform, to Michael Chertoff, Secretary of Homeland Security (Oct. 20, 2005).

In testimony at the Select Committee's hearing on November 2, 2005, Terry Thornton, Vice President of Carnival Cruise Lines, testified that "if the government has any concerns about the implementation of this profit neutrality provision, we would welcome any reviews by the Defense Contract Audit Agency requested by [Military Sealift Command]."<sup>21</sup> After watching the hearing that day, Captain Joe Manna, the primary contracting officer at Military Sealift Command, which oversees the contract, immediately telephoned the President of Carnival and arranged for audits to begin.<sup>22</sup> Without congressional oversight, this audit would not have happened.

#### **D. Ineffective Law and Order**

We agree with the majority finding that the "collapse of law enforcement and lack of effective public communications led to civil unrest and further delayed relief." We also agree that "the New Orleans Police Department was ill prepared for continuity of operations and lost almost all effectiveness."

In addition, we agree that "Federal law enforcement agencies were also critical to restoring law and order and coordinating activities." We note, however, that the situation could have been much improved had FEMA acted on an offer from the Interior Department in the immediate aftermath of the storm to provide an additional 400 law enforcement officials, including special agents and refuge officers from the Fish and Wildlife Service. Interior Department officials explained their frustration:

Although DOI has 4,400 law enforcement officers — many of whom work in harsh environments and are trained in search and rescue, emergency medical services, and evacuation — DOI was not called upon to assist under the NRP until late September. Yet DOI had hundreds of officers readily deployable, many of whom were in the immediate area.<sup>23</sup>

For these reasons, we believe that law enforcement agencies both inside and outside the Department of Homeland Security should be better integrated into disaster response operations.

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<sup>21</sup> House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: The Federal Government's Use of Contractors to Prepare and Respond*, 109<sup>th</sup> Cong. (Nov. 2, 2005).

<sup>22</sup> Briefing by Captain Joe Manna, Kenneth Allen, and Harry Eliot, Military Sealift Command; Louise Vitale, Department of the Navy; and Sina Lehmkuhler, Office of the Secretary of Defense, to Minority Staff, House Committee on Government Reform (Jan. 24, 2006).

<sup>23</sup> Letter from P. Lynn Scarlett, Assistant Secretary for Policy, Management and Budget, Department of the Interior, to Chairman Susan M. Collins and Ranking Member Joseph I. Lieberman, Senate Committee on Homeland Security and Governmental Affairs (Nov. 7, 2005).

### E. Success of Overall Evacuations

We agree with the majority finding that “evacuations of general populations went relatively well in all three states.” We also agree that Louisiana’s overall evacuation of the “general population was very successful” and “went smoothly.” We disagree, however, with the suggestion that Louisiana state and local officials were responsible for “the failure of complete evacuations,” and that this failure “led to deaths, thousands of dangerous rescues, and horrible conditions for those who remained.” We do not believe 100% evacuation should be the standard operating assumption for disaster planning.

Louisiana state and local officials exceeded all expectations in executing their general evacuations. The majority report finds that more than a million people evacuated from southeastern Louisiana. Governor Blanco testified that of the 1.3 million people living in southeastern Louisiana, only 100,000 people, including first responders, remained in the area when Katrina made landfall.<sup>24</sup> In other words, more than 90% of the population evacuated. This was a significant accomplishment.

In testimony before the Select Committee, former FEMA Director Michael Brown criticized Louisiana officials for evacuation failures. But he offered his conclusion without first examining the facts. He said he was not sure how many people actually evacuated, and that he had not yet “had time to sit down and really look at those kinds of numbers.” Yet, he said he “would have hoped for 80 percent.”<sup>25</sup> In fact, Louisiana surpassed this goal.

We are not saying that evacuations cannot be improved. The majority report recognizes that even under mandatory evacuations, 10% to 25% of residents will refuse to leave, and authorities cannot forcibly remove these residents from their homes. We believe emergency planners should examine additional ways to encourage all residents to evacuate in such circumstances.

We also agree that evacuation of the special needs population was insufficient, and that evacuation of the city after it had flooded was chaotic and not well planned. We add that state and local officials should have better anticipated the basic needs of residents who evacuated to shelters of last resort. For example, they should have realized that flooding and power outages could have caused plumbing failures at the Superdome, and they should have pre-positioned portable toilets in advance. Nevertheless, we believe that these findings should be

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<sup>24</sup> House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: Preparedness and Response by the State of Louisiana*, 109<sup>th</sup> Cong. (Dec. 14, 2005).

