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COMMITTEE

HEADLINE: U.S. SENATOR SUSAN M. COLLINS (R-ME) HOLDS A HEARING ON THE
EVACUATION OF NEW ORLEANS

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U.S. SENATE HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
COMMITTEE HOLDS A HEARING ON THE EVACUATION OF NEW ORLEANS

JANUARY 31, 2006

SPEAKERS:
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COLLINS: The committee will come to order.

Good morning. Today we face a special challenge in conducting this hearing, because the full Senate is scheduled to vote on Judge Alito at 11:00 A.M.

The leaders of the Senate have requested that we all be in our seats for the vote, as opposed to the usual way where we run in and run back.

So, I will recess the hearing temporarily between 10:55 until 11:25, when we will resume.

In light of these constraints, I'm going to ask our witnesses to make their opening statements a bit shorter than they normally would be, with the assurance that their full statements will be included in the hearing record.

I am also going to give only an abbreviated opening statement and I, too, will put my full statement in the hearing record.

Today, the committee continues its investigation into the preparation for and response to Hurricane Katrina.

The focus of today's hearing will be on the pre-storm evacuation of the greater New Orleans area in general, as well as on the special challenges faced by hospitals, nursing homes, and other facilities that care for people with special needs.

In the days following Katrina's landfall the nation -- indeed the world -- watched their televisions in horror as tens of thousands of people in New Orleans scrambled to the roofs of their homes to escape the rapidly rising water and await rescue.

Some residents crowded onto the dry asphalt islands of highway off-ramps, where they remained for far too long, or suffered in the hot, dirty and undersupplied Superdome and convention center.

Confronted with these heartbreaking and infuriating images, we all asked, "How could such a thing happen?" "Why were so many left behind?" "What was the city's plan for evacuating those who were too frail, or too ill, or who lacked the means to evacuate themselves?"

We hope today to understand better the answers to those and other troubling questions.

This is the committee's thirteenth hearing on Hurricane Katrina. Of all the lessons to be learned from Katrina, effective evacuation to escape a looming catastrophe is among the most urgent.

The initial evacuation from New Orleans in advance of the storm went relatively well. Approximately 1 million people left the greater New Orleans area in a much more efficient and orderly manner than in hurricane evacuations of years past.

Then, so to speak, the wheels came off. Those without access to transportation out of the region found themselves stranded high and dry, but only in the figurative sense.

Among those left behind were thousands of elderly, disabled and disadvantaged residents.

A central purpose of this hearing is to learn why the responsible government agencies failed to make adequate arrangements for those who needed help with transportation, or who were too ill or too frail to leave on their own.

Why did so many buses sit idle? Why weren't trains used? Why weren't those in hospitals and nursing homes made more of a priority?

Some of the most horrific problems in the immediate aftermath of Katrina were at hospitals and nursing homes. Such essentials as safe drinking water and fuel for emergency generators were quickly depleted.

The difficulty inherent in moving patients and nursing home residents only became worse as the city flooded. And the loss of dozens of lives at nursing homes illustrates the awful consequences of a broken system.

We must examine the adequacy of the plans for these facilities and why they did not evacuate their patients sooner, and seemed to be so ill-prepared to meet such basic needs.

The particular aspect of Hurricane Katrina that we take up today encapsulates all that went wrong with our preparation and response.

Accurate predictions of the consequences of such a storm were in hand, and considerable planning had been undertaken to address those consequences.

Yet, that knowledge and effort were overwhelmed by a lack of coordination, by governmental complacency, and at times by utter dereliction of duty.

The result was incomprehensible and unnecessary suffering, deprivation, and even loss of life.

Senator Lieberman?

LIEBERMAN: Thanks, Madam Chairman.

Good morning to you, and our witnesses.

I'm going to follow your example -- a good one -- and ask that my full statement be included in the record, and just draw from it here.

Today's hearing on the evacuation of New Orleans before Hurricane Katrina made landfall last August is a story of tragic, maddening, and ultimately fatal consequences of unmet responsibilities by all levels of government: city, state and federal.

