

Additional Views

Senator Mark Dayton

I voted not to approve the draft Report in Committee, because it is seriously incomplete without the information, documents, and testimony denied by the White House. According to the Ranking Member's "Additional Views," on March 15, 2006, he asked the Chairman to subpoena the withheld documents and witnesses. She declined.

Earlier this year, on January 12, 2006, the Chairman and Ranking Member wrote then-White House Chief of Staff, Mr. Andrew Card, regarding the information they had previously requested. Their letter stated, in part, "This practice (of withholding information) 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 [Executive Office of the President]."

Their insistence that either Administration officials comply with this oversight committee's rightful demands, or the President invoke his Executive Privilege not to do so, was entirely appropriate. Unfortunately, when Mr. Card and his subordinates still refused to comply, the Chairman denied the Ranking Member's request to issue subpoenas. Regrettably, other Committee Members (at least, this Member) were not informed of their previous attempts to obtain information, or of the decision to give in to the Administration's recalcitrance.

Unfortunately, at its mark-up of the draft report, the Committee failed to support my motion to subpoena those documents and witnesses, which were being withheld by the White House without claim to Executive Privilege, and which were being wrongfully denied by executive agencies.

The Administration's refusal to comply and cooperate with this investigation is deplorable, as is the Committee's failure to back the Chairman's and Ranking Member's proper insistence that the White House do so. This Committee is charged by the full Senate with the responsibility to oversee the agencies, programs, and activities that are related to homeland security. The Committee was expressly directed by the Senate Majority Leader to examine the Bush Administration's failure to respond quickly or effectively to the disasters caused by Hurricane Katrina. This investigation is not complete without all of the information requested from the Administration by the Chairman, the Ranking Member, or their staffs. Furthermore, its findings and conclusions can hardly be considered reliable, if the White House has decided what information to provide, and what information to withhold, from the Committee.

This unfortunate acquiescence confirms the judgment of the Senate Democratic Leader that an independent, bi-partisan Commission was necessary to ensure a complete and unbiased investigation into the federal, state, and local responses to Hurricane Katrina. His request has been repeatedly denied by the Majority, with the assurance that this Committee would fulfill its responsibilities. Tragically and reprehensibly, it has failed to do so. Thus, the Committee failed the Senate's Constitutional obligations to be an independent, co-equal branch of government from the Executive. It also failed the long-suffering victims of Hurricane Katrina, who deserve to know why their governments failed them, and all the American

people, who depend upon their elected representatives to protect their lives and their interests, without regard to partisan political considerations. That partisanship includes unjustified protection of an administration of the same political party, as much as undue criticism of one from another party.

Given the information provided to the Committee, the Chairman, the Ranking Member, and the Committee staff deserve commendation for their dedication to this undertaking. They held 22 hearings, and they arranged for Committee members to tour afflicted sites in Mississippi and Louisiana. The hearings established an extensive public record, which informed Committee members and provided the solid foundation of this Report.

Our January 17, 2006, trip to Gulfport, Mississippi, and New Orleans, Louisiana, allowed us to visually inspect areas devastated by Hurricane Katrina and to meet with state and local officials. Almost five months after the hurricane, the observed and reported lack of progress in clean-up, repair, and reconstruction, provided further evidence of the federal government's continuing failure to respond efficiently or effectively. There is no time in which the helping hand of government is more urgently needed and more surely deserved than during and after a disaster. Victims are damaged or devastated – physically, emotional, and financially. Local officials and their public services are overwhelmed, if not destroyed. They need a federal emergency-response organization composed of experienced, dedicated professionals, who have the resources necessary to alleviate short-term suffering and commence long-term recovery, and also the authority to expeditiously commit those resources.

What the failed federal response to Hurricane Katrina showed is the utter ineptitude of the Federal Emergency Management Agency. Even worse, FEMA's indifference and incompetence in the aftermath of Hurricane Katrina was not an isolated instance. In the direct experience of this Senator with FEMA's disaster-relief responses in Minnesota, the agency is too often a major obstruction to recovery projects, rather than a principal ally.

I agree with this Report's "Core Recommendation #1 – Create a New, Comprehensive Emergency Management Organization ... to Prepare for and Respond to all Disasters and Catastrophes." I remain open-minded whether this new entity should remain within the DHS, as this Recommendation intends, or be established as a separate federal agency. The challenge for the Committee, for all of Congress, and for the Administration will be to actually "re-create" an existing federal agency that has become dysfunctional and non-functional. Merely "reforming" FEMA by rearranging some boxes and lines on its organizational chart, revising it, and giving its head a new title, will be usefully inadequate. The new organization must be more streamlined, centralized, and compact than its predecessor. It must be less bureaucratic, less consumed with regulatory minutiae, and less resistant to local recovery initiatives. It must spend less time creating complex plans and cumbersome procedures, and more time in training and perfecting action responses to emergency situations.

This new organization cannot be effective, however, without a clear definition of its role in national disasters. Inter-governmental, and even inter-agency, coordination is an oxymoron in an emergency. Someone must be in charge. And that "someone" must be clearly understood by everyone in advance of the crisis. It is no coincidence that the most effective "First Responders" immediately after Hurricane Katrina were military organizations: the U.S. Coast Guard and the National Guard. They are trained to act in crisis situations. They have clear, pre-established chains of command. They act.

That is why I am concerned about "Core Recommendation #5," which states, "Although the federal government should play a more proactive role in responding to catastrophic events,

when state and local officials may be overwhelmed, states and localities will continue to provide the backbone of response – the first response – for all disasters, catastrophic or not.”

While that approval may be appropriate for “typical disasters” (itself an oxymoron!), Hurricane Katrina exposed its fatal flaws in an extreme or widespread disaster. Lines of communication are disrupted, if not temporarily destroyed, in such a catastrophe, which makes inter-governmental “coordination” extremely difficult, inefficient, and delayed. If the situation deteriorates in the disaster’s aftermath, as has occurred in New Orleans, attempts to avoid responsibilities and to blame others for failed responses, override efforts of coordination and cooperation.

A large-scale catastrophe requires a federally led response. Invoking what is presently termed the “Catastrophic Incident Annex of the National Response Plan” should place this new organization’s head as the “Situation Commander,” operating directly under, and reporting directly to, the President of the United States. All of the other federal, state, local, and private emergency-response operations should then become subordinate to, and under the direction of, the “Situation Commander,” for as long as the President deems necessary.

History shows that “If the student does not learn the lesson, the teacher reappears.” This Report describes some of the most important lessons from the failed response to Hurricane Katrina. This Committee’s and the Congress’s subsequent actions to correct those serious deficiencies before the next catastrophe will indicate whether those lessons will be learned.