



Louisiana State Police in New Orleans
Photo © 2005 The Times-Picayune Publishing Co.,
all rights reserved. Used with permission of the
Times-Picayune

Public Safety and Security

Among the many enduring images Katrina bequeathed to us was this: rampaging crowds wading through flooded streets and climbing through broken store windows, gleefully carrying off impossible loads of electronics and other goods they could not possibly use in the storm-ravaged city, all while New Orleans police were said to be standing by or even in some cases participating.¹ Footage of these events was played over and over again on network and cable news outlets during the initial days after the storm. Stories suggesting a near-total breakdown of law and order in key parts of the city of New Orleans soon saturated the media. But as the world watched aghast, many of the stories reported and repeated – including some by city leaders – were wrong.

The world saw the full range of events which can occur when law and order break down. A September 1, 2005, press report observed, for example, that “At flood-swamped Charity Hospital, looters with handguns forced doctors to give up stores of narcotics. Wal-Mart gun racks and ammunition supplies were stripped. . . . Thieves commandeered a forklift to smash the security glass window of one pharmacy, fleeing with so much ice, water, and food that they left a trail behind them. Brazen gangs chased down a state police truck filled with food, and even city officials were accused of commandeering equipment from a looted Office Depot.² New Orleans Police were said to be abandoning their posts in droves. On September 3, the *Los Angeles Times* reported seeing “dozens of Chinook helicopters dart[ing] overhead, transporting desperately ill patients from hospitals that were being evacuated by doctors and nurses under sporadic gunfire.”³ Charity Hospital reportedly had to suspend airlifting patients to a field hospital set up by the National Guard at Louis Armstrong New Orleans International Airport due to sniper fire.⁴ A September 4, 2005, article in the *New York Times* reported that, “at least 200 police officers have walked away from their jobs and two have committed suicide.”⁵ And as late as September 6, then-Police Superintendent Eddie Compass expressed frustration about the police’s inability to do anything about the “little babies getting raped” in the Superdome.⁶ Some of these stories were true; some were false; some, partially true; others, inflated.

While the city was far from peaceful, its occupants were safer and more disciplined than it first appeared; some 90 percent of the New Orleans police force stayed on duty;⁷ and there was only one confirmed incident of an attempted violent crime at the Superdome.⁸ Nevertheless, both the perception of extreme threats of violence and the reality of a lesser, but still serious, level of disorder had a significant detrimental impact on Katrina’s victims and on those who were trying to help them. During the first days after the storm, safety fears prompted FEMA’s emergency-response team and a medical team to pull out of the Superdome, some search-and-rescue crews to suspend their efforts, and utility workers to forestall starting the critical task of repairing downed communications.⁹

While the magnitude of the storm’s immediate impact on New Orleans, its infrastructure and its police force made some disruption of public order inevitable – and while individual local, state, and federal public-safety officers performed heroically throughout the disaster – the Committee’s investigation has found several preventable causes that contributed to the real and perceived breakdown in public order. For example, Hurricane Pam, the principal planning exercise for a catastrophic hurricane event in New Orleans, did not include any public-safety or law-enforcement components, other than security at shelters.¹⁰

At the local level, New Orleans and its police department worked under the most challenging of circumstances. Given Katrina’s impact on the city and its force, given the incredible need for assistance that inevitably resulted, and given the tens of thousands of public-safety

officers and troops that ultimately were required to assist the city's efforts at maintaining order, it is apparent that the New Orleans Police Department (NOPD) would have been overwhelmed under these circumstances.

Unfortunately, its difficulties were exacerbated by several factors that better planning could have avoided. The city and the NOPD had only vaguely worded emergency plans and those plans didn't, for example, direct officers to refuges of last resort or provide for specific high-ground locations to shelter the emergency vehicles police would need to do their job after the storm passed. Both failures led to significant losses of resources that impeded the ability of individual officers to do their jobs. Except for ad hoc arrangements with neighboring Jefferson Parish to detain violent criminals in their jail, the city also lacked a backup site to detain those it arrested once the city jail flooded; as a result, the police department was compelled to release anyone arrested for a non-violent crime. Also importantly, city officials often compounded the public's fears – and thereby deterred professional and volunteer responders from doing their jobs – by repeating sensational rumors as fact.¹¹ On September 2, for example, Mayor Nagin opined, “What you are seeing is drug-starving, crazy addicts, drug addicts, that are wreaking havoc.”¹² City officials failed to follow their own plans for responding to the news media's rumor reporting and for making sure that no city spokesman repeated a rumor before confirming it.

So, the NOPD, suffering from the destruction of its equipment and uniforms, the failure of a tenth of its forces to report for duty, the indecisiveness and unpreparedness of its leadership, blinded by lack of situational awareness and deafened by the lack of communications, was truly overwhelmed by the catastrophe besetting the city it was supposed to protect and serve.

At the state level, the record was mixed. The Louisiana State Police (LSP) poured its personnel and equipment into the New Orleans area to reinforce and re-equip the beleaguered NOPD. However, at the administrative level, the state struggled with the massive deputization burdens caused by the huge number of officers and agents responding to the area. It also did not have effective control over the Emergency Management Assistance Compact (EMAC) process for more than five days after landfall, and only then with the organizational aid of federal agencies. Governor Blanco and her senior staff may also have contributed to the delays in receiving outside assistance by the manner of their initial requests to the federal government and the timing of their requests to other states. However, as discussed later in this section, the Committee would find it very troubling if in fact the federal government failed to respond to a request from a state, even though the wrong officers signed the request, in a triumph of form over intent and urgent need.

At the federal level, the government's initial response fell far short of what the Gulf Coast's citizens could reasonably have expected. The National Response Plan's (NRP) Emergency Support Function-13 (ESF-13) gives the Department of Justice (DOJ) and the Department of Homeland Security (DHS) joint responsibility for, among other things, leading and coordinating federal efforts “in situations requiring extensive assistance to provide public safety and security and where State and local government resources are overwhelmed or are inadequate.”¹³ New Orleans' desperate need for extensive assistance in ensuring public safety was apparent – and requested by Colonel Henry Whitehorn of the State Police – within a day of landfall. Yet the federal response to requests for assistance there and elsewhere in the region was too slow to ramp up under the circumstances, having been severely hampered even before Katrina's landfall by a seemingly complete absence of planning – indeed a lack of a basic understanding of the Departments' roles and obligations – on the part of DOJ and DHS. In fact, DOJ did not assign anyone to coordinate the DOJ function until September 2. When federal assistance did begin to arrive in force, on Saturday, September 3, and Sunday, September 4, it acquitted itself well and provided immeasurable help to the response efforts.

But the failure to anticipate, plan for, and then provide adequate assistance in Katrina's initial days had a lasting impact on the response efforts.

I. The Local Response

A. Hurricane Katrina Delivered a Powerful Blow Against the Poorly Prepared New Orleans Police Department

As anywhere in the United States, the job of ensuring public safety and order in New Orleans falls in the first instance to the local police department. At the time Hurricane Katrina made landfall, the NOPD had a force of 1,668 sworn officers.¹⁴ By the time the storm had passed, at least 147 failed to report for duty,¹⁵ while 90 percent of the force remained on duty. But their ability to carry out their life-saving and law-enforcement missions was gravely compromised by material losses and communications blackouts they suffered in the storm.

The lack of uniforms, cars, weapons, and ammunition impacted the officers' ability to perform law-enforcement activities.¹⁶ The lack of watercraft and training in water search and rescue limited their ability to rescue and move people from the affected area.¹⁷ The loss of communications resulted in significantly diminished overall command and control and an inability to coordinate law-enforcement activities around the city among NOPD officers.¹⁸ The lack of interoperable communications resulted in an inability to coordinate search-and-rescue operations and difficulty in coordinating law-enforcement operations with the military and with other law-enforcement agencies.¹⁹

As one officer noted, "Communications failed at the most critical time. Backup systems did not work at all. The radio system crashed and was not operational. This was critical to the operations and seriously hampered rescue operations. Lack of communication placed officers in extreme danger without an avenue for assistance. ... 'Mutual aid' channels were hardly usable."²⁰

FBI Special Agent in Charge Kenneth Kaiser graphically described the status of the NOPD force:

They were running out of ammunition. They were running out of food and water. We were bringing them food and water. And we brought in our medical personnel ... to look at the people. Some of these people had been on duty since the hurricane, hadn't heard from their wife and kids, hadn't left their post. Some of them were very ill. They had fevers. ... A lot of them were wearing the same clothes they'd worn for seven, eight days.²¹

Even when officers were deployed, the fact that many had lost their uniforms decreased their effectiveness. As then-Chief of Operations Warren Riley noted in discussing NOPD presence at the Convention Center:

So we had some officers that still had uniforms, but a lot of them were wearing blue jeans and t-shirts and khaki pants and Wal-Mart things that were given to us. ... So a lot of people may have said, "The police, they aren't there," but we just weren't in uniform.²²

These losses were the result not only of the storm, but also of the failure of planning and preparedness. Good planning should anticipate the full range of likely problems and breakdowns. It should reasonably have been anticipated that communications would have been lost in a major hurricane, while the effects could have been mitigated had a good plan been in place.

Unlike the New Orleans Fire Department's (NOFD) Hurricane Guidelines, the NOPD's plan does not include provision for last areas of refuge for hurricanes.²³ These refuges are multi-level facilities, with a center core stairwell, in strategic locations around the city. Each facility's availability to house personnel and/or equipment is reconfirmed during pre-season preparations.²⁴ In addition to providing refuge for fire personnel, some of the locations in the NOFD's plan are also high-ground staging areas for equipment.²⁵ The NOPD's plan calls for all vehicles not being utilized to be relocated to safe locations but does not specify where, resulting in responsibility for unit assets being left up to individual commanders.²⁶ Unfortunately, many vehicles were parked in low-lying areas to avoid exposure to high-velocity winds and ended up submerged.²⁷

The NOPD was unprepared to protect its assets or to provide for acquiring replacement equipment, precautions which would seem reasonable in a city built mostly below sea level.

Two issues identified by NOPD Command Staff in the After Action Reports (AAR) concern this lack of adequate resources to conduct law-enforcement and search-and-rescue operations under emergency conditions. The first, "Vehicles appropriate to operate in high water conditions," included a notation that, "Although some units had Expeditions [Ford SUVs], pick-up trucks, or other SUV-type vehicles, the majority of the department did not have access to a high profile vehicle which would allow for movement on streets filled with some water."²⁸ The second, "Watercraft to conduct rescue operations," noted, "Once the storm had passed, and the levees breached, many officers made use of commandeered modes of transportation. Boats of all types were put into use as methods of transportation for both officers and rescuees."²⁹

Riley was Chief of Operations during preparations before Hurricane Ivan and Hurricane Katrina. Prior to Hurricane Ivan, Riley requested and received from the Louisiana National Guard (LANG) high-water vehicles which were staged at each of the police districts prior to the storm.³⁰ Before Hurricane Katrina, Riley said he asked for five high-water vehicles and five boats to be pre-staged at each of the Department's eight stations. Some vehicles were provided to three or four districts, but no boats were provided.³¹ Major General Landreneau, head of the Louisiana National Guard, disputed the assertion regarding high-water vehicles, but documents he provided the Committee do not show that any boats were sent to district stations.³²

The NOPD's own AARs provide evidence of the pervasive lack of preparedness. The AARs noted that the NOPD did not adequately supply its officers with basic provisions, nor did it have logistics in place to handle supplies. While some bottled water was distributed to officers, "There did not appear to be any pre-planning for food, water, weapons, and medical care."³³ As one officer noted, "The lack of provisions and a quartermaster system forced Officers to procure needed items from abandoned business locations."³⁴

Despite challenges facing NOPD officers, maintaining and restoring public safety was of pre-eminent importance, for without it, those trying to help Katrina's victims could not do their jobs. While media reports may have exaggerated the extent of lawlessness, the fact remains that looting and other criminal acts were occurring around the city. There are no reliable statistics available due to the flooding of NOPD headquarters and the jail, but there is significant anecdotal evidence regarding such activity.

Captain Timothy Bayard described an example of looting observed when SAR teams were taking people to the Convention Center:

We pulled four or five guys out of an apartment two blocks from the Convention Center. But at the time we didn't have any jails, didn't have anyplace to bring them, you know? So we pulled them out of burglarizing a guy's apartment above the store. They had already broken into the store.³⁵

Riley described “three hours of mayhem” on Canal Street to which 60 officers responded:

Well, there were some points where, for instance, Brooks Brothers was being looted. Our officers had some confrontations there. Saks Fifth Avenue was being looted. Some other stores along the block, I believe for the most part, like places that had athletic wear and tennis shoes, things like that.³⁶

At the Superdome, despite media reports, including comments made by the NOPD’s Compass, the number of violent acts appeared limited. There was an attempted assault on a young woman in one of the rest rooms.³⁷ Another incident involved the shooting of a National Guardsman which appeared to be an accidental shooting by a fellow Guardsman.³⁸ There was one suicide, but no homicides.³⁹

Despite the absence of significant violent crime, there were nonetheless problems at the Superdome. FEMA Disaster Medical Assistance Teams (DMATs) and Emergency Response Teams (ERTs) and New Orleans Health Department (NOHD) personnel, decided to withdraw from the Superdome complex because they perceived the situation there as unsettled or unsafe.⁴⁰ Urban Search and Rescue (USAR) personnel curtailed operations until security was provided.⁴¹ The NOPD feared carjackings by those seeking to flee New Orleans.⁴² And the delivery of utility repair services apparently suffered delay until proper security for the workers and sites themselves existed.⁴³ Only when a secure environment was restored could basic needs truly be addressed.

Lack of readiness and loss of personnel and equipment were major contributing causes to the inability of the NOPD to maintain law and order in the devastated city. But they were not the only ones.