The warnings of the fictional Hurricane Pam exercise that we focused on in this committee, that 100,000 people at least -- in New Orleans -- had no means to evacuate and that thousands more would be immobilized by infirmity or age, appeared to have been received at all levels of government -- but, at all levels of government, just about nothing was done about those warnings.

No one acted to assure that the pre-landfall evacuation of New Orleans would be aggressive, let alone complete -- not the city, whose citizens were at risk; not the state, which was responsible under the plan for arranging transportation for evacuees; and not the federal government, which had the authority to assist in the event of a catastrophe but, instead, stood on the sidelines as the hurricane approached.

Our first panel will describe the efforts that were made -- and, frankly, those that were not -- at the local and state levels to get the citizens of New Orleans and the surrounding areas out of harm's way as Katrina approached.

Our second panel today will look at the role of state and city health officials in preparing for -- and responding to -- the unique threats faced by the sick and infirm.

There was no state program to deal with health care facilities other than hospitals.

Our investigators found, for example, that nursing homes, which had severe difficulties evacuating their patients in previous hurricanes, had never been briefed by the state on changes made to evacuation procedures for the 2005 hurricane season.

Although nursing homes are required by the state to have emergency preparedness plans, the state of Louisiana apparently neither reviews nor enforces those plans.

For years, doubts about the effectiveness of the plans have been raised, as they were again during the Pam exercise.

In fact, one of the recommendations of that exercise was to establish a task force to assess nursing home emergency plans. I suppose it will surprise no one to hear that that was never done.

Why wasn't there a comprehensive plan for all patient populations? Why did the city, state and federal emergency managers simply assume hospitals and nursing homes could cope with a catastrophic hurricane on their own, with no need of assistance?

Those are some very important questions that need answering -- hopefully today, and certainly before the next catastrophe occurs.

Madam Chairman, the searing pictures of those who were left behind in New Orleans -- at the Superdome, the convention center, on the I-10 overpass, and in flooded medical facilities -- are images that riveted the nation, embarrassed and angered us.

They remain with us.

Emergency planning that does not make provisions for society's most vulnerable -- the aged, the sick, and the poor, -- is not just operationally unacceptable, it is morally unacceptable.

These questions form the backdrop for all of our Katrina hearings but, particularly, for our hearing today about what was done and not done to evacuate people from New Orleans prior to the storm.

Thank you. I look forward to the testimony.

COLLINS: Thank you.

Our first panel consists of officials at the state and local levels who played key roles in planning and carrying out the pre-storm evacuation.

I want to thank each of you for joining us today and for your cooperation with the committee's investigation.

Johnny Bradberry was appointed secretary of the Louisiana Department of Transportation and Development in 2004. He leads a staff of approximately 5,000 with an annual budget of more than \$2 billion.

Under Louisiana's Emergency Operations Plan, Mr. Bradberry's department is the lead agency for the management and coordination of transportation to facilitate evacuation in emergencies.

Colonel Terry Ebbert is the director of the Office of Homeland Security and Public Safety for the city of New Orleans, a position he's held since 2003.

He was also our tour guide on our recent trip to New Orleans, and we appreciated his commentary.

As director, he has leadership responsibility for the city's police and fire departments, emergency medical services, and Office of Emergency Management.

Dr. Walter Maestri is the director of emergency management and homeland security for Jefferson Parish, and has served in that capacity since 1996.

I would like to ask not only this panel of witnesses but the next panel to stand at this point, so that I can swear all of you in for this hearing.

So, if the witnesses from the second panel would also stand and raise your right hand: Do you swear that the testimony you are about to give to the committee will be the truth, the whole truth and nothing but the truth, so help you God?

Thank you.

Secretary Bradberry, we're going to start with you.

BRADBERRY: Good morning Madam Chairwoman and committee members.

I'm Johnny Bradberry, secretary of the Louisiana Department of Transportation and Development.