<sup>25</sup> House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: The Role of the Federal Emergency Management Agency*, 109<sup>th</sup> Cong. (Sept. 27, 2005).

accompanied by clear recognition that the evacuation of the general population exceeded all predictions.

#### **F. Inadequate Housing and Community Rebuilding**

Nearly six months have passed since Hurricane Katrina made landfall, yet the housing situation in the affected areas of the Gulf Coast remains critical. In interviews with Select Committee staff in New Orleans in November, federal officials conceded that the housing mission is “failing.”<sup>26</sup> Despite multiple requests, the Select Committee held no hearings on this critical issue, claiming that it was a long-term recovery problem outside the Committee’s jurisdiction.

Securing temporary housing for displaced residents is an essential bridge in the transition from the relief phase to recovery. FEMA’s confusion, indecision, and inefficiency in meeting the need for travel trailers, rental assistance, and hotel reimbursement have delayed that transition. These failures have prolonged the period in which displaced residents are dependent on federal assistance, and they have aggravated the adverse effects of other failures in the federal response.

Documents cited by the Select Committee show that top Administration officials identified temporary housing as a critical problem area shortly after the hurricane had passed. For example, an e-mail from the Vice President’s office dated September 9, 2005, and stamped “VICE PRESIDENT HAS SEEN,” stated:

The trailer idea is worse then I originally thought. The last batch of trailers we are now purchasing will be coming off the production line in approximately 3.5 years. That means, most of these units won’t be available for use for months.<sup>27</sup>

The Select Committee report quotes this message to show that the Administration recognized the shortcomings of FEMA’s plan for trailer housing. It also finds that other federal agencies like Department of Housing and Urban Development were not fully utilized. But the report does not examine why the federal government has failed to develop a comprehensive rebuilding strategy for the Gulf Coast, or what happened to President Bush’s promises of programs such as urban homesteading.<sup>28</sup>

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<sup>26</sup> Interview of Capt. Tom Atkin, U.S. Coast Guard, Chief of Staff to Principal Federal Official Thad Allen, by Select Committee Staff (Nov. 9, 2005); Interview of Ted Monette, Deputy Principal Federal Official, Federal Emergency Management Agency, by Select Committee Staff (Nov. 9, 2005).

<sup>27</sup> E-mail from Neil Patel, Staff Secretary to the Vice President, to Charles Durkin, Personal Aide to the Vice President (Sept. 9, 2005) (addressed to I. Lewis “Scooter” Libby, Chief of Staff to the Vice President).

<sup>28</sup> *Post-Katrina Promises Unfulfilled*, Washington Post (Jan. 28, 2006).

As it turns out, the forecasts of shortcomings in FEMA's trailer program have been borne out. In Mississippi, hundreds of Gulf Coast residents are still living in tents. Although FEMA has been delivering trailers throughout the region, FEMA's efforts have been plagued by delay and inefficiency. In Mississippi, more than 33,000 trailers have been installed, but FEMA has a backlog of 34,000 repair requests and maintenance complaints.<sup>29</sup> In New Orleans, the trailers that have been installed meet just 37% of the demand for temporary housing.<sup>30</sup>

On October 28, 2005, Rep. Gene Taylor sent a letter requesting that the Select Committee hold a hearing on FEMA's administration of housing assistance programs.<sup>31</sup> At the Select Committee hearing on December 14, 2005, Reps. Taylor and Melancon renewed this request.<sup>32</sup> The Select Committee never held a hearing on housing, claiming that long-term recovery programs fell outside the limited jurisdiction of the Committee.

While years of recovery remain, the residents of the Gulf Coast cannot begin the hard work of rebuilding their communities until the need for temporary and permanent housing is addressed. We urge standing congressional committees to take up this critical issue immediately.

### **G. Cause of Levee Failures**

The breach of the levees in New Orleans was the single most significant event affecting the course of the Hurricane's aftermath, but the Select Committee did not seek to determine why the levees failed, who was responsible, or how to ensure that new levee systems will protect the region in the future.

If the levees had not failed, New Orleans still would have suffered severe storm damage, but the flooding that devastated the city most likely would not have been so widespread. Moreover, even if there had been some flooding due to storm surge or overtopping, evacuees who had taken shelter at the Superdome or other shelters of last resort may have been able to return to their homes after waters receded, rather than having to leave the city entirely.