B. The Effectiveness of the NOPD Was Further Diminished by Command Confusion and Lack of Familiarity with Emergency-Operation Plans

Although the NOPD had an emergency-operations manual that included hurricane procedures, the Committee’s investigation has not revealed any systematic training administered on a department-wide basis on its own plan, let alone the city’s plan or the NRP. Riley surmised, based on the comments in some of the after-action reports done within the department, that some of the commanders had not read their operations manuals.⁴⁴ When asked what actions he took during his tenure as chief to ensure that officers were familiar with their responsibilities under the disaster-operations manual, Compass responded only that he “encouraged [his] commanders to make sure that people were very familiar with the hurricane plan.”⁴⁵ Riley said that every commander (but not every officer) receives a version of the plan and that the plan is “probably reviewed as we have a hurricane approaching.”⁴⁶ Not all information about procedures to be used during a storm is included within the text of the manuals. Alternative reporting locations, for instance, are not included other than a general instruction to “report to the nearest District Station or police facility.”⁴⁷ Instead, the Department appears to rely on oral communication among and by commanders immediately before an event to inform the rank and file about rally locations.⁴⁸

Compass recalled that members of specialized units underwent emergency-preparedness training conducted by Terry Ebbert, but that not every officer did.⁴⁹ For instance, many officers did not know what the OEP was.⁵⁰ The lack of familiarity by the department’s rank and file with the OEP and other hurricane emergency procedures must be attributed in part to the department’s leadership, including Compass and then-Chief Danny Lawless, the Department’s designee at the EOC and Chief of Policy, Planning and Training. After the hurricane, Compass resigned⁵¹ and Lawless was demoted because of his performance.⁵² Riley explained that Lawless did not make an adequate effort to communicate information and that his successor would be someone trained in the Incident Command System (ICS).⁵³

Deficiencies in the NOPD's manual, lack of training on this manual, lack of familiarity with it, or a combination of the three resulted in inadequate protection of department resources. One officer noted that he had not received training on the hurricane procedures in the NOPD's manual: "In 2004, the police department produced an elaborate hurricane plan and issued it to all its commanders. But it stayed on their bookshelves. The department didn't run exercises to familiarize officers with the plan."⁵⁴

The After Action Report addressed another area critical to a department's command and control structure – leadership. This was the apparent lack of a clearly identified, unified command structure, an issue raised by members of the Command Staff:

Unified Command: Although the police department normally has the entire command structure in place for normal, everyday operations, the scale of this event required the implementation of an ICS, where a unified command for all departments was a necessity. Who was the Incident Commander and how did we receive instructions from him or her? Where was the Unified Command position?⁵⁵

One captain noted that, "Unified command was never established. This, in my mind, was the major problem with the response during Katrina" and the "Training in Incident/Unified Command for the department is critical."⁵⁶ Another noted that, "There did not appear to be an established incident Command, EOC, TOC [Tactical Operations Center] after the impact of the storm."⁵⁷

A related critique was made by eight of the responding Command Staff officers of the City's Office of Emergency Preparedness (OEP), who noted:

Total failure of OEP: Although identified as the point of command for the emergency, the OEP was out of communication with a large percentage of the department several times during the storm.⁵⁸

C. The Loss of Detention Facilities to Hold Looters and Lawbreakers Contributed to the Public Safety Problem

Shortly after Katrina made landfall, flooding rendered the Orleans Parish Jail, the detention facility used by the city, uninhabitable, and the Criminal Sheriff was forced to evacuate it.⁵⁹ As a result, there was nowhere to detain most of those caught in criminal acts in Katrina's aftermath, so police had to release all but those caught committing violent acts.⁶⁰

The breakdown of the detention system, while unavoidable given the extent of flooding, could have been anticipated. With proper contingency plans, existing prisoners could have been evacuated earlier and more easily to detention facilities identified before the storm, and new arrests could have proceeded with fewer processing and housing concerns.

The task of planning for managing prisoners in New Orleans is complicated by an unusual government structure. The jail is operated as a separate entity from the NOPD and the city. It is part of Orleans Parish operations, under the direction of an elected sheriff. Primary responsibility for planning and coordination of the jail's evacuation rests with the Criminal Sheriff.⁶¹ Riley had a general understanding of the jail evacuation planning:

Over the past many years, the prison has always been self-sufficient as it relates to [evacuation of the prison population]. They normally prepared to do two types of evacuations. One is to take their most violent offenders and have them relocated to another state facility, evacuating them before the storm. The other was a vertical evacuation ... [for] less violent offenders.⁶²

There was no pre-landfall coordination between the NOPD and the Orleans Parish. Yet, on the day following landfall, the prison – like much of the rest of the city – was surrounded by water estimated at five to six feet deep. At this time, the sheriff sought manpower assistance from the NOPD but was told that none could be spared.⁶³ On possibly Tuesday or Wednesday, the NOPD did agree to lend a few boats to allow the sheriff to move his prisoners to a nearby Interstate overpass that was above the water line.⁶⁴ In pictures seen around the country and the world, prisoners sat on the overpass under the watchful eye of deputy sheriffs supported by National Guard troops until arrangements could be made to move them to detention facilities outside the city.

With the parish jail closed, the NOPD found itself without the use of the jail’s booking and intake-processing center.⁶⁵ During the first week after landfall, the City of New Orleans was not able to detain most of those caught in criminal acts in Katrina’s aftermath. Police could only catch and release persons arrested for anything other than violent acts.⁶⁶ The NOPD’s disaster-planning document does not address the possibility of the detention facility’s being unavailable. The NOPD’s After Action Report highlights the impact on law enforcement of the loss of the jail and the lack of a backup facility: “The repeated announcements from the city relative to its intention to, ‘vigorously go after looters and prosecute them to the fullest extent of the law’ appeared overly ambitious and unenforceable due to the evacuation of the jail. Once the facility to intake arrested subjects was made unavailable, arresting subjects was not an option,”⁶⁷ except to the limited extent an ad hoc arrangement with neighboring Jefferson Parish for detaining violent felons was made.⁶⁸

The lack of a detention center and its impact on law enforcement were not lost on the state Attorney General and the United States Attorney for Eastern Louisiana.⁶⁹ By the first week-end after landfall, efforts were underway to identify an alternative location within the city.⁷⁰

Flooding of the jail and its impact on both the prisoners held there and the detention of new arrestees clearly should have been anticipated. Given the NOPD’s dependence on the Criminal Sheriff’s office to provide critical support, the NOPD leadership should have taken steps as it developed its disaster plan to ensure that the plans of other relevant agencies addressed the NOPD’s needs. It is not sufficient for agencies who are interdependent to develop their own plans; they must ensure that other agencies’ plans synchronize with their own to meet mutual needs. The NOPD’s and Orleans Parish’s planning did not appropriately account for foreseeable contingencies.

D. Unsubstantiated Rumors of Lawlessness by City Officials and the Failure to Have a Plan for Verifying and Controlling Such Rumors Contributed to the Perceived Lack of Safety in New Orleans

The city apparently did not effectively plan or manage rumors of unrest, and some of its leaders unfortunately repeated them as fact while they were still rumor. This had the result of fueling unsubstantiated media reports that the city was out of control. NOPD Superintendent Compass, for example, made this comment about the Superdome as late as September 6: “We had little babies in there, little babies getting raped. You know how frustrating it is to be Chief of Police knowing inside these things are being done and you don’t have enough manpower to go in there?”⁷¹ On the same day, Mayor Nagin said: “They have people standing out there, have been in that frickin’ Superdome for five days watching hooligans killing people, raping people.”⁷² Fortunately, neither statement turned out to be true; there were no confirmed rapes or murders at the Superdome.⁷³ But these statements, coming as they did from those the public would have reason to believe knew what they were talking about, created a sense of societal breakdown, and likely added to the sense of danger that deterred some first responders from quickly and effectively doing their jobs.

Among the responsibilities assigned to the NOPD's Public Information Officer (PIO) in the Emergency Operations Manual are: (1) release information authorized by the Incident Commander, (2) disseminate media-alert announcements as instructed by the Incident Commander, (3) be responsible for establishing rumor control, (4) schedule media briefings as necessary, and (5) be responsible for establishing a system to monitor incident rumor control.⁷⁴ Superintendent Riley noted that the standard policy in the department is to refer media inquiries to the PIO.⁷⁵

While that was the policy, the practice was far different. Despite the department's standard policy of referring media inquiries to the PIO and concern expressed by officials about the impact of unsubstantiated rumors being reported by the media that the city was out of control, Compass fueled such reporting by speaking directly to the media, making sensationalized statements, such as the one noted above, about conditions in the Superdome.⁷⁶

II. The State Response

A. The Louisiana State Police Substantially Supported NOPD with Personnel and Assets

Despite having a force of only 1,050 troopers,⁷⁷ the LSP carried out a variety of emergency-support functions during Katrina, not only by orchestrating the state's contraflow plan,⁷⁸ but by providing law-enforcement support to the embattled NOPD. As Brigadier General Mark Graham testified, LSP played an important role escorting buses during the evacuations of the Superdome and Convention Center.⁷⁹ LSP troopers conducted 1,300 escort missions within the first few days of Katrina.⁸⁰ In addition to security escorts for buses, troopers were dispatched to provide perimeter security, including a mission to secure the perimeter around City Hall, where the EOC was located.⁸¹ They helped to secure the Superdome. As the population in Baton Rouge grew with the exodus from New Orleans, LSP troopers deployed to provide security at field hospitals and evacuee shelters.⁸²

Among the LSP deployments were Special Weapons and Tactics (SWAT) Teams. The LSP's initial SWAT presence was in New Orleans prior to the storm.⁸³ Additional LSP SWAT teams arrived on Tuesday, August 30, with the remainder scheduled to arrive Wednesday, August 31.⁸⁴ While the LSP sent significant numbers of officers, Lieutenant Colonel Joseph Booth noted that there were some early problems getting officers into the city because of high water. "I've requested watercraft off and on for some eight to 10 years," Colonel Booth said, but those requests had been "Unsuccessful, unsuccessful."⁸⁵

Eight hundred troopers were sent to New Orleans during the first few days after Katrina.⁸⁶ The small LSP force, like their NOPD counterparts, quickly became overwhelmed by the scope of the catastrophe and the many services expected of them. Meanwhile, their reassignment to New Orleans left a law-enforcement void in other parts of the state.⁸⁷ Still, more officers were needed, and on August 30, Colonel Whitehorn wrote to FBI Director Robert Mueller for help:

As you are aware, the city of New Orleans, Louisiana has suffered massive damage caused by Hurricane Katrina. We are currently utilizing all State assets to stabilize the situation; however, looting continues to be a significant problem. As the head of Louisiana State Police, I am requesting any assistance you can provide to this agency to assist with the issue to include deployment of available tactical teams.⁸⁸

The letter was faxed from the FBI on August 31 to Principal Associate Deputy Attorney General William Mercer.⁸⁹

Another contribution of the LSP, which had published an 800 number before the storm, was fielding 911 calls from New Orleans residents trapped in their homes, as the 911 system in New Orleans failed in the first few days post-landfall. The LSP emergency operations center received 22,000 emergency calls over a period of approximately one month post-landfall.⁹⁰ EOC staff e-mailed and hand delivered the messages to search-and-rescue agencies.⁹¹

The LSP, from their own supplies, helped to re-equip the NOPD by substantial resources including 137 vehicles which the LSP marked with the NOPD insignia, uniforms, ammunition, 300 pairs of boots, and other provisions as basic as socks and underwear, toothbrushes, and deodorant.⁹²

B. The State of Louisiana Did Not Ask for Federal Law-Enforcement Assistance as Quickly as It Should Have

Consistent with emergency-management and constitutional principles generally, Louisiana state government also had a vital role to play in securing law-enforcement help from outside the state. As with local and federal governments, Hurricane Katrina exposed distinct shortcomings and significant oversights in the state's planning and execution of its response.

As with other kinds of assistance, Louisiana's recourse when its own resources are overwhelmed with respect to law enforcement is through the Emergency Management Assistance Compact (EMAC). The state is a signatory to EMAC, as provided in the Louisiana Homeland Security and Emergency Assistance and Disaster Act of 1993,⁹³ as amended. According to the Louisiana Office of Homeland Security and Emergency Preparedness (LOHSEP) Emergency Operations Plan, if an emergency becomes too widespread or serious for parish or state resources, the Director of LOHSEP is supposed to request assistance through EMAC.⁹⁴

EMAC establishes a process by which states receive mutual aid. Impacted states can request assistance over a wide range of services from those other signatory states without having to negotiate many of the legalities, which have been worked out through the compact. EMAC provided a valuable tool that supported many phases of disaster response, including law enforcement.

Such capabilities involved lending states' police forces, and, through Memoranda of Understanding arranged by the National Guard Bureau, National Guard forces including military police.⁹⁵ According to Colonel Steven Dabadie, Chief of Staff of the Louisiana National Guard, "a large amount of those National Guardsmen that we had in New Orleans were performing security missions,"⁹⁶ including at shelters and commodities-distribution sites.⁹⁷

During the first week after landfall, outside law-enforcement agencies were "showing up"⁹⁸ in New Orleans, without prior coordination. "It was pitch black in New Orleans," which resulted in "a couple situations" where one law enforcement agency ran into members of another when neither agency knew the other was in the area.⁹⁹ This could be attributed to the first responder self-deployment phenomenon identified after the September 11, 2001, terrorist attacks, and could be a recurring problem in future disasters.¹⁰⁰ It could also be the result of an EMAC process where both the local sheriffs association and LSP separately made EMAC requests. Colonel Whitehorn thought that "one EMAC request rather than the sheriffs doing EMAC and then State Police do[ing] another EMAC" made more sense.¹⁰¹

It was not until "around day five [that New Orleans] began to coordinate better."¹⁰² Substantial numbers of military personnel were on the ground, tens of thousands of people had been evacuated from the city, and, most importantly, the immediate search-and-rescue crisis was winding down. Additionally, substantial numbers of federal law-enforcement personnel were flowing into the state. Organization, largely absent in the first week, was established through a single check-in at the State Police facility in Baton Rouge operated

in conjunction with a federal Law Enforcement Coordination Center (LECC) set up on September 5. Under the auspices of the lead federal law-enforcement officials, the LECC brought together representatives from LSP and local law enforcement, among others.