Thank you for this opportunity to discuss Louisiana's pre- hurricane evacuation preparations. I'm here to talk about the hurricane evacuation plan that was in place for Hurricane Katrina.

I also will tell you what actions we took before the storm, how my agency could have done a better job, and what I am doing to correct those shortcomings.

I believe that those who fail to reap lessons learned from history are doomed to repeat its worst chapters.

I worked in the oil and gas business in the private sector until April of 2004, when I accepted Governor Kathleen Blanco's challenge to lead Louisiana Department of Transportation and Development.

I am a native of Grand Isle, Louisiana's only inhabited barrier island. As a teenager in 1965, my family and I evacuated our home because of Hurricane Betsy. The storm completely destroyed our home, and we were forced into exile during my sophomore year in high school.

It was a defining moment in my life.

That experience inspired me to do everything I can to help my neighbors who are going through that experience 41 years later. It also taught me to respect the destructive power of a hurricane. And I kept that lesson close to me before, during, and after Katrina.

In 2004, Hurricane Ivan threatened Louisiana, and the New Orleans evacuated under a new contraflow plan that utilized both sides of the interstate.

We were lucky that Ivan spared Louisiana, but the 10 to 12 hour traffic jams to move 90 miles were unacceptable.

DODT learned a lesson about traffic management, and set about coming up with a better plan.

Specifically, Governor Blanco ordered the state police superintendent and me to develop a new evacuation plan that could quickly and safely get citizens out of harm's way.

Governor Blanco demanded that the new plan focus on what went wrong during the Ivan evacuation and how to solve those problems.

We developed a plan using phased evacuations by zones, extensive traffic management, and an improvement contraflow operation, executed in partnership with the Mississippi Department of Transportation.

In April 2005, local officials unanimously endorsed the plan.

We began an aggressive and successful marketing campaign to educate citizens, and we distributed more than 1 million maps that explained the plan.

Then came Katrina.

On Friday morning, August the 26th, Katrina was considered mostly a threat to Florida. The eye was just northwest of Key West.

Although Louisiana was not a projected target, DOTD began storm preparations. We put emergency personnel on alert status and prepared to immediately clear all evacuation routes. We coordinated pre-staging evacuation activities with state police, and we alerted Mississippi of our intention to implement contraflow if the storm came our way.

At 11:00 P.M. on Friday, the National Weather Service first mentioned Louisiana as a possible Katrina target.

At 7:30 A.M. Saturday, state and local officials coordinated a phased evacuation per the new plan, beginning with residents in the coastal areas.

At approximately 3:30 P.M. contraflow began in conjunction with phase three of the plan. And a full-scale evacuation was under way.

By the time contraflow ended on Sunday evening, August the 28th, we had quickly and safely evacuated more than 1.3 million people without significant traffic delays.

I am proud of the pre-evacuation results that my agency and the state police achieved during Katrina.

But, clearly, more could have been done.

In the ESF function one, adopted just seven weeks before Katrina struck, my agency -- for the first time -- was tasked with providing transportation assets to facilitate evacuation.

Although this new ESF protocol was viewed by most in state government as a transitional plan that had not been fully vetted, discussed, or implemented, I should have charged my people with ensuring that officials on the local and/or federal levels were performing that function if we were not prepared to fully execute that duty.

Governor Blanco has made it clear to me, and to all cabinet secretaries, that we will be fully prepared to fulfill primary and support responsibilities of the new state plan for the 2006 hurricane season.

DOTD will partner with communities with south Louisiana, including the city of New Orleans, to ensure that buses are staged in strategic locations to evacuate citizens who have no transportation.

We are also in discussions with Amtrak about using their services, if needed, for evacuation.

Another lesson learned is that it is critical for us to more closely coordinate all efforts with local and federal authorities before, during, and after a disaster.

To that end, I have hired a new full-time emergency coordinator for DOTD. And one of her tasks will be to strengthen the relationships with relevant local and federal officials to ensure future coordinated -- and appropriate -- response.