At the outset of the Select Committee's investigation, Chairman Davis and Rep. Melancon sent letters to multiple federal agencies requesting documents "relating to the construction, maintenance, or capacity to withstand a hurricane or flooding

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<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> Letter from Rep. Gene Taylor to Select Committee Chairman Tom Davis (Oct. 28, 2005).

<sup>32</sup> House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *Hearings on Hurricane Katrina: Preparedness and Response by the State of Louisiana*, 109<sup>th</sup> Cong. (Dec. 14, 2005).

of the 17<sup>th</sup> Street, London Canal, or Industrial Canal levees and storm walls.”<sup>33</sup> The Select Committee received some responsive documents from the Army Corps of Engineers. Despite a request from the minority, however, staff did not conduct interviews with the Army Corps of Engineers personnel most knowledgeable about these issues.

The Select Committee’s report does not resolve critical questions about levee failures, noting instead that “the ultimate cause of the levee failures is under investigation and results to be determined.” It may be that the Select Committee believed it could not resolve the complex engineering and liability questions in the short timeframe established by the House for its review. It also may be that the Select Committee felt it was more appropriate to leave these issues to the various other entities currently examining them. But the Select Committee never held a hearing on what these other organizations are learning or what they have concluded to date.

Questions about why the levees failed are important not only to establish accountability, but to help determine how to rebuild them. The reconstruction process will not be effective unless residents and businesses are confident that they will be protected from catastrophic flooding. Until Congress addresses this critical failure in a comprehensive and detailed manner, the rebuilding effort will be impeded.

#### **H. Environmental Issues**

The Select Committee overlooked numerous environmental concerns that affected the lead-up to the hurricane as well as the hurricane’s immediate and long-term effects. Although the Committee received a limited number of documents from the Environmental Protection Agency, environmental issues were never addressed in a hearing and are not a focus of the majority report.

Prior to Hurricane Katrina striking the Gulf Coast, there was massive deterioration of Louisiana’s coastal wetlands barrier islands that could have protected the mainland against the full force of the incoming storm. This erosion was caused by a huge reduction of sediment from the Mississippi River due to the creation of levees and concrete liners, as well as a vast network of canals through the marshlands built for shipping and oil development.<sup>34</sup>

In the immediate aftermath of the storm, independent test data showed dangerously high mold counts and areas of toxic sediments, which pose a serious

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<sup>33</sup> See, e.g., Letter from Select Committee Chairman Tom Davis and Rep. Charlie Melancon to Lt. Gen. Carl Strock, U.S. Army Corps of Engineers (Sept. 30, 2005).

<sup>34</sup> See *Gone with the Water*, National Geographic (Oct. 2004).

health risk to returning residents and workers.<sup>35</sup> For example, indoor sites had spore counts of up to 645,000 spores per cubic meter, rendering homes uninhabitable.<sup>36</sup> In addition, sediment testing “found pervasively high levels of arsenic, as well as high levels of other contaminants, including lead, banned pesticides, and cancer-causing polycyclic aromatic hydrocarbons at three specific sites.”<sup>37</sup>

Contamination caused by the hurricane could also be exacerbated by recovery efforts. For example, much of the debris is being disposed of by burning, which has the potential to release toxic air pollutants such as mercury, or disposal into unlined landfills, which can allow groundwater contamination.<sup>38</sup>

The long-term challenges posed by global climate change are also key to understanding Katrina’s implications for the future. Sea levels have already risen over the last century, and they are projected to rise further as the planet warms. Warmer ocean temperatures contribute to hurricane intensity. Recent studies have shown empirically that the increased frequency of more intense hurricanes over the past few decades is correlated with warmer ocean temperatures during that same period.<sup>39</sup> At a minimum, sea level rise from climate change will make coastal areas more vulnerable to storm damage, and if the frequency of more

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<sup>35</sup> Natural Resources Defense Council, *New Private Testing Shows Dangerously High Mold Counts in New Orleans Air* (Nov. 16, 2005); Natural Resources Defense Council, *New Testing Shows Widespread Toxic Contamination in New Orleans Soil, Neighborhoods* (Dec. 1, 2005).

<sup>36</sup> Natural Resources Defense Council, *New Private Testing Shows Dangerously High Mold Counts in New Orleans Air* (Nov. 16, 2005).