Thereafter, many out-of-state responders came with their own command structures in place, including clear lines of authority. This made the integration process work even more smoothly and allowed out-of-state responders to meet local needs even in areas where they were not familiar with the surroundings.¹⁰³

The LSP ultimately oversaw the deputization of more than 400 law-enforcement officers from other states and more than 3,000 from the federal government.¹⁰⁴

At the same time, the State of Louisiana did not request assistance in a form that the Department of Justice found acceptable until days after the storm. Governor Blanco sent a specific request on September 4, stating in part that “the request is made under the Justice Assistance Act of 1984 (‘the Act’), 42 U.S.C. §§ 10501-10503, which authorizes the U.S. Department of Justice to provide law enforcement assistance to a State.”¹⁰⁵ The State Attorney General’s office has not provided the Committee with any information which has shed light on the timing and preparation of this letter, or Colonel Whitehorn’s earlier request for assistance.

Moreover, it is not clear that Louisiana requested law-enforcement assistance from FEMA, which, in the first week, assigned hundreds of law-enforcement officials to New Orleans.¹⁰⁶

Thus, the State waited several days after landfall before getting a request for law-enforcement assistance to the other states through EMAC, in a formal request, to the federal government for help in a form DOJ found acceptable.

III. The Federal Response

A. Neither DHS Nor DOJ Took Any Significant Steps Prior to Landfall to Understand, Plan For or Coordinate Their Joint ESF-13 Responsibilities Relating to a Natural Disaster

The National Response Plan’s ESF-13 assigns the DHS and DOJ jointly to lead the federal government’s public-safety and security efforts.¹⁰⁷ This is the only ESF for which two agencies are designated as both Coordinators and Primary Agencies, and the results of that joint assignment in Katrina show the wisdom of the unitary assignments for the other ESFs. By assigning this responsibility to more than one entity, the NRP effectively ensured that no one took charge. Because the NRP is silent on resolving leadership issues, DHS and DOJ neither coordinated with each other prior to Katrina, nor independently planned for carrying out their ESF-13 functions. As a result, the days immediately prior to and after landfall were spent figuring out precisely how to implement the ESF-13 responsibilities, rather than actually implementing them in full.

Even the simplest of questions were unresolved prior to Katrina. In the days after landfall, for example, officials at both DOJ and DHS expressed confusion over how the two agencies were supposed to coordinate and which of the two was supposed to take the lead. A September 1 memo among several senior DOJ officials suggested that “DHS is in the lead,”¹⁰⁸ and showing the extent of the confusion, the version of the September 1 DOJ memo produced to the Committee had a handwritten note from the Principal Associate Deputy Attorney General next to the caption “Responsibilities, ESF Coordinators/Primary Agencies” asking “How are these designated? By Whom?”¹⁰⁹ Meanwhile, a September 4 DHS e-mail expressed concern that “DOJ is looking to run this whole effort.”¹¹⁰ On the same day, another DHS e-mail noted that “We have several hundred DHS LEOs [Law Enforcement



Officials] already there and can mobilize several thousand more if our department can make a decision to seriously commit to this effort.”¹¹¹

Matthew Broderick, Director of the DHS’s Homeland Security Operations Center, offered this candid testimony on the extent to which the ESF-13 responsibilities in a Katrina-like situation were neither contemplated nor understood: “In most cases in the NRP, the FBI has got the lead because it’s a terrorist-related action, and they have to do the criminal investigation. No one had thought about a natural disaster.”¹¹² Broderick described the confusion about who would be the lead as part of the “growing pains of working through the NRP,”¹¹³ saying:

In a natural disaster, there really is no reason for the FBI, there was no investigative part of it to be involved, particularly when the preponderance of the law enforcement – Federal law enforcement was all [Immigration and Customs Enforcement and Customs and Border Protection] owned by us anyway. So, if we had – if FEMA was overseeing it as a component, why not let our law enforcement component take the lead in doing that? ... I think it was just a matter of no one thinking it through. ... I don’t think anybody had thought about the natural disaster scenario.¹¹⁴

In addition, neither DHS nor DOJ seems to have resolved which component within each agency was responsible for the Departments’ ESF-13 responsibilities.¹¹⁵ To this day, no witness interviewed by or document provided to the Committee has definitively identified the agency or component in charge of ESF-13 at DHS, or who made the decision to activate the support function. Senior Department officials couldn’t tell the Committee who within the Department was in charge.¹¹⁶ DHS Deputy Secretary Michael Jackson, for example, had no idea even when the Committee interviewed him which component of his agency was in charge of ESF-13, and he was unable to offer any insight into what DHS did as co-lead.¹¹⁷ Instead, he repeatedly suggested pursuing this issue with FEMA, notwithstanding the fact that DHS, not FEMA, includes law-enforcement components.¹¹⁸ His answer did not change after he was informed during this interview that the NRP assigns responsibility for ESF-13 to DHS as a whole, not to FEMA.¹¹⁹

The DHS official who ultimately served as the Department’s lead law-enforcement person in Louisiana spoke candidly about his lack of familiarity with the NRP, and the lack of clarity in the guidance given him concerning the roles of DHS, ICE, or himself at the time of his deployment. Assistant Director of Immigration and Customs Enforcement’s (ICE’s) Office of Investigations Michael Vanacore told the Committee that, with respect to the NRP, “I ... had a fleeting familiarity with it. To be honest, it wasn’t something that was high on my radar screen with my particular responsibilities.”¹²⁰ When he was first put on “standby” on September 2, he was told “that I would probably be going down in some capacity for ICE, but nobody was sure what that capacity would be.”¹²¹ Prior to his arrival on September 4, he said there was “nobody who’s stepping up to say ‘I’m in charge,’ and I don’t think any of us had the authority to step up and say, ‘I’m in charge.’ Hence, ... the need for some sort of designation.”¹²² Upon his arrival, he recalled that processes were not in place for coordinating the chains of command among state, local, federal, regular military, and National Guard personnel.¹²³ Even as of September 6, two days after his arrival, he still did not know whether he was there “to coordinate ICE ... or to coordinate all of DHS.”¹²⁴

Vanacore admitted that the role ICE played during the Katrina response had not been envisioned previously. “While the National Response Plan may call on DHS, it didn’t call on ICE. And I think ICE stepped up and took on a role that nobody defined for us up until that point. Nobody told ICE, ‘This is your role.’”¹²⁵ Vanacore questioned the wisdom of ICE’s role as the ESF-13 lead for DHS: “I think we’re primarily a law enforcement investigative agency, and that’s where our focus is. We do investigations. We really did not, up until



Patrolling a flooded city
Army National Guard photo

that point, have, I think, a focused role in a natural disaster response.”¹²⁶ He also opined that uniformed officers within DHS might be better suited to respond than ICE investigators.¹²⁷

In the days after Katrina, DOJ leadership seemed as confused as the leadership at DHS about how ESF-13 was supposed to work. The previously referenced memorandum among top DOJ officials includes a marginal notation on the third page that asks “who activates” ESF-13,¹²⁸ and a September 1 e-mail from Senior Counsel James McAtamney notes that requests from state and local officials should be directed to the Joint Field Office (JFO),¹²⁹ even though the JFO didn’t exist until well into the next week. It also reports that a representative

from the Bureau of Alcohol, Tobacco and Firearms (ATF) had deployed to DHS’s Homeland Security Operations Center,¹³⁰ even though the NRP calls for such designees to report to an entirely different entity, the National Response Coordination Center.¹³¹

B. The Departments’ Failure to Understand, Plan for and Implement Their ESF-13 Responsibilities in Natural Disasters Prior to Katrina Led to Delays in Providing Law-Enforcement Assistance

The confusion over the meaning of and responsibility for implementing ESF-13 had real-world consequences, because it prevented the federal government from hitting the ground running when the magnitude of Katrina’s likely catastrophic consequences became apparent. If ever there were a case for the activation of ESF-13, Katrina was it. All indicators prior to landfall – from the President’s call to Governor Blanco urging a mandatory evacuation, to FEMA Director Brown’s comments on the Sunday, August 28, video teleconference in which DHS officials participated, that Katrina could be “a catastrophe within a catastrophe”¹³² – left little doubt that Katrina would create, in the words of the ESF, “a situation requiring extensive assistance to provide public safety and security and where State and local government resources are overwhelmed or are inadequate.”¹³³ Events immediately after landfall – most importantly the devastation of NOPD’s capabilities – confirmed the need for a federal law enforcement cadre prepared, trained and ready to deploy to assist.

Yet the lack of advanced planning meant that it took several days after landfall – days in which the city and those helping it suffered from a lack of order and protection – for DOJ to move into the New Orleans area in force. On September 1 – three days after landfall – only 45 agents from 4 DOJ components were reportedly in the city, while as many as 215 were on hand in Baton Rouge.¹³⁴ Notably, 188 of the 214 FBI personnel assigned to the New Orleans office were on administrative leave as late as September 8,¹³⁵ presumably not participating in the response effort.¹³⁶ Nonetheless, starting on September 2, significant federal law-enforcement contingents began arriving in Louisiana. On September 6, there were reportedly 2,326 federal law-enforcement officers in the disaster relief area¹³⁷ – including 694 from DOJ. The combined federal law enforcement deployment was nearly equal to the total of LSP and NOPD officers in the State of Louisiana before landfall.¹³⁸

In the midst of this time-sensitive need, federal law-enforcement agencies found themselves grappling with issues they had not resolved previously, including how their newly assigned public-safety and security functions would mesh with military assistance provided for civil disturbances.¹³⁹ DOJ, at least, envisioned its law-enforcement role in Katrina's aftermath as secondary to that of military troops sent to the affected states for these purposes.¹⁴⁰ In fact, Louisiana officials had requested such troops and thousands of military police and Guardsmen available and intended to reinforce the NOPD deployed to the city from August 31 through September 3.¹⁴¹ The deployment of active-duty troops for such purposes, pursuant to an invocation of the Insurrection Act, also remained a real possibility.¹⁴² The extent to which DOJ and DHS coordinated the deployment of their personnel and assets with any DOD entity remains unclear.

Similarly, it does not appear that DHS law-enforcement personnel, with the exception of the Federal Protective Service¹⁴³ and Customs and Border Patrol,¹⁴⁴ were preparing to assist with their ESF-13 response with much urgency. Senior Immigration, Customs and Enforcement (ICE) leadership, were at an ICE conference in Baltimore from August 29-31 at which Katrina merited only "some mention," and that was regarding plans for recovery of ICE assets, not a larger emergency response.¹⁴⁵ Among those attending was Mike Holt, the ICE Special Agent in charge in New Orleans, who was unable to get back to the city until the following Friday.¹⁴⁶

There's another twist to the timing of the deployment of DOJ resources: although ESF-13 contemplates a broad role for federal law enforcement,¹⁴⁷ DOJ appears to take the position that it could only deploy resources to provide law-enforcement assistance to a state pursuant to 42 U.S.C. § 10501.¹⁴⁸ This statute provides a process for federal law-enforcement assistance to be provided to a state in the event of a "law enforcement emergency."¹⁴⁹ The process requires a written application¹⁵⁰ from a governor before DOJ can push its personnel into a state to provide "law enforcement assistance."¹⁵¹ Although DOJ appears never to have responded to Col. Whitehorn's letter, it follows from the position it took in its responses to HSGAC's questions in its November 23, 2005, response concerning the applicability of 42 U.S.C. § 10501 that it found his August 30 request insufficient to allow for the dispatch of DOJ assistance to Louisiana, because it came from the superintendent of the State Police rather than the Governor herself.¹⁵² As noted earlier, Colonel Whitehorn wrote asking for any assistance the FBI could provide, including deployment of available tactical teams.¹⁵³

Although Colonel Whitehorn's letter does not comply with the terms of 42 U.S.C. § 10501, the lack of a compliant letter need not have prevented DOJ from deploying law-enforcement officers and resources to Louisiana. In the first place, the NRP, to which DOJ is a signatory, contemplates the deployment of federal law enforcement personnel and does not reference 42 U.S.C. § 10501.¹⁵⁴ In the second place, DOJ ended up deploying personnel to Louisiana before *receiving a compliant request under the statute*. Indeed, the bulk¹⁵⁵ of DOJ's responding personnel were in the state before Governor Blanco personally requested assistance on September 4.¹⁵⁶

Another example of DOJ reliance on the absence of a formal 42 U.S.C. § 10501 request from the Governor is an exchange of e-mails between DOJ's Principal Associate Deputy Attorney General William Mercer, Senior Counsel McAtamney and Principal Deputy Assistant Attorney General Steve Bradbury, concerning a State request for ATF help with crowd control.¹⁵⁷ Bradbury wrote on September 1, "There is not currently a written request from the Governor to the AG to provide DOJ assistance to State and local law enforcement. We would not approve this State law enforcement activity until there is such a request and the AG has issued an order approving the request. ATF could move forward with preparations and pre-positioning but should not actually begin state law enforcement without such an order."¹⁵⁸

Again, there is no record DOJ ever advised the Governor of its view of the prerequisite conditions for providing law-enforcement assistance.

On September 1, the Attorney General's deputy chief of staff, Kyle Sampson, sent an e-mail to the directors of the FBI, ATF, U.S. Marshals Service, and others, noting that "The AG intends to issue a directive to each of you later today to move additional resources into [Louisiana] in response to Hurricane Katrina and its aftermath."¹⁵⁹ Sampson also wrote that "the President has said publicly that looting and violence and lawlessness will not be tolerated and that he has spoken to his AG about it, so we want to ensure that we are bringing all of our [law enforcement] assets to bear on this." Each of the subordinate agencies was directed to "provide ... in the next several hours, a rack-up of additional personnel, assets, and other resources ... available to be applied directly to this problem."¹⁶⁰ The Attorney General issued a directive on Friday, September 2, designating DOJ assets to deploy to the affected region.¹⁶¹

Despite repeated requests, DOJ has not provided the Committee with sufficient information to determine the cause of the delay between receipt of Colonel Whitehorn's August 30 letter and issuance of the September 2 order directing the deployment of federal law-enforcement personnel to Louisiana. However, the Committee would find it unacceptable if the delay was caused by the fact that the request from Colonel Whitehorn did not technically meet the formula set forth 42 U.S.C. § 10501. This is particularly so given that DOJ has provided the Committee with no documentation or testimony indicating that it told Louisiana officials that Colonel Whitehorn's letter was insufficient. At a minimum, the letter should have been treated by DOJ with a greater sense of urgency than was disclosed to the Committee given the crisis that was still unfolding in Louisiana. It would be equally unacceptable if the reason was simply failure to plan for or anticipate the need for federal law-enforcement assistance under ESF-13.