And although I do not wish to lay blame at anyone's doorstep, we should all keep in mind that, had the levees held up -- as we believe they were designed to -- you and I would not be here today.

Katrina still would have been a disastrous storm, but the real catastrophic damage is a direct result of

the floodwaters that poured through the failed levees.

I also have a simple request today. We need help. We still do not have the commitment from the federal level to make necessary upgrades to our levees to keep our citizens safe and allow them to return to their homes.

We are doing as much as we can with the resources we have. However, we need help with legitimate needs for infrastructure upgrades to keep tragedies like this from happening again.

As the horrible stories of misery, suffering and death unfolded on television in the days immediately following Katrina, citizens asked, "How can this happen in America?"

Today, Louisiana citizens feel they have been abandoned a second time. And they are the ones asking, "How can this happen in America?"

In closing, it is natural for all of us to believe the fault lies with someone else. The real truth is, Katrina moved faster than we did. All of us on the local, state, and the federal levels were overwhelmed, undermined, and outmuscled by Mother Nature.

The lessons learned is that local, state, and federal entities need to work to do more to address evacuation of the 8 percent of the population who stayed.

In closing, I am proud of my employees' efforts before, during, and after Katrina. But, it is incumbent on all of us, at every level of government, to examine our actions, admit our mistakes and move forward with lessons learned.

Thank you for your time. I'll be very happy to answer any questions.

COLLINS: Thank you.

Colonel Ebbert?

EBBERT: As an introduction, I am Colonel Terry Ebbert, the director of homeland security and public safety for the city of New Orleans.

I spent my adult life serving the citizens of this nation and the city of New Orleans. I want to thank you for the invitation to testify before this committee.

Katrina was a natural disaster which overwhelmed operational capabilities, resources, and civil infrastructure at the local, state, and federal level.

Gone are homes, families, businesses, lives, and unique lifestyle of southeast Louisiana. Left behind to build the foundation for the future of New Orleans is a city with little money, a crippled criminal justice system, an impaired levee protection system, lack of housing for 50 percent of its citizens, and a health care system clinging to life.

I have lived with the beast, Katrina, for the last five months. But I've also been blessed with the opportunity to work with many of the finest first responders at every level of government.

It is clear that this nation needs to review Katrina planning, response and recovery at every level to look at organizations with the intent to increase capability and compatibility.

Katrina was an act of nature, and the impact was localized to a small population region of the United States.

The next act could be a manmade act of terrorism.

I believe our preparation and integrated joint responses must improve. The four parishes of Jefferson, Plaquemines, St. Bernard and Orleans form the Urban Area Security Initiative Region 1 for joint planning, training, exercising of Homeland Security-defined events.

This includes weapons of mass destruction, all the acts of terrorism and natural disasters.

Given the facts of our location on the Gulf Coast, and being an island completely surrounded by water and limited egress routes out of New Orleans, our surrounding partners, along with ourself, dedicated extensive time and effort in planning for hurricanes.

The foundation of our efforts has been to develop effective evacuation plans. This is a challenge due to the limited time we have after a storm enters the Gulf -- limited highways and a large population with anti-evacuation mentality.

Driven by predictions of potential death in excess of 12,000, we worked hard with our regional state partners to develop a plan and educate our citizens on its execution. We worked to refine this plan after storms over the past two years.

One of the lost success stories is the evacuation in advance of Katrina. This highly complex joint plan moved over 1.2 million people, and saved over 10,000 lives. This was a two-state, eight-parish effort, which included multiple law enforcement agencies, emergency planning offices, local media and volunteer organizations.

The continued improvement of this plan will form the foundation of our planning for this coming year.

We are currently reviewing the lessons learned and will update our plans, and we have three specific goals: Goal number one is to provide greater support to the citizens who need special assistance; goal number two is to create and maintain an environment where the decision to evacuate becomes more desirable than remaining behind; and goal number three is implement measures to provide greater enhancement of security and security resources to the city.

I have two specific recommendations for federal action, which would improve the national capability for mass evacuation and sheltering.