<sup>37</sup> Natural Resources Defense Council, *New Testing Shows Widespread Toxic Contamination in New Orleans Soil, Neighborhoods* (Dec. 1, 2005).

<sup>38</sup> See Environmental Protection Agency, *Emergency Hurricane Debris Burning Guidance* (online at [www.epa.gov/katrina/debris.html#emergency](http://www.epa.gov/katrina/debris.html#emergency)) (recognizing the difficulty of complying with federal regulations pertaining to burning debris and requiring segregation of hazardous wastes including batteries, which contain mercury, and PCBs “to the extent feasible”); Haley Barbour, Governor of Mississippi, *Emergency Order* (Sep. 13, 2005) (waiving requirements for expansion of landfills and allowing structural debris to be disposed of through emergency burn sites); National Institute for Occupational Safety and Health, Centers for Disease Control, *NIOSH Interim Guidance on Health and Safety Issues Among Clean-Up Workers Involved with Handling and Burning Hurricane Debris* (Sept. 2005) (online at [www.cdc.gov/niosh/topics/flood/burningdebris.html](http://www.cdc.gov/niosh/topics/flood/burningdebris.html)) (explaining health and safety issues related to burning hurricane debris); *In Katrina’s Wake*, Environmental Health Perspectives, v. 114, no. 1 (Jan. 2006) (noting that “the Louisiana Department of Environmental Quality has approved dozens of temporary debris disposal sites;” further noting that “monitoring in the area [of controlled burns] ... has indicated some elevated levels of formaldehyde and acrolein in certain areas”); *Hurricane Bends Landfill Rules*, Washington Post (Oct. 30, 2005).

<sup>39</sup> See Emanuel, K., *Increasing Destructiveness of Tropical Cyclones Over the Past 30 Years*, *Nature* (2005); Webster, P.J., G. J. Holland, J. A. Curry, and H.R. Chang, *Changes in Tropical Cyclone Number, Duration, and Intensity in a Warming Environment*, *Science* (2005).

intense hurricanes also continues to increase, we will likely experience greater damage from hurricanes in the future.

Unfortunately, these important environmental issues were not examined by the Select Committee. The Select Committee also did not investigate the tremendous economic and environmental costs of the damage to oil and natural gas infrastructure in the Gulf, particularly to off-shore drilling platforms and seabed pipelines. For example, the Committee did not consider whether or how to ensure that new and rebuilt drilling infrastructure will be better able to withstand future storms.

The White House also raised some of these concerns. According to a briefing provided to the Select Committee on December 15, 2005, the White House concluded that there was a “lack of standards ... to identify and communicate environmental risks to responders and general populations.”<sup>40</sup> The White House also concluded that “environmental assessment teams were not prepositioned to respond.”<sup>41</sup>

All of these issues are extremely serious and demand a coherent inquiry. But the Committee did not examine these critical questions.

## **I. Investigation Overview**

Chairman Davis and the Select Committee have worked diligently, and we appreciate the opportunities Democratic members from the affected region were given to participate in the investigation. We regret, however, that the majority report seriously mischaracterizes the structure of the Select Committee and the objections of the Democratic leadership, as well as the vigor of the Committee’s pursuit of critical documents.

According to the majority report, the Select Committee was established with “minority subpoena authority.” This is flatly wrong. The resolution establishing the Select Committee granted subpoena authority to the Republican chairman, but not to the Democratic minority. This was one of the primary reasons Minority Leader Nancy Pelosi and the Democratic leadership refused to appoint members. They were concerned that Republican-dominated control of the Select Committee would leave it vulnerable to partisan pressures. Democrats also objected to the five-month timeframe for the investigation, believing that an artificially short deadline would encourage agencies to stonewall and run out the clock.

Regrettably, the Democratic concerns proved prescient.

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<sup>40</sup> Briefing by Ken Rapuano, Deputy White House Homeland Security Advisor, to Select Committee (Dec. 15, 2005).

<sup>41</sup> *Id.*

In large part, the success of an investigation hinges on access to documents and witnesses. The majority report recognizes that the Committee did not receive all the documents requested. But the report minimizes the significance of the missing documents, asserting that “we had more than enough to do our job.” In fact, the Select Committee does not even know which documents the Administration is withholding. It is a telling indicator of the subservient position of the Select Committee that it was allowed to see only what the Administration wanted it to see and could not find out what had been withheld.