It is also clear that other legal issues that should have been resolved long prior to landfall caused confusion and limited what DOJ would allow its personnel to do in the first week following Katrina. In the days before landfall, the ATF took the initiative to contact the Deputy Attorney General's office to seek "any guidance that would come from the Attorney General to all the Justice components about what authorities we'd be acting under and what our response would be."¹⁶²

As the law-enforcement situation in New Orleans worsened with the storm's passing, DOJ law-enforcement agencies continued their quest for guidance as to the Department's plans to coordinate and implement a departmental response.¹⁶³ On the evening of August 31, DOJ advised its component agencies that it was still in the process of developing such guidance.¹⁶⁴ DOJ lawyers were still reviewing "a number of very sensitive legal/perhaps constitutional issues" with providing assistance on non-federal law-enforcement matters to state and local officials.¹⁶⁵

On September 4, following receipt of Governor Blanco's official, written request for law-enforcement assistance, U.S. Attorney General Alberto Gonzales issued an order to DOJ law-enforcement officers authorizing them to assist law-enforcement officials in the State of Louisiana to enforce the laws of that state.¹⁶⁶ Even after the order was issued, the deputization process which was a state responsibility, proved to be "difficult."¹⁶⁷ ICE Assistant Director Vanacore described helping coordinate a deputization process for all federal agents with the Louisiana Attorney General's Office in which agents had to take an oath in the personal presence of a state assistant attorney general.¹⁶⁸ The numerous, rapid deployments of agents each day, combined with the limited number of assistant attorney generals available to conduct live deputization ceremonies, made it hard to get people together at the same time and place. Accordingly, they were forced to dispatch non-deputized agents with deputized agents, NOPD officers, or LSP troopers.¹⁶⁹ This increased the complexity of taking coordinated action.¹⁷⁰

Similar issues arose regarding agents' powers to rescue residents trapped in their homes, or to conduct street patrols. For example, according to e-mails submitted by DOJ, a message – including an opinion from the office of the U.S. Attorney for the Eastern District of Louisiana – addressing FBI agents' authority regarding forced entries, forced evacuations, and rescues appeared on a password-protected website no earlier than September 10. On September 13, DOJ officials sought broader distribution of this message. As FBI Agent Kenneth Kaiser said, these kinds of issues “frustrated a lot of the agents,”¹⁷¹ and he felt like he “was holding back the reins on a horse.”¹⁷²

Even today, it is unclear what sort of law-enforcement role DOJ envisions for federal law-enforcement officers in a natural-disaster scenario. In answers to the Committee's questions, the DOJ stated that ESF-13 “does not extend to providing federal law enforcement personnel to ... enforce federal, state or local laws.”¹⁷³ DOJ offers as an example to illustrate the type of support it could provide under ESF-13 that if a state or local law-enforcement agency had suffered the loss of communications equipment, it could submit a request for federal law-enforcement assets to the ESF-13 staff, who would evaluate it and then pass it on to the senior federal official. In contrast, Michael Bouchard, ATF's Assistant Director in Charge of Operations, believed that the requests would be passed from the NRCC to the IIMG.¹⁷⁴ Special Agent in Charge of the Boston Field Office Kenneth Kaiser, who has had substantial training on the NRP, including appointment as a PFO, expressed another view of the type of assistance contemplated by ESF-13, stating, “There's nothing in the ESF-13 that says that the FBI or any DOJ or any law enforcement agency is responsible for supplying food and clothing for these people. ... ESF-13 does not address that at all. ESF-13 is a law-enforcement function and that's what we did. The other functions, resupplying and stuff like that, that is not a law enforcement function.”¹⁷⁵

According to DOJ, conferring the authority to enforce state and local laws on federal law-enforcement officers requires two steps. First, there must be a 42 U.S.C. § 10501 request for such assistance from a governor, and second, they must be deputized in accordance with the laws of the requesting state. Of course, federal law-enforcement officers could be deployed to a state without a gubernatorial request,¹⁷⁶ in any event, and could undertake federal missions and provide support to local law enforcement, while their mere presence would go a long way towards preserving order and security in a panic-stricken city. In addition, they could have performed search and rescue, thus permitting the NOPD and the LSP to focus more on traditional law-enforcement tasks such as crowd control. Between September 1 and September 3, DOJ law-enforcement components were in fact engaged in law-enforcement and search-and-rescue operations, including saving lives.¹⁷⁷

The DHS and DOJ's confusion about their roles and authorities prevented the Departments from bringing the full weight of their resources to bear until roughly a week after landfall. It was not until the beginning of the second week that the federal agencies took action to establish a law-enforcement coordination center to track and coordinate arriving officers; designate officials to be in charge of that process; and arrange for deputization of federal officers by the states.

C. The Departments' Failure to Designate Senior Federal Law-Enforcement Coordinators Until Nearly a Week After Landfall, If They Ever Did, Further Hindered Response Efforts

Further adding to the confusion created by the NRP's joint delegation to DHS and DOJ of its ESF-13 responsibilities is another part of the NRP, which creates the position of Senior Federal Law Enforcement Official (SFLEO). According to the NRP, the SFLEO “is the senior law enforcement official from the agency with primary jurisdictional responsibility as directed by statute, Presidential directive, existing Federal policies, and/or the Attorney General.”¹⁷⁸ The SFLEO directs intelligence/investigative law-enforcement operations in a

national incident, such as terrorism, a national-security special event, or disaster. The NRP states that “In the event of a terrorist incident, this official will normally be the FBI SAC,”¹⁷⁹ but it doesn’t specify who takes the post after a natural disaster. The jockeying for a law-enforcement position reflects the failure to engage in pre-incident planning for a federal law-enforcement role, at least in response to a national disaster, and played a role in this delay.

The NRP offers no insight into how the SFLEO is supposed to interact or coordinate with the ESF-13 agencies, or why two agencies are charged with primary and coordinating responsibility under ESF-13.¹⁸⁰ These ambiguities, as well as delay by both DHS and DOJ in designating a SFLEO, further contributed to the untimeliness of the federal public safety response and impeded the strategic coordination of incoming federal law-enforcement resources.¹⁸¹ It further reflects the failure to engage in adequate, if any, pre-event planning for a federal law-enforcement role in response to a natural disaster.

Although FEMA and DHS appear to have considered the ESF-13 function activated two days prior to landfall, the eventual putative co-SFLEOs – Vanacore and FBI Special Agent Michael Wolf – were not identified until September 5, almost a week after landfall. While the reasons for this delay remain unclear, the shared responsibility for ESF-13 between DOJ and DHS, and in-fighting within DHS,¹⁸² initially played a role.

The process by which DHS selected its prospective co-SFLEO is instructive as to the lack of definition. On September 2, ICE leadership told Vanacore that he would deploy to Louisiana to serve in a liaison capacity, though his exact duties remained unclear.¹⁸³ In this capacity, any information he provided was sent to ICE, not to senior DHS leadership.¹⁸⁴ He arrived in Baton Rouge late in the afternoon on September 4.¹⁸⁵ After he arrived in Baton Rouge he learned that he was made co-SFLEO, although without written designation.¹⁸⁶ Though an experienced leader, he had no specific training on the NRP and no natural-disaster response experience.¹⁸⁷ Vanacore determined that he could best contribute by assuming a coordination role.¹⁸⁸

DOJ has been unclear in its statements to the Committee on the subject of SFLEO designation. According to Wolf, he assumed co-SFLEO responsibilities on September 4, but never received a formal designation; instead, he received his orders by telephone from the Bureau’s Executive Assistant Director for Criminal Investigations.¹⁸⁹ Yet, William Mercer, DOJ’s Principal Associate Deputy Attorney General, stated in his Committee interview that the SFLEOs were self-selected.¹⁹⁰ During a follow-up interview, he amplified on his earlier statements, stating that SFLEOs were not designated during the response, and that the U.S. Attorney for the Eastern District of Louisiana retained coordinating control over law-enforcement assets and personnel in New Orleans pursuant to a memorandum signed by the Attorney General dated September 4.¹⁹¹

With the arrival of the co-SFLEOs, the law-enforcement management situation in Louisiana, especially New Orleans, improved significantly, and local authorities were ultimately pleased with federal help, once it arrived.¹⁹²

Vanacore and Wolf fulfilled their duties ably, in part because they could establish a productive working relationship,¹⁹³ but both noted that a single chain of command would have been more effective. Vanacore concluded, “You need one general in command. ... We managed this because everybody agreed to be managed. But that’s not the way to do things. ... You don’t run a war with co-generals.”¹⁹⁴

D. Conclusion

While federal law-enforcement officers eventually provided enormous assistance to state and local governments in the Gulf Coast region, more forethought and planning would

have allowed them to provide greater and critically needed help when it was most needed – during the storm’s immediate aftermath.

Perhaps testimony from Kenneth Kaiser, a former FBI Special Agent in Charge of the New Orleans Field Office who volunteered to deploy to New Orleans on August 31, and who assumed responsibilities as the Bureau’s on-scene tactical commander, best summed up the lack of forethought by federal law enforcement planners. Kaiser had received Principal Federal Officer training under the NRP, and described himself as having received “as much training and crisis management exercis[ing] that probably anybody in the Bureau has ever [received].”¹⁹⁵ According to this experienced official, “I would have told you that prior to Katrina that there would be no way that the FBI would be as heavily involved in a natural disaster as we were down there. ... Post-Katrina, I would say there definitely is a law enforcement aspect to these natural disasters, in the worst-case scenario.”¹⁹⁶

The Committee expects that this experience will prompt DOJ and DHS to engage in far better planning and coordination in anticipation of the next disaster.

1 Allen G. Breed, “Opportunists Help Themselves, Sometimes in Front of Police,” *BC Cycle*, Aug. 30, 2005; “New Orleans probes police role in looting,” *The Associated Press*, Sept. 29, 2005, 8:43 p.m. ET. <http://www.msnbc.msn.com/id/9535751/>. Accessed on May 9, 2006.

2 Scott Gold, Lianne Hart, and Stephen Braun, “Katrina’s Rising Toll,” *Los Angeles Times*, Sept. 1, 2005, Part A, p. 1.

3 Scott Gold, Alan Zarembo, and Stephen Braun, “Katrina’s Aftermath; Guardsmen Arrive in New Orleans; Pace of Evacuations Is Stepped Up,” *Los Angeles Times*, Sept. 3, 2005, part A, p. 1.

4 Gold, Zarembo, and Braun, “Katrina’s Aftermath,” part A, p. 1.

5 Joseph B. Treaster, “Police Quitting, Overwhelmed by Chaos,” *The New York Times*, Sept. 4, 2005, Section 1, p. 1.

6 Eddie Compass, *The Oprah Winfrey Show*, “Inside the Katrina Catastrophe,” Sept. 6, 2005. http://www.oprah.com/tows/pastshows/200509/tows_past_20050906.jhtml. Accessed on Mar. 30, 2006.

7 Written Statement of Warren Riley, Superintendent, New Orleans Police Department, LA, for the U.S. Senate, Committee on Homeland Security and Governmental Affairs, hearing on *Hurricane Katrina: Managing Law Enforcement and Communications in a Catastrophe*, Feb. 6, 2006, p. 8.

8 Committee staff interview of Lonnie Swain, Assistant Superintendent, New Orleans Police Department, LA, conducted on Nov. 9, 2005, transcript pp. 75-76; Committee staff interview of Warren Riley, Superintendent, New Orleans Police Department, LA, conducted on Jan. 12, 2006, transcript p. 34.

9 Committee staff interview of Jeff Glick, Chief, Critical Infrastructure Protection Division, National Communications System, U.S. Department of Homeland Security, conducted on Feb. 3, 2006, transcript p. 59. *See also*: Committee staff interview of Christopher Guttman-McCabe, Vice President for Regulatory Affairs, Cellular Telecommunications and Internet Association, conducted on Jan. 24, 2006, transcript p. 25.

10 *See*: Chapter 8: Hurricane Pam: Warning Flag for Katrina.

11 *The Oprah Winfrey Show*, “Inside the Katrina Catastrophe,” Sept. 6, 2005. http://www.oprah.com/tows/pastshows/200509/tows_past_20050906.jhtml. Accessed on Mar. 30, 2006.

12 Mayor C. Ray Nagin, “Transcript of WWL-AM Radio with New Orleans’ Nagin,” Sept. 2, 2005. <http://www.cnn.com/2005/US/09/02/nagin.transcript/>. Accessed on Mar. 20, 2006.

13 U.S. Department of Homeland Security, *National Response Plan*. Washington: Government Printing Office, Dec. 2004, p. ESF #13-1 [hereinafter *NRP*].

14 Written Statement of Riley, Senate Committee hearing, Feb. 6, 2006, p. 2.

15 Written Statement of Riley, Senate Committee hearing, Feb. 6, 2006, p. 8. According to NOPD officials, approximately 65 have been terminated, 60 have resigned, 12 have been suspended, and 37 others were still subject to disciplinary proceedings at the time of interview. Swain interview, Nov. 9, 2005, p. 122; Riley interview, Jan. 12, 2006, p. 148.

16 FBI Special Agent in Charge Kenneth Kaiser provided a vivid picture of the status of the NOPD force:

They were running out of ammunition. They were running out of food and water. We were bringing them food and water. And we brought in our medical personnel to look at the people. Some of these people had been on duty since the hurricane, hadn’t heard from their wife and kids, hadn’t left their

post. Some of them were very ill. They had fevers. ... A lot of them were wearing the same clothes they'd worn for seven, eight days.

Committee staff interview of Kenneth Kaiser, Special Agent in Charge, Boston Field Office, Federal Bureau of Investigation (FBI), conducted on Jan. 25, 2006, transcript p. 29. *See also:* Riley interview, Jan. 12, 2006, p. 75; Committee staff interview of Col. Mark Oxley, Chief of Staff, Louisiana State Police, conducted on Dec. 9, 2005, transcript p. 253.

17 New Orleans Police Department, Initial (30-day) After Action Report-Summary, p. 6. Provided to Committee [hereinafter NOPD, Initial After Action Report-Summary].