One, task Amtrak to develop and maintain the capability to evacuate 5,000 special needs citizens from any metropolitan area in the case of a declared national emergency.

Two, identify regional military bases undergoing BRAC closures and convert them to national shelters capable of housing at least 200,000 citizens. They could be activated through a joint U.S. NORTHCOM and FEMA command.

Faced with a knowledge that we would be left with citizens without the ability to evacuate, we worked hard to develop a refuge of last resort for both citizens with special needs, citizens without transportation, and for those who recognized too late the serious nature of the storm.

This plan was designed to begin after contraflow evacuation was shut down and imposed on the city. Our plan utilized RTA buses moving throughout the city, picking up citizens at pre-established checkpoints and transporting them to the Superdome.

All citizens were thoroughly searched by the National Guard troops upon entering the dome. Security was provided by both National Guard and the New Orleans Police Department. The command of the Superdome was underneath the command of the police department.

As plain as we recognized that, in a major Cat 4 or 5 storm, we would lose power, sewer, water -- and further evacuation with federal assets would be required.

The planning window for this relief response was within 48 hours.

For all the difficulties, this plan was a success. Many of the citizens in the dome would have become the predicted 12,000 deaths in the Hurricane Pam model.

Much has been discussed about our relief response after the storm. I can assure you that this was a very difficult seven days. I witnessed the best of human valor and the worst of human nature.

But, I want to state that I find no fault with any official at any level. Rather, the National Response Plan of FEMA organization totally overwhelmed by the magnitude of the disaster.

I believe we must recognize that the administrative organization of FEMA, built around part-time contractors, has no operational capability to control a large-scale emergency response. It needs to concentrate on recovery.

Two, find a way to immediately utilize the only organization with the leadership, command and control capability, logistics movement centers, equipment and training to accomplish large-scale response: the Department of Defense.

A standing joint staff should be established as a mission of U.S. NORTHCOM. Develop a prepackaged capability for communications, food, water, fuel, medical, and other vital supplies -- and assure that early relief efforts are pushed rather than pulled.

This is the greatest nation on earth and I know we can do better. I am dedicated to working with all of our state and federal partners to insure that we do get better.

I want to give special thanks to Admiral Thad Allen, General Russel Honore, Admiral Robert Duncan, Captain Tom Atkin, General William Caldwell and his magnificent warriors from the 82nd Airborne, along with the FBI and the other law enforcement agencies.

The only questions any of these officials ever asked me is, "Terry, what do you need and want?"

America is blessed and lucky to have such leadership, and I am privileged to have been given the opportunity to walk beside them.

I can only reflect on Katrina. My concern is my responsibility to the mayor and the citizens of New Orleans. I must continue, as an individual, to learn from my mistakes and hold myself accountable.

We are currently looking down the gun barrel of the 2006 hurricane season due to begin 1 June. We have projected another super storm season ahead and we need your support.

Thank you very much, Madam Chairman and committee members.

COLLINS: Thank you.

Dr. Maestri?

MAESTRI: Good morning, ladies and gentlemen. I am Walter Maestri, director of the Department of Emergency Management in Jefferson Parish, Louisiana.

I am honored to have the opportunity to appear before you this morning to discuss the problems inherent in evacuating metropolitan New Orleans.

It is an issue that all emergency planners and response personnel -- local, state, and federal -- have focused on during the past 10 years. Please allow me to provide some historical background on this problem.

In 1992, when Hurricane Andrew slammed into the Florida, Alabama, Mississippi and Louisiana coasts, it not only devastated those coasts, it also caused all the plans emergency managers had developed for the evacuation of those coastal states to be scrapped.

Andrew demonstrated that vertical evacuation, which was the major evacuation tool operational in those plans, was not an acceptable solution.

From that time forward all of the Gulf Coast states, and a significant number of the Atlantic coast states, would be forced to physically evacuate their coastal populations.

The only remaining functional question was the distance from the coastline required to move the population to ensure