Based on obvious gaps in the documents provided to the Select Committee, we requested a series of meetings with officials at the Departments of Homeland Security, Defense, and Health and Human Services. We asked to have these agencies explain which documents they are withholding and why. We made this request on January 13, 2006.

Although the majority staff contacted these agencies, the agencies apparently ignored our request for briefings. As of February 11, 2006, we had received no briefing from any of the federal agencies regarding the documents they are withholding. The result is that the Select Committee does not have even the most basic log of the documents that have been withheld.

We have identified some of the holes in the record, although there are most likely many more. One major omission is that the documents provided to the Select Committee consistently lack communications to and from the agency head, which may be the most important agency records of all. As a result, the Select Committee has obtained little if any evidence documenting the basic flow of information to and from Homeland Security Secretary Michael Chertoff, Defense Secretary Donald Rumsfeld, or Health and Human Services Secretary Michael Leavitt regarding the Hurricane Katrina crisis. The Select Committee was informed that neither Secretary Chertoff nor Secretary Rumsfeld use e-mail, but we received no other records we requested, such as phone logs, e-mail records of assistants, or other internal communications that would show how Secretary Chertoff and Secretary Rumsfeld received information, communicated with other government officials, or gave orders. Nor did the Select Committee receive a set of Secretary Leavitt’s e-mails, although e-mails to and from other officials at the Department make clear that Secretary Leavitt was sending and receiving e-mails relating to Katrina.

Another set of missing records involve FEMA’s budget. When Michael Brown, the former FEMA Director, testified before the Committee, he asserted that FEMA had been “emaciated” by budget cuts that he had protested. On September 30, 2005, the Select Committee requested all “communications referring or relating to the budget request for fiscal year 2004, fiscal year 2005, and fiscal year 2006 for the Federal Emergency Management Agency to or from Undersecretary

Michael D. Brown.”<sup>42</sup> Many of these documents were never provided by DHS. In fact, we would not even have known that the withheld documents existed, except that the *Washington Post* published an article on December 23, 2005, that described several of them.<sup>43</sup>

The most glaring gap in the record is the failure of the Select Committee to obtain documents from the White House. This omission — and its significance to the investigation — is discussed extensively in the next session. In this area too, the Select Committee was denied documents that were obtained by the press.<sup>44</sup>

We appreciate our ability to participate in the work of the Select Committee, and we recognize the efforts that Chairman Davis made to make the investigation bipartisan. But the fact remains that the investigation was far too deferential to the executive branch in resolving document disputes. These investigative failures would never have been tolerated if the recommendations of Leader Pelosi had been adopted.

## II. FAILURE OF THE SELECT COMMITTEE TO EXAMINE WHITE HOUSE ACTIONS

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As discussed in part I, the Select Committee has made many valuable findings about what went wrong with the response to Hurricane Katrina. Overall, the majority report is a comprehensive, detailed recitation of the problems that occurred. It is also a condemnation of the nation’s progress in responding to catastrophic events since 9/11. We concur with the report’s overarching conclusion that the response to Hurricane Katrina was “a national failure, an abdication of the most solemn obligation to provide for the common welfare.” We also agree that Hurricane Katrina was “a failure of leadership.”

Yet the findings of the majority report are nearly all phrased in the passive tense. The report catalogues what went wrong, but it rarely assesses how these failures occurred, why they were not corrected sooner, or who in particular was responsible. The majority report describes generic “institutional” failures, general “communications problems,” and vague “bureaucratic inertia.” With a few exceptions, however, the report fails to explain the causes of the failures or to hold anyone accountable.

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<sup>42</sup> Letter from Select Committee Tom Davis to Michael Chertoff, Secretary of Homeland Security (Sept. 30, 2005).

<sup>43</sup> See, e.g., *Brown’s Turf Wars Sapped FEMA’s Strength*, *Washington Post* (Dec. 23, 2005) (describing several memos from FEMA Director Michael Brown to Homeland Security Secretary Michael Chertoff, including one that states: “A total of \$77.9 million has been permanently lost from the base”). Michael Brown provided to the Committee some budget-related documents that he retained in his personal possession.

<sup>44</sup> *Id.* (describing e-mails between former FEMA Director Michael Brown and White House Deputy Chief of Staff Joe Hagin, including one from Mr. Hagin on Sunday, August 28, 2005, the day before Hurricane Katrina struck, stating: “You didn’t get out in time”).