18 New Orleans Police Department Initial (30-day) After Action Report, Report of Capt. Jeffrey J. Winn, Oct. 10, 2005, p. 2; Written Statement of Capt. Timothy Bayard, Commander, Vice Crimes and Narcotics Section, New Orleans Police Department, LA, for the U.S. Senate, Committee on Homeland Security and Governmental Affairs, hearing on *Hurricane Katrina: Urban Search and Rescue in a Catastrophe*, Jan. 30, 2006, p. 2. Captain Bayard described the problem in his after action report: "our biggest flaw is the fact that we failed to communicate. ... The instructions and plans that are formed at the top are not clearly communicated to the rank and file. ... This causes confusion and misdirection. In the time of crisis our leaders need to be SEEN and HEARD." New Orleans Police Department, Initial (30-day) After Action Report, Report of Capt. Timothy Bayard, Oct. 16, 2005, p. 4. Provided to Committee [hereinafter Capt. Bayard, Initial After Action Report, Oct. 16, 2005].

19 New Orleans Police Department, Initial (30-day) After Action Report, Report of Capt. Jeffrey J. Winn, Oct. 10, 2005, p. 2. Provided to Committee [hereinafter Capt. Winn, Initial After Action Report, Oct. 10, 2005]; NOPD, Initial After Action Report-Summary, pp. 4, 6.

20 Capt. Winn, Initial After Action Report, Oct. 10, 2005, p. 2.

21 Kaiser interview, Jan. 25, 2006, p. 29.

22 Riley interview, Jan. 12, 2006, p. 75.

23 New Orleans Police Department, *Emergency Operations Manual*, 2005, p. 13–3. Provided to Committee [hereinafter NOPD, *Emergency Operations Manual*, 2005].

24 Committee staff interview of Capt. Paul Hellmers, Captain, Engine 18, Second Platoon, Fifth District, New Orleans Fire Department, LA and Capt. Joe Fincher, Engine 18, Third Platoon, Fifth District, New Orleans Fire Department, LA, conducted on Nov. 7, 2005, transcript pp. 12-13, 16; New Orleans Fire Department, *2005 Hurricane Guidelines*, p. 2–1. Provided to Committee [hereinafter NOFD, *2005 Hurricane Guidelines*].

25 NOFD, *2005 Hurricane Guidelines*, pp. A2–1 through A5–2, A7–1.

26 NOPD, *Emergency Operations Manual*, 2005, p. 13–3.

27 Committee staff interview of Lt. Col. Mark Oxley, Chief of Staff, Louisiana State Police, and Lt. Col. Joseph Booth, Deputy Superintendent, Crisis Response and Special Operations, Louisiana State Police, conducted on Dec. 9, 2005, transcript pp. 251-253.

28 NOPD, Initial After Action Report-Summary, p. 6 (This was noted by 12 officers, or 46.1% of respondents.).

29 NOPD, Initial After Action Report-Summary, p. 6 (This was noted by 10 officers, or 38.4% of respondents.).

30 Committee staff interview of Warren Riley, Superintendent, New Orleans Police Department, LA, conducted on Dec. 20, 2005, transcript p. 49.

31 Testimony of Warren Riley, Superintendent, New Orleans Police Department, LA, before the U.S. Senate, Committee on Homeland Security and Governmental Affairs, hearing on *Hurricane Katrina: Managing Law Enforcement and Communications in a Catastrophe*, Feb. 6, 2006; Riley interview, Dec. 20, 2006, pp. 45-51.

32 Maj. Damian K. Waddell, memorandum for Joint Force Headquarters Louisiana, Feb. 7, 2006. Provided to Committee. *See also:* Chad Michael Lynch, Louisiana Army National Guard, sworn statement, Feb. 8, 2006. Provided to Committee; Robert John Threton, Louisiana Army National Guard, sworn statement, Feb. 8, 2006. Provided to Committee; David S. Silva, Louisiana Army National Guard, sworn statement, Feb. 8, 2006. Provided to Committee; Edward M. Knight, Louisiana Army National Guard, sworn statement, Feb. 9, 2006; Louisiana Army National Guard, high water vehicle list with assigned drivers. Provided to Committee; Col. Jonathan T. Ball, memorandum for the record, "Request for 'High Water' Trucks," Feb. 8, 2006. Provided to Committee.

33 Capt. Winn, Initial After Action Report, Oct. 10, 2005, p. 2; Riley interview, Jan. 12, 2006, p. 119 ("As it relates to food, food has never, ever been an issue. Most officers pack their own lunch, bring their own food, and prepare for the storm. ... If you talk about a flood of this proportion for 14 days, then absolutely food and water was a definite issue."); Capt. Bayard, Initial After Action Report, Oct. 16, 2005, p. 2.

34 New Orleans Police Department, Initial (30-day) After Action Report, Report of Capt. Juan Quinton, p. 3. Provided to Committee.

35 Committee staff interview of Capt. Timothy Bayard, Commander, Vice Crimes and Narcotics Section, New Orleans Police Department, LA, conducted on Nov. 21, 2005, transcript pp. 93-94.

36 Riley interview, Jan. 12, 2006, p. 25.

37 Riley interview, Jan. 12, 2006, p. 34.

38 Swain interview, Nov. 9, 2005, pp. 77-78 (Mr. Swain related the incident in detail during his committee interview: There was a man in one of the locker rooms who was apparently looking for a place to use the rest room. "I think he may have had a stick or something in his hand, or whatever. I think the Guardsman went to approach him to determine what [he was] doing. ... The floors were extremely slippery from the water and the much and everything else. ... Apparently when the Guardsman approached, there was two Guardsmen, the one in the front, as they approached the guy, I don't know if this guy stood up from a squatting position or whatever. But the Guardsman in the front stepped back. When he stepped back, the Guardsman behind him apparently attempted to step back and slipped. As he was slipping, he had his gun apparently, his finger on the trigger, and his weapon discharged, hitting him in the leg.").

39 Riley interview, Jan. 12, 2006, p. 35.

40 Committee staff interview of Ronald L. Martin, Deputy Commander, Management Support Team, National Disaster Medical System, Federal Emergency Management Agency (FEMA), conducted on Jan. 13, 2006, transcript pp. 92-97; Committee staff interview of Marty Bahamonde, Regional Director, External Affairs, Region I, FEMA, conducted on Oct. 7, 2005, transcript pp. 200-201; Committee staff interview of Kevin Stephens, MD., Director, New Orleans Health Department, LA, conducted on Nov. 10, 2005, transcript pp. 50-63.

41 Committee staff interview of David Webb, Program Specialist, Program Office, National Search and Rescue, Urban Search and Rescue Response System, FEMA, conducted on Feb. 7, 2006, transcript pp. 58-61; Committee staff interview of James Strickland, Team Member, Urban Search and Rescue, FEMA, conducted on Jan. 25, 2006, transcript p. 91.

42 Douglas Crow, e-mail to Matthew Friedrich, Sept. 1, 2005, 6:58 p.m. Provided to Committee (discussing in part alleged carjackings on the road from New Orleans to Baton Rouge. FBI Special Agent in Charge Kenneth Kaiser also spoke of such fears in the context of power company trucks sustaining gunfire; the police also chased one truck involved in a highjacking.).

43 Kaiser interview, Jan. 25, 2006, p. 59; U.S. Department of Homeland Security, Hurricane Katrina DHS SitRep #23, Sept. 6, 2005, 6 p.m., pp. 9, 12, 14, 20. Provided to Committee; filed as Bates nos. DHS 0001487, 0001490, 0001492, 0001498.

44 Riley interview, Jan. 12, 2006, p. 125.

45 Committee staff interview of Eddie Compass, then-Superintendent, New Orleans Police Department, LA, conducted on Jan. 12, 2006, transcript p. 31.

46 Riley interview, Jan. 12, 2006, p. 31.

47 NOPD, *Emergency Operations Manual*, 2005, pp. 2-3, 13-12.

48 Riley interview, Dec. 20, 2005, p. 33.

49 Compass interview, Jan. 12, 2006, pp. 9-12.

50 Riley interview, Jan. 12, 2006, pp. 127-128.

51 Compass interview, Jan. 12, 2006, p. 128. Compass officially resigned from the NOPD on Oct. 31, 2005.

52 Riley interview, Jan. 12, 2006, p. 127.

53 Riley interview, Jan. 12, 2006, pp. 127-129.

54 Dan Baum, "Deluged," *The New Yorker*, Jan. 9, 2006, p. 54; Bayard interview, Nov. 21, 2005, pp. 46, 50.

55 NOPD, Initial After Action Report-Summary, p. 14.

56 New Orleans Police Department, Initial (30-day) After Action Report, Report of Capt. Robert Norton, Oct. 10, 2005, pp. 2-3.

57 Capt. Winn, Initial After Action Report, Oct. 10, 2005.

58 Capt. Winn, Initial After Action Report, Oct. 10, 2005.

59 Capt. Winn, Initial After Action Report, Oct. 10, 2005.

60 Capt. Winn, Initial After Action Report, Oct. 10, 2005.

61 Riley interview, Jan. 12, 2006, pp. 39-40.

62 Riley interview, Jan. 12, 2006, pp. 39-40.

63 Riley interview, Jan. 12, 2006, p. 40.

64 Compass interview, Jan. 12, 2006, p. 126.

65 Riley interview, Jan. 12, 2006, p. 44.

66 Riley interview, Jan. 12, 2006, p. 38.

67 NOPD, Initial After Action Report-Summary, p. 11.

68 Riley interview, Jan. 12, 2006, p. 38.

69 Committee staff interview of James Bernazzani, Special Agent in Charge, New Orleans Division, FBI, conducted on Jan. 25, 2006, transcript p. 88.

70 FBI, New Orleans Command Post, Baton Rouge, LA., Daily SitRep, Sept. 4, 2005. Provided to Committee; filed as Bates nos. FBI 000000127 through 000000130.

- 71 Eddie Compass, The Oprah Winfrey Show, "Inside the Katrina Catastrophe," Sept. 6, 2005. http://www.oprah.com/tows/pastshows/200509/tows_past_20050906.jhtml. Accessed on Mar. 30, 2006.
- 72 Mayor C. Ray Nagin, The Oprah Winfrey Show, "Inside the Katrina Catastrophe," Sept. 6, 2005. http://www.oprah.com/tows/pastshows/200509/tows_past_20050906.jhtml. Accessed on Mar. 30, 2006.
- 73 There was one attempted rape. *Source*: Riley interview, Jan. 12, 2006, pp. 34-35. There were 11 deaths at the Superdome, one was determined to have been a suicide. None were determined to be homicides. There was one gunshot injury involving a National Guardsman inside the Superdome which was determined to have been an accidental shooting. *Source*: Swain interview, Nov. 9, 2005, pp. 77-78.
- 74 NOPD, *Emergency Operations Manual*, 2005, p. 1-6.
- 75 Riley interview, Jan. 12, 2006, p. 133.
- 76 The NOPD's plan regarding press conferences and the release of information to the public required two levels of approval. While the PIO, as noted above, is tasked with responsibilities including release of information on authority of the Incident Commander and scheduling of media briefings as necessary, the plan also states that, "A media press room . . . shall issue statements only with the permission from the Mayor's Public Information Office. Statements and decisions relating to the emergency shall emanate only from the Mayor and may be released only through the Public Information Officer." NOPD, *Emergency Operations Manual*, 2005, p. 15-1 (emphasis in original).
- 77 Lt. Col. Oxley and Lt. Col. Booth interview, Dec. 9, 2005, p. 7.
- 78 Lt. Col. Oxley and Lt. Col. Booth interview, Dec. 9, 2005, pp. 14-24; The LSP is also the primary agency responsible under the State's plan for hazardous materials, and took steps before landfall to coordinate the removal or protection of dangerous materials. Troopers supported search-and-rescue missions, including rescuing 500 victims on their own. Lt. Col. Oxley interview, Dec. 9, 2005, p. 233.
- 79 Written Statement of Brig. Gen. Mark Graham, U.S. Army, Deputy Commanding General, Fifth U.S. Army, for the U.S. Senate, Committee on Homeland Security and Governmental Affairs, hearing on *Hurricane Katrina: Managing the Crisis and Evacuating New Orleans*, Feb. 1, 2006, pp. 2-4.
- 80 Committee staff interview of Col. Henry Whitehorn, Superintendent, Louisiana State Police and Deputy Secretary, Public Safety Services and Corrections, LA, conducted on Nov. 29, 2005, transcript p. 106.
- 81 Lt. Col. Oxley and Lt. Col. Booth interview, Dec. 9, 2005, p. 240.
- 82 Lt. Col. Oxley and Lt. Col. Booth interview, Dec. 9, 2005, pp. 287-288.
- 83 Lt. Col. Oxley and Lt. Col. Booth interview, Dec. 9, 2005, pp. 201-202.
- 84 Lt. Col. Oxley and Lt. Col. Booth interview, Dec. 9, 2005, p. 243; Louisiana State Police, LSP Hurricane Katrina Timeline of Events. Provided to Committee.
- 85 Lt. Col. Booth interview, Dec. 9, 2005, pp. 245-246.
- 86 Lt. Col. Oxley and Lt. Col. Booth interview, Dec. 9, 2005, pp. 250, 287.
- 87 Lt. Col. Oxley and Lt. Col. Booth interview, Dec. 9, 2005, pp. 287-98.
- 88 Col. Henry Whitehorn, letter to Robert Mueller, Aug. 30, 2005. Provided to Committee; filed as Bates nos. DAG 00000001 through 00000002.
- 89 The Whitehorn letter was faxed to Bill Mercer by Jon Solomon, FBI, on Aug. 31, 2005, at 7:12 p.m. Jon Solomon, facsimile to Bill Mercer, Aug. 21, 2005, 7:21 p.m. Provided to Committee; filed as Bates nos. DAG 00000001 through 00000002. *See also*: James McAtamney, e-mail to Bill Mercer and others, Aug. 31, 2005, 8:18 a.m. Provided to Committee; filed as Bates nos. 000000019 through 000000020 (enclosing an attached file describing the impact on Hurricane Katrina on DOJ component agencies. The FBI section reports that the "Louisiana State Police (LSP) has indicated a formal request for FBI assistance is forthcoming. LSP is assisting the New Orleans PD, which has been significantly impacted. Looting is the major problem. Reporting indicates that the National Guard is predominately engaged in search and rescue. We will coordinate our response with the Department."). In an e-mail to McAtamney on Aug. 31, 2005, in which at 8:32 a.m., Edgar Domenech, ATF wrote: "I assume the department will be looking to implement a departmental response, let me know what you need." *Source*: Edgar Domenech, e-mail to James A. McAtamney, Aug. 31, 2005, 8:32 a.m. Provided to Committee; filed as Bates. no. DAG 000000014. McAtamney then wrote to Mercer and others, "Deputy Director Domenech from ATF raises a good point. Is a plan in place to coordinate the departmental effort in support of these offices? I think it would be helpful to add any information on our plans going forward to the update paper for the AG." *Source*: James A. McAtamney, e-mail to Paul Corts and others, Aug. 31, 2005, 8:44 a.m. Provided to Committee; filed as Bates no. DAG 000000014.
- 90 Lt. Col. Oxley and Lt. Col. Booth interview, Dec. 9, 2005, pp. 237-38.
- 91 Lt. Col. Booth interview, Dec. 9, 2005, p. 239.
- 92 Lt. Col. Oxley and Lt. Col. Booth interview, Dec. 9, 2005, pp. 253, 257, 291.
- 93 "Louisiana Homeland Security and Emergency Assistance and Disaster Act," LA R.S. 29:733.
- 94 Louisiana Office of Homeland Security and Emergency Preparedness (LOHSEP), *Emergency Operations Plan*, Apr. 2005, pp. 14-15.
- 95 Gov. Kathleen Babineaux Blanco, letter to Gov. Jeb Bush, Sept. 1, 2005, attachment "Memorandum of Understanding Between The State of Louisiana and The State of Florida." As discussed in Chapter 26: Military Operations, other states

began sending Military Police on Wednesday, Aug. 31, 2005, at Maj. Gen. Landreneau's request to the National Guard Bureau.

96 Committee staff interview of Col. Steven Dabadie, Chief of Staff, Louisiana National Guard, conducted on Jan. 12, 2006, transcript p. 146.

97 Committee staff interview of Col. Earl Santos, Joint Director of Military Support, Louisiana National Guard, conducted on Dec. 21, 2005, transcript pp. 34, 54, 93.

98 Riley interview, Jan. 12, 2006, p. 90.

99 Kaiser interview, Jan. 25, 2006, p. 66.

100 As the 9/11 Commission Report noted:

Yet the Pentagon response encountered difficulties that echo those experienced in New York. As the "Arlington County: After Action Report" notes, there were significant problems with both self-dispatching and communications: "Organizations, response units, and individuals proceeding on their own initiative directly to an incident site, without the knowledge and permission of the host jurisdiction and the Incident Commander, complicate the exercise of command, increase the risk faced by bonafide responders, and exacerbate the challenge of accountability. ...

It is a fair inference, given the differing situations in New York City and Northern Virginia, that the problems in command, control and communications that occurred at both sites will likely recur in any emergency of similar scale. The task looking forward is to enable first responders to respond in a coordinated manner with the greatest possible awareness of the situation.

National Commission on Terrorist Attacks upon the United States, *The 9/11 Commission Report*. Washington: Government Printing Office, 2004, p. 315.

101 Col. Whitehorn interview, Nov. 29, 2005, pp. 111-112.

102 Riley interview, Jan. 12, 2006, p. 90.

103 Riley interview, Jan. 12, 2006, pp. 91-92 ("Everyone who came and worked under the command of NOPD, ranking officers, all SR team members worked under Captain Wynn, Captain Norton. We basically divided everyone up. ... But the State Police, New York State Police, everyone who came in – for instance, some of the officers when they came in from around the state, they were assigned to districts. And they worked under our district commanders. And their commanders fully understood that if there was ever an issue, then, obviously, their commander would deal with ours. But everyone worked at the direction of NOPD commanders, even the National Guard.").

104 Col. Whitehorn interview, Nov. 29, 2005, p. 96. Lt. Col. Booth noted that in the State Police EOC, "We had other jurisdictions at our request. ... California had, I would say, 24-hour presence ... with us. New Orleans Police Department or the City of New Orleans requested assistance from various other agencies, I think through the EMAC process. We had the port authority from New York/New Jersey." Lt. Col. Booth interview, Dec. 9, 2005, p. 100.

105 Although Governor's Blanco's request letter is dated Sept. 3, it was not faxed to DOJ until Sept. 4. Gov. Kathleen Babineaux Blanco, letter to Alberto R. Gonzales, Sept. 3, 2005. Provided to Committee; filed as Bates nos. DAG 000000081 through 000000082.

106 *See e.g.*: FEMA, Mission Assignment, 1603DR-LA-FPS-05, Sept. 2, 2005. Provided to Committee; filed as Bates no. DHS-FEMA-0035-0000147; FEMA, Mission Assignment, 1603DR-LA-FPS-05, Aug. 31, 2005. Provided to Committee; filed as Bates no. DHS-FEMA-0035-0000148; FEMA, Mission Assignment, 1603DR-LA-CBP-01, Sept. 2, 2005. Provided to Committee; filed as Bates no. DHS-FEMA-0000551.

107 *NRP*, p. ESF#13-1.

108 McAtamney's memorandum said, "there have been no additional requests for federal law enforcement assistance from state or local officials, to my knowledge." *Source*: James A. McAtamney, memorandum to Ted Ulyot and Bill Mercer, Sept. 1, 2005, routing and transmittal slip. Provided to Committee; filed as Bates no. DAG 0000000101. At the time he wrote this, DOJ had already received the LSP Superintendent's letter to FBI Director Robert Mueller. That letter reported "massive damage" caused by the Hurricane, that "all state assets" were being used, but that "looting continue[d] to be a significant problem," and it requested "any assistance you can provide." *Source*: Col. Henry Whitehorn, letter to Robert Mueller, Aug. 30, 2005. Provided to Committee; filed as Bates nos. DAG 000000001 through 000000002. It is also unclear what position DOJ took regarding this request in light of 42 U.S.C. § 10501, which requires that an application for law enforcement assistance in an emergency "shall be submitted in writing by the chief executive office of a state to the Attorney General." *Source*: 43 U.S.C. § 10501(b). Governor Blanco sent such a letter to the Attorney General (dated September 3, 2005), via facsimile on September 4, 2005, but the Superintendent's letter clearly made a similar request four days earlier. *Source*: Gov. Kathleen Blanco, letter to Alberto R. Gonzales, Sept. 3, 2005. Provided to Committee; filed as Bates nos. DAG 000000081 through 000000083.

109 James A. McAtamney, memorandum to Ted Ulyot and Bill Mercer, Sept. 1, 2005. Provided to Committee; filed as Bates nos. DAG 000000101 through 000000106. Mercer included a question in the margin of the attached excerpt. McAtamney sent a memorandum in response to the question on September 12. James A. McAtamney, memorandum to Bill Mercer, Sept. 12, 2005. Provided to Committee; filed as Bates no. DAG 000000100. Thus, Mercer first made note of these questions about ESF-13 at some time between September 1 and September 12.

110 Michael Vanacore, e-mail to John Clark and others, Sept. 4, 2005, 7:38 p.m. Provided to Committee; filed as Bates no.

- DHS-ICE1-0001-0000026. *See also:* John Clark, e-mail to Matthew Broderick, Sept. 4, 2005, 10:34 p.m. Provided to Committee; filed as Bates no. DHS-HSOC-0004-0003339 (“Having failed in many aspects on preparation, emergency assistance and recovery, if we now turn our homeland security responsibility over to the FBI/DOJ, we might as well all await 3SR.”). “3SR” is an apparent sarcastic reference to the “Second Stage Review (2SR),” through which Secretary Chertoff made substantial changes to DHS’s structure and staffing.
- 111 John Clark, e-mail to Matthew Broderick, Sept. 4, 2005, 10:34 p.m. Provided to Committee; filed as Bates no. DHS-HSOC-0004-0003339.
- 112 Committee staff interview of Matthew Broderick, Director, Homeland Security Operations Center, U.S. Department of Homeland Security, conducted on Jan. 19, 2006, transcript pp. 208-209.
- 113 Broderick interview, Jan. 19, 2006, p. 208.
- 114 Broderick interview, Jan. 19, 2006, pp. 209.
- 115 The White House report recommends that the NRP be revised to designate DOJ as the sole primary agency responsible for ESF-13. 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. 102.
- 116 Secretary Chertoff’s Chief of Staff, John Wood, did not recall any discussions by or with the Secretary on pre-landfall ESF-13 action by DHS and did not know who within DHS was tasked with this responsibility. He only recalled that, at some point, apparently post-landfall, there were discussions about how best to utilize DHS law-enforcement assets. *Source:* Committee staff interview of John Wood, Chief of Staff, U.S. Department of Homeland Security, conducted on Jan. 27, 2006, transcript pp. 56-57. A DHS twice daily Sit Rep from the morning of August 30 contains a “Law Enforcement Issues” section broken into local, regional, and federal boxes. All list “Nothing to report” *Source:* U.S. Department of Homeland Security, Hurricane Katrina DHS SitRep #8, Aug. 30, 2005, 6 a.m., p. 7. Provided to Committee; filed as Bates no. DHS 00001209. The section entitled ESF-13 merely noted the availability of five FEMA “safety officers” and the drafting of a document regarding “Dangerous Critters & Plants in the Gulf Coast.” *Source:* U.S. Department of Homeland Security, Hurricane Katrina DHS SitRep #8, Aug. 30, 2005, 6 a.m., p. 21. Provided to Committee; filed as Bates no. DHS 0001222 (This same Situation Report includes extensive details of activities undertaken pursuant to other ESFs.). When asked about this document, Wood said that he “strongly” suspected that more was being done than was listed, but could not identify anything. *Source:* Wood interview, Jan. 27, 2006, pp. 101-102.
- 117 Committee staff interview of Michael Jackson, Deputy Secretary, U.S. Department of Homeland Security, conducted on Jan. 27, 2006, transcript pp. 69-71.
- 118 Jackson interview, Jan. 27, 2006, pp. 69-71.
- 119 Jackson interview, Jan. 27, 2006, pp. 69-70.
- 120 Committee staff interview of Michael Vanacore, Director, Office of International Affairs, U.S. Department of Homeland Security, conducted on Jan. 27, 2006, transcript p. 8. During his first three days in Baton Rouge, “a lot of it seemed to be in a foreign language there because that whole National Response Plan had a language all its own, which I had never heard up until that point.” Vanacore interview, Jan. 27, 2006, p. 35.
- 121 Vanacore interview, Jan. 27, 2006, pp. 13-14.
- 122 Vanacore interview, Jan. 27, 2006, p. 34.
- 123 Vanacore interview, Jan. 27, 2006, p. 50.
- 124 Vanacore interview, Jan. 27, 2006, p. 89.
- 125 Vanacore interview, Jan. 27, 2006, p. 108.
- 126 Vanacore interview, Jan. 27, 2006, p. 8.
- 127 Vanacore interview, Jan. 27, 2006, p. 108.
- 128 James A. McAtamney, memorandum to Ted Ulyot and Bill Mercer, Sept. 1, 2005. Provided to Committee; filed as Bates no. DAG 00000103.
- 129 James McAtamney, e-mail to Bill Mercer, Sept. 1, 2005, 2:06 p.m. Provided to Committee; filed as Bates no. DAG 00000065.
- 130 James McAtamney, e-mail to Bill Mercer, Sept. 1, 2005, 2:06 p.m. Provided to Committee; filed as Bates no. DAG 00000065. DOJ previously designated ATF to serve as the Department’s ESF-13 coordinator in the event of a natural disaster. *Source:* Committee staff interview of Michael R. Bouchard, Assistant Director for Field Operations, Bureau of Alcohol, Tobacco, Firearms and Explosives, conducted on Jan. 24, 2006, transcript pp. 8-9. While the FBI took the lead in the field, this is not necessarily an internal inconsistency, but rather may be an administrative decision about how best to allocate the available leadership.
- 131 NRP, p. ESF #13-3; Committee staff interview of Lt. Cmdr. Brian Penoyer, U.S. Coast Guard, Operations Integration Staff, U.S. Department of Homeland Security, conducted on Mar. 2, 2006, transcript p. 68.
- 132 Michael Brown, FEMA Daily Video Teleconference, Aug. 28, 2005, transcript p. 36. Provided to Committee.
- 133 NRP, p. ESF #13-1.
- 134 Kyle Sampson, e-mail to Kimberly Smith, Brian Roehrkasse, William Mercer and Ted Ulyot, Sept. 1, 2005, 6:24 p.m. Provided to Committee; filed as Bates no. DAG 000000185 (noted eleven FBI agents, zero DEA agents, twenty-five ATF

agents, and nine USMS personnel available.) While there were federal law enforcement personnel in Baton Rouge, within an hour's drive or otherwise en route to the area, their readiness and availability for operational missions was severely compromised by the same kind of limitations faced by others in the city. *See, e.g.:* Bernazzani interview, Jan. 25, 2006, pp. 25-28, 34. Consistent with an evacuation plan, Agent Bernazzani evacuated all of his agents except for himself and three volunteers to protect the field office's classified information, communications systems, weapons and ammunition. *Source:* Bernazzani interview, Jan. 25, 2006, pp. 19-21. However, as of September 1, fifty-one employees of the New Orleans-based Field Office could not be located. *Source:* Bernazzani interview, Jan. 25, 2006, pp. 25-28. Reconstitution efforts were further hampered by local evacuation and continuity of operations plans that relied upon cell phone coordination amongst agents and the Field Office's own telecommunications hub, which was decimated. *Source:* Bernazzani interview, Jan. 25, 2006, p. 25.

135 Office of the Attorney General, OAG Request Hurricane Katrina FBI personnel, Nov. 16, 2005. Provided to Committee; filed as Bates no. SEPS 0000000045.

136 While it was prudent for the agents working in the field office to evacuate in the teeth of the storm in accordance with their pre-arranged plan, discussions within the agency that reviewed the FBI's response after the fact focused at least in part on the inadequacy of the FBI's ability to locate its forces in the aftermath of a catastrophe in the absence of local telephone communications. *Source:* Kaiser interview, Jan. 25, 2006, pp. 90-91, 97-98. Agents Kaiser and Bernazzani both participated in discussions with the Crisis Incident Response Group (CIRG) that evaluated the agency's response. *Source:* Kaiser interview, Jan. 25, 2006, p. 97; Bernazzani interview, Jan. 25, 2006, p. 67 (discussing "two or three meetings down at CIRG."). However, the DOJ never provided any after action report or similar document to the Committee.

137 Bureau of Alcohol, Tobacco, Firearms and Explosives, Situation Report for ESF-13, Sept. 6, 2005, 10:08 a.m. Provided to Committee; filed as Bates no. ATF000000002.

138 The NOPD had a strength of approximately 1,600 police officers. *Source:* Written Statement of Riley, Senate Committee hearing, Feb. 6, 2006, p. 2. The LSP has approximately 1,050 troopers. *Source:* Lt. Col. Oxley interview, Dec. 9, 2005, p. 7.

139 *See:* Chapter 26: Military Operations and Chapter 27: Failures in the National Response Plan.

140 For example, when ATF sought guidance on September 1 regarding requests from local officials for assistance with crowd control and other missions, a senior DOJ leader cautioned the ATF not to act without PFO coordination specifically because of reported deployment by the National Guard of 4,200 military police for civil duty. James McAtamney, e-mail to William Mercer, Theodore Ullyot, and Jeffrey Taylor, "Requests for Federal Law Enforcement Support," Sept. 1, 2005, 11:39 a.m. Provided to Committee; filed as Bates no. DAG000000290.

141 Committee staff interview of Lt. Gen. Steven Blum, U.S. Army, Chief, National Guard Bureau, U.S. Department of Defense, conducted on Jan. 19, 2006, transcript pp. 52-53. According to Lt. Gen. Blum, these deployments restored a significant degree of order by September 1, and that things were basically under control by September 2. Lt. Gen. Blum interview, Jan. 19, 2006, p. 81.

142 *See:* Chapter 26: Military Operations; Maj. Gen. Richard Rowe, e-mail to Maj. Gen. Thomas Miller and others, Aug. 31, 2005, 7:46 a.m. Provided to Committee, filed as Bates no. MMTF 00088-06 (recommending that Department look at "what if MAC DIS [Military Assistance for Civil Disturbances] required."). For more discussion of MACDIS and the Insurrection Act, see Chapter 26: Military Operations. ESF#13, in fact, includes a provision for "the event that State and local police forces (including the National Guard operating under State control) are unable to adequately respond to a civil disturbance or other serious law enforcement emergency," the state may request assistance under the Insurrection Act. *NRP*, p. ESF #13-2.

143 As of landfall, the Federal Protective Service (FPS), a small force within DHS had deployed 40 officers into New Orleans to protect federal buildings. FPS's mission to secure federal buildings and infrastructure and to provide security to FEMA during disasters may have prompted the Service to move directly into the city more rapidly than any other federal law-enforcement entity. Committee staff interview of Wendell Shingler, Director, Office of Federal Protective Service, U.S. Department of Homeland Security, conducted on Jan. 31, 2006, transcript pp. 17-19, 29.

144 As early as Sunday, August 28, 2005, the Customs and Border Patrol placed a contingent of 100 agents, drawn from its Border Patrol Search, Trauma, and Rescue (BORSTAR) teams and other specialized units, on standby. *Source:* Customs and Border Protection, Commissioner's Situation Room Report, Aug. 29, 2005, 2:30 p.m. Provided to Committee; filed as Bates nos. DHS-CBP1-0001-0000002 through 00000003. BORSTAR teams are "highly specialized units capable of responding to emergency search and rescue situations. ... These teams ... undergo a highly specialized regimen consisting of training in physical fitness and training in various other disciplines, including medical skills, technical rescue, navigation, communications, swiftwater rescue and air operations." *Source:* U.S. Customs and Border Protection, "BORSTAR," June 9, 2003. http://www.cbp.gov/xp/cgov/border_security/border_patrol/borstar/borstar.xml. Accessed on May 5, 2006.

145 Vanacore interview, Jan. 27, 2006, pp. 9-12.

146 Marcy Forman, e-mail to John P. Clark, Aug. 28, 2005, 12:50 p.m. Provided to Committee; filed as Bates no. DHS-ICE1-0002-0000650 (advising him that she has heard from New Orleans SAC Mike Holt and he is "on his way to Baltimore."). *See also:* George Forman, e-mail to John P. Clark and others, Sept. 1, 2005, 3:45 p.m. Provided to Committee; filed as Bates no. DHS-ICE1-0002-0000551 (discussing SAC Holt's travel plans to return to the New Orleans region on Friday, September 2, 2005.); John P. Clark, e-mail to Gary Lang, Matthew Broderick, Bob Stephan and others, Sept. 3, 2005, 4:38 p.m. Provided to Committee; filed as Bates nos. DHS-HSOC-0004-0003933 through 0003934 ("SAC Mike Holt had been out of the area but got back into New Orleans on Friday [September 2, 2005] and has been designated by DHS as the DHS law enforcement coordinator, assigned to specifically work with the New Orleans Mayor and Police Chief to assist with establishing law and order in the city area.").

147 *NRP*, p. ESF #13-1 (ESF-13 "integrates Federal public safety and security capabilities and resources to support the

full range of incident management activities associated with potential or actual Incidents of National Significance.” It “provides a mechanism for coordinating Federal-to-Federal or Federal support to State and local authorities to include non-investigative/non-criminal law enforcement, public safety, and security capabilities during potential or actual Incidents of National Significance.” It “generally is activated in situations requiring extensive assistance to provide public safety and security and where State and local government resources are overwhelmed or inadequate, or in pre-incident or post-incident situations that require . . . capabilities unique to the Federal Government.”).

148 42 U.S.C. § 10501 provides that a state “may submit an application under this section for Federal law enforcement assistance,” and that “an application for assistance under this section shall be submitted in writing by the chief executive officer of a State to the Attorney General, in a form prescribed by rules issued by the Attorney General.” “The Comprehensive Crime Control Act of 1984.” (P.L. 98-473), 42 U.S.C. § 10501. The Attorney General may consult as necessary with Department officials and has 10 days to respond. Despite DOJ’s belief that this statute governed its response to Hurricane Katrina, the legislative history suggests that this section is an alternative to the Stafford Act, to be used in situations that do not satisfy the criteria of a “major disaster” under the Stafford Act:

For decades, the Federal government has provided emergency assistance in response to natural disasters to units of State and local government. Communities devastated by hurricanes, tornadoes, floods and other similar calamities have benefited from coordinated federal response to these emergencies. 42 U.S.C. § 5152 et. seq. [Stafford Act]. There is, however, no coordinated Federal response to the existence of a man-made disaster. Similarly, Federal law enforcement officers are authorized to intervene in riots, but there is not [sic] organized mechanism for responding in a less blunt way.

Rep. William J. Hughes, U.S. House Committee on the Judiciary, Report on the “Justice Assistance Act of 1983,” Report No. 98-68, 98th Cong. 1st Sess., p. 8.

149 42 U.S.C. § 10501. The term “law enforcement emergency” is defined as “an uncommon situation which requires law enforcement, which is or threatens to become of serious or epidemic proportions, and with respect to which State and local resources are inadequate to protect the lives and property of citizens or to enforce the criminal law.” 42 U.S.C. § 10502(3).

150 The first indication in DOJ documents that a governor’s letter was required occurred on Thursday, September 1, 2005. Shortly before noon, James McAtamney sent an e-mail to Bill Mercer and others to advise them that the ATF was “getting requests for agents for crowd control, etc.” Mercer, in turn, forwarded this e-mail to Steve Bradbury, commenting that he was “not sure how Steve [Bradbury] will view our legal authority to accommodate this request. From an operations standpoint, I’d rather have ATF redeploy to other areas to enforce the firearms laws.” *Source:* James A. McAtamney, e-mail to Bill Mercer, Theodore Ullyot, and Jeffrey Taylor, Sept. 1, 2005, 12:39 a.m. Provided to Committee; filed as Bates no. DAG000000290. Bradbury replied:

There is not currently a written request from the governor to the AG to provide DOJ assistance to state and local law enforcement. We would not approve this state law enforcement activity until there is such a request and the AG has issued an order approving the request. ATF could move forward with preparations and pre-positioning but should not actually begin state law enforcement without such an order.

Steve Bradbury, e-mail to Bill Mercer, Theodore Ullyot, Jeffrey Taylor, Sept. 1, 2005, 12:03 p.m. Provided to Committee; filed as Bates no. DAG 000000290.

151 42 U.S.C. § 10501. *See also:* Committee staff interview of William Mercer, Principal Associate Deputy Attorney General, Office of the Attorney General, U.S. Department of Justice, conducted 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.”).

152 Col. Henry Whitehorn, letter to Robert Mueller, Aug. 30, 2005. Provided to Committee; filed as Bates nos. DAG 000000001 through 000000002.

153 Col. Henry Whitehorn, letter to Robert Mueller, Aug. 30, 2005. Provided to Committee; filed as Bates nos. DAG 000000001 through 000000002.

154 *See: NRP*, p. ESF #13–1.

155 Internal documents show on the morning of September 6, two days after DOJ received, and the Attorney General approved, Governor Blanco’s letter requesting law enforcement assistance, a total of 694 DOJ personnel were in the “disaster area.” *Source:* Situation Report for ESF-13, Sept. 6, 2005, 10:08 a.m., produced by the Bureau of Alcohol, Tobacco, Firearms and Explosives. Provided to Committee; filed as Bates no. ATF000000002. Based on other documents produced by DOJ, the committee identified approximately 520 DOJ law enforcement personnel who were deployed to Louisiana as of September 3, 2005, the day before DOJ received Governor Blanco’s letter. The number of DOJ personnel deployed on September 3 represents 75% of the number available on September 6. *Source:* William E. Moschella, letter to the Honorable Susan M. Collins and the Honorable Joseph I. Lieberman, Response to Request for Information Dated Oct. 7, 2005, Dec. 21, 2005; Edgar Domenech, e-mail to Bill Mercer, Sept. 2, 2005, 4:51 p.m. Provided to Committee; filed as Bates nos. DAG 000000322 through 000000323; FBI, New Orleans Command Post, Baton Rouge, LA., Daily SitRep, Sept. 3, 2005. Provided to Committee; filed as Bates no. FBI 000000133,

156 Even without 42 U.S.C. § 10501 request letter from a governor, the Attorney General has the authority to re-deploy federal agents through the states to execute federal missions. In addition, the Stafford Act authorizes federal agencies, upon direction of the President following a major disaster declaration, to “provide assistance,” including “any work or services essential to saving lives and protecting or preserving property and public health and safety,” without a request from a governor (Sec. 7170(c)). *Source*: “Robert T. Stafford Disaster Relief and Emergency Assistance Act.” (P.L. 93-288), 42 U.S.C. § 5170(b). The DOJ acknowledged in its interrogatory responses that it had authority to provide public safety support under this provision. *Source*: William E. Moschella, letter to the Honorable Susan M. Collins and the Honorable Joseph I. Lieberman, Response to Request for Information Dated Oct. 7, 2005, Nov. 23, 2005, p. 3. However, it is unclear whether the President contemplated or directed the Attorney General pursuant to this provision to deploy federal law enforcement to the region.

157 James A. McAtamney, e-mail to Bill Mercer, Theodore Ullyot, and Jeffrey Taylor, Sept. 1, 2005, 11:39 a.m. Provided to Committee; filed as Bates no. DAG 000000290.

158 Steve Bradbury, e-mail to Bill Mercer, Theodore Ullyot, Jeffrey Taylor, Sept. 1, 2005, 12:03 p.m. Provided to Committee; filed as Bates no. DAG 000000290.

159 Kyle Sampson, e-mail to Robert Mueller and others, Sept. 1, 2005, 11:56 a.m. Provided to Committee; filed as Bates no. DAG00000165.

160 Kyle Sampson, e-mail to Robert Mueller and others, Sept. 1, 2005, 11:56 a.m. Provided to Committee; filed as Bates no. DAG00000165.

161 Alberto Gonzales, memorandum for the heads of federal law-enforcement agencies, “Law Enforcement Response to Hurricane Katrina,” Sept. 2, 2005. Provided to Committee; filed as Bates no. DAG 000000001.

162 Bouchard interview, Jan. 24, 2006, pp. 61-63 (“The discussions before the hurricane hit was myself and Mr. Dhillon, ... who works in the DAG’s office. He’s our contact person for ATF. And he was communicating with Mr. McAtamney, who also works in that office, about what the overall Justice coordinated effort would be. What, any guidance that would come from the attorney general to all the Justice components about what authorities we’d be acting under and what our response would be. Would there be one Justice agency in charge so that we could all say, almost like your mini ESF 13, let’s all decide – and these are things that we talked about – we know this big thing is coming. We’ve been through it on smaller scales. Let’s pre-identify all the assets that I’ve got all these emergency vehicles from every agency. Let’s get them all located in one place so that we know, so when time comes and we ask for them, we know who the point of contact is. We’re not scrambling to find out what do you have, who can do it, and how soon can you get there? ... I believe my first conversation with Mr. Dhillon on that – I have it in the log here. It was two or three days before it hit. Beginning August 28th.”). *See also*: Bureau of Alcohol, Tobacco, Firearms and Explosives, ATF Summary of Significant Activity, Aug. 28-30, 2005. Provided to Committee; filed as Bates no. ATF 000000008 (documenting “contact with DAG office on preparing DOJ response to hurricane.”).

163 Edgar Domenech, e-mail to James A. McAtamney, Aug. 31, 2005, 8:32 a.m. Provided to Committee; filed as Bates no. DAG 000000003 (“I assume the department will be looking to implement a departmental response [to Hurricane Katrina], let me know what you need.”).

164 On August 31, 2005, at 4:07 p.m., Mercer and others at DOJ received an e-mail which said that Bell South’s New Orleans’ “office is critical communications infrastructure node that, if damaged by looters or others, would result in loss of comms in the area. They’ve asked for USMS assistance in protecting the facility, as the state/local police are overwhelmed. Advised USMS to notify FEMA of the request: DHS has the lead for protection of critical infrastructure. More important, DHS/FEMA is responsible for coordinating requests for support and directing capable [federal government] assets within the overall context of the NRP and Stafford Act.” *Source*: James A. McAtamney, e-mail to Bill Mercer and others, Aug. 31, 2005, 4:07 p.m. Provided to Committee; filed as Bates nos. DAG 000000035 through 000000038. The internal DOJ approval process would last over four hours. Once the mission was approved, Arthur Roderick, Assistant Director, USMS, Operations Support Division, wrote an e-mail to DOJ saying, “I know all component [law enforcement agencies] are looking for this authority.” *Source*: Art Roderick Jr., e-mail to James McAtamney and others, Aug. 31, 2005, 8:28 p.m. Provided to Committee; filed as Bates nos. DAG 000000060 through 000000061

165 Paul R. Corts, e-mail to Bill Mercer and others, including representatives of DOJ’s law enforcement agencies, Aug. 31, 2005, 6:42 p.m. Provided to Committee; filed as DAG 000000042 (“Thanks for your attendance at the meeting today at noon. I appreciate the good response, especially given the very short notice. Thanks for the info sharing and thanks too for the good spirit that prevailed as we dealt with this horrific situation... Here is a quick bit of info following up on some of the points discussed today ... Requests from State and Locals to our Law Enforcement (LE) components for assistance with non-federal LE matters – OLC is reviewing this. There are a number of very sensitive legal/perhaps constitutional issues with this. We are trying to get guidance as quickly as possible. More tomorrow.”).

166 Office of the Attorney General, Order No. 2779-2005, Sept. 4, 2005. Provided to Committee; filed as Bates no. DAG 000000091 (“Department of Justice law enforcement personnel who are engaged in this mission shall have the authority to enforce the laws of the United States and to assist law enforcement officials in the State of Louisiana to enforce the laws of that State. All such officers engaged in this mission shall coordinate with their state and local counterparts to make appropriate arrangements as necessary to ensure the most effective law enforcement assistance efforts in the State of Louisiana. In addition, all such officers shall be subject to the supervision of the United States Attorney for the Eastern District of Louisiana, who may delegate operational authority to appropriate Department of Justice officials.”).

167 Vanacore interview, Jan. 27, 2006, pp. 77-78 (“Well, it was difficult. Louisiana was trying their best. The Attorney General’s Office was doing a great job. But the problem was our people that needed to be deputized were moving targets. So we would send – they would send an Assistant Attorney General down to do a swearing-in. We’d fly her in, get a helicopter, and get her down to New Orleans. And by the time she got there, maybe the SRT team she was going to swear in had been

deployed. So we were having a little difficulty getting everybody in one place at one time. So efficient – I mean, they tried. It's a good process. But I don't think personal swearing-ins are the process in an event like that.”).

168 Vanacore interview, Jan. 27, 2006, pp. 77-78.

169 Vanacore interview, Jan. 27, 2006, pp. 79-80.

170 Deputization took even longer in Mississippi, despite a simpler procedure, where the appropriate documents were not issued until September 9.

171 Kaiser interview, Jan. 25, 2006, p. 84.

172 Kaiser interview, Jan. 25, 2006, p. 84.

173 William E. Moschella, letter to the Honorable Susan M. Collins and the Honorable Joseph I. Lieberman, Response to Request for Information Dated Oct. 7, 2005, Nov. 23, 2005, p. 2 (“In other words, the support provided via the ESF-13 process does not extend to providing federal law enforcement personnel to engage in actual operational investigative activities to enforce federal, state or local laws. Instead, law enforcement support is provided within the overall umbrella of the Department of Homeland Security’s coordination function under the authority of the Stafford Act or pursuant to inherent authority of the individual law enforcement agencies.”).

174 Bouchard interview, Jan. 24, 2006, pp. 23-24 (“Any assets that would be needed on the ground in the affected areas would be calling up to Washington, asking for them. They would funnel them through the IIMG and to the ESF 13. At the same, people who say I may have these assets that are available in case they’re needed are coming in from the other side through the ESF 13 to the IIMG, with the IIMG being the focal point that decides here is what the needs are, here’s what the offer is, here’s how we marry those up.”).

175 Kaiser interview, Jan. 25, 2006, p. 53 (“The other functions, resupplying and stuff like that, that is not a law enforcement function. We did do it because they needed it and we were trying to help out, but that’s not a DOJ function whatsoever. We don’t do that. We are not a consequence management. We are law enforcement, okay, and consequence management, which is what you’re talking about, is strictly by FEMA and those other groups, and they did do it eventually, but in the meantime, we did that because, you know, what are we going to do, let them stay in the precincts without ammunition?”).

176 Committee staff interview of William Mercer, Principal Associate Deputy Attorney General, U.S. Department of Justice, conducted on Feb. 23, 2006, transcript p. 44 (“And so I know that there were a whole lot of conversations that were going on...the ground. And what we had independent authority to do was to add a bunch of Federal resources to the affected area, which is what we did. We had independent authority to do that, and we did that.”); Mercer interview, Feb. 23, 2006, p. 46 (“[C]ertainly it is very clear from the record that by the time [Governor Blanco’s September 4, 2005] letter was submitted, we already had put a substantial number of Federal agents there.”).

177 The DEA’s “Hurricane Katrina Events Log” documents federal agents involved in a broad range of traditional and non-traditional law enforcement activities throughout the metropolitan New Orleans area. DEA reported that as of September 1, “DEA [New Orleans Field Division] agents departed with NOPD officers to assist them in their enforcement mission.” That same day, “DEA agents provided security to Lt. Col. Leblanc, [LSP] Troop B, in his inspection of the New Orleans Superdome,” and other sites within the city. On Sept. 3, Special Agents teamed with NOPD and Rapides Parish Sheriff’s Office SWAT to clear buildings of snipers, conducted proactive patrols and provided security to firefighters putting out fires. Others built a boat launch in Plaquemines Parish for use in rescue operations; coordinated relief mission planning in St. Bernard Parish, and provided law enforcement and relief supplies in Gonzales. That same day, ASAC Kevin Harrison, New Orleans Field Division, and a team of 9 Special Agents rescued and evacuated over 70 senior citizens who were abandoned at a retirement home in New Orleans near the St. Bernard Parish line. Many residents of the home had already died as a result of dehydration and a lack of medical care. Water and food was provided to sustain them. They were transported to a shelter outside of the City of New Orleans on the West Bank of the Mississippi River to safety. Drug Enforcement Administration, New Orleans Field Division, Hurricane Katrina Events Log, Aug. 31- Sept. 7, 2005. Provided to Committee; filed as Bates nos. 000000141 through 000000142.

178 *NRP*, p. 35.

179 *NRP*, p. 35.

180 When ESF-13 is activated, the primary agencies assume responsibility for a series of actions and activities. Significant actions at the headquarters, regional and field levels include staffing the National and Regional Response Coordination Centers, Joint Field Office, and possibly the Emergency Response Team- Advance Element; coordinating with analogous regional and field ESF elements; and coordinating all federal activities with the local FBI field office, Joint Terrorism Task Force and other DOJ-led law enforcement and investigations and intelligence assessments. Incident management coordination may include: (1) supporting operational and tactical planning activities to prevent or mitigate potential incidents or threats to public safety, (2) the deployment of federal resources in response to such incidents or threats, (3) providing technical assistance in planning and assessment efforts, (4) establishing badging and credentialing processes, (5) helping control access to the incident site or critical facilities, (6) conducting traffic and crowd control, (7) protecting emergency responders and other relief workers, (8) protecting the people, facilities and supplies during distribution efforts; 9) providing surveillance support; and 10) supplying specialized equipment, clothing, and gear as needed. *NRP*, pp. ESF #13–3 through 13–4.

181 For these purposes, strategic coordination entails the macro-level planning and direction of operational missions or resources to achieve broad objectives while aiming to minimize redundancy and overlap and maximize efficiency, effectiveness and safety. By comparison, tactical coordination suggests lower level commanders of on-scene, operational units efforts to achieve micro-level ends via communication and cooperation with other, similarly situated commanders on the ground.

182 Michael Vanacore, e-mail John Clark and others, Sept. 4, 2005, 7:38 p.m. Provided to Committee; filed as Bates no. DHS-ICE1-0001-0000026 (“DOJ is looking to run this whole effort.”); Marc Raimondi, e-mail to William Knocke, Sept. 4, 2005, 10:33 a.m. Provided to Committee; filed as Bates no. DHS-HSOC-0004-0003339 (e-mail entitled “FBI to take over?” reports “They [FBI] showed up here last night with a command center on wheels, a bunch of black Suburbans, and held a press conference.”); Samuel Neglia, e-mail to Matthew Broderick, Sept. 4, 2005, 8:30 p.m. Provided to Committee; filed as Bates no. DHS-HSOC-0004-0003258 (“Need HEAVY Secretary Office Level push quickly w/ FBI to ensure the co-lead is DHS per NRP ESF-13.”); Sigal Mandelker, e-mail to Matt Mayer, Sept. 2, 2005, 1:18 a.m. Provided to Committee, filed as Bates no. DHS-FRNT-0010-0000161 (“We’re constantly trying to take the lead with State and locals on the Homeland Security mission and now we’re giving DOJ the lead.”). David M. Wulf, e-mail to James A. McAtamney and Carson W. Carroll, Sept. 4, 2005, 6:13 p.m. Provided to Committee (“We understand the FBI SAC Kiser [sic] will soon assume command of Federal law-enforcement activity at the Joint Field Office that will be set up in Louisiana. We feel it would make sense to install an ATF SAC as Deputy law-enforcement commander at the JFO (I suppose, in NRP parlance, he would serve as Deputy Senior Federal Law Enforcement Official). This would provide seamless coordination on ESF-13 related matters with our folks who are staffing the NRCC and IIMG 24/7. Also might make sense in view of the large number ATF agents (100+, I believe) on hand to be deployed for Katrina-related missions.”) At approximately the same time, Wulf forwarded the e-mail to Samuel Neglia, Robert Shea and others at DHS, asking “Is this something you guys could push from DHS side?” David Wulf, e-mail to Samuel Neglia and others, Sept. 4, 2005, 6:15 p.m. Provided to Committee; filed as Bates nos. DHS-ICE1-0001-000000026 through 000000027.

183 Vanacore interview, Jan. 27, 2006, pp. 13-14.

184 Vanacore interview, Jan. 27, 2006, pp. 91-95.

185 Vanacore interview, Jan. 27, 2006, pp. 14, 17-18, 24.

186 Vanacore said in his interview that Brian Pennoyer, of PFO Brown’s support staff, called him around midnight between September 4-5. Vanacore interview, Jan. 27, 2006, pp. 32-33.

187 Vanacore interview, Jan. 27, 2006, pp. 6, 8, 35.

188 Vanacore interview, Jan. 27, 2006, pp. 37-39.

189 FBI briefing to Committee, conducted by Michael J. Wolf, Critical Incident Response Special Agent in Charge, FBI, Dec. 20, 2005.

190 Mercer interview, Jan. 26, 2006, pp. 52-53 (“I think the people on the ground determine[d] that it would be useful to have an SFLEO and sort of a centralized process, and then that was created.”).

191 Office of the Attorney General, Order No. 2779-2005, Sept. 4, 2005. Provided to Committee; filed as Bates no. DAG 000000091 (Authorizing the Deputy Attorney General to Take Certain Actions Related To Hurricane Katrina); Mercer interview, Feb. 23, 2006, pp. 63-67. Vanacore said that initially the U.S. Attorney had been designated the law enforcement lead, but that this changed when DOJ recognized that as a prosecutor, rather than a law-enforcement agent, he should deal “with the legal issues . . . and the little higher level things,” because he was not going to “tell the cops what to do.” Vanacore interview, Jan. 27, 2006, p. 55.

192 The then-Deputy Superintendent of the New Orleans Police Department offered this praise:

The [Immigrations and Customs Enforcement] agents . . . stayed far longer than anyone else, working as a patrolman, riding around answering calls for service from our people. They were absolutely outstanding. . . . The FBI [Special Response] team was great. The [Drug Enforcement Agency] SR team was great. The [Alcohol Tobacco and Firearms] SR team was great.

Source: Riley interview, Jan. 12, 2006, pp. 88-89. NOPD Captain Bayard also praised counterparts at DEA, ATF, the United States Marshal’s Service, and the FBI, especially FBI Agent Todd Cox, who helped address a continuing lack of coordination weeks later by further establishing a Command Center at the Royal Sonesta Hotel. *Source:* Capt. Bayard interview, Nov. 21, 2005, pp. 81-82, 119-120. The LSP’s Col. Whitehorn cited the United States Secret Service for establishing a key credentialing process, while Jefferson Parish’s Sheriff Harry Lee generally thought he received good support from federal agencies. *Source:* Col. Whitehorn interview, Nov. 29, 2005, pp. 116-117; Committee staff interview of Harry Lee, Sheriff, Jefferson Parish, LA, conducted on Jan. 9, 2006, transcript p. 108. New Orleans Director of Homeland Security Col. Ebbert had this to say:

I want to go on record as thanking the federal agencies. By later in the week we had tremendous response with hundreds of federal agents from all the federal agencies. . . . The federal agents from all those agencies, both Justice and Homeland Security, worked together to help manage those resources throughout the city.

Source: Committee staff interview of Col. Terry Ebbert, U.S. Marine Corps (Ret.), Director, New Orleans Department of Homeland Security, conducted on Jan. 10, 2006, transcript p. 167.

193 Vanacore interview, Jan. 27, 2006, pp. 126-127; FBI briefing given to Committee, conducted by Michael J. Wolf, Critical Incident Response Special Agent in Charge, FBI, Dec. 20, 2005.

194 Vanacore interview, Jan. 27, 2006, pp. 128-129; FBI briefing given to Committee, conducted by Michael J. Wolf, Critical Incident Response Special Agent in Charge, FBI, Dec. 20, 2005.

195 Kaiser interview, Jan. 25, 2006, p. 54.

196 Kaiser interview, Jan. 25, 2006, pp. 94-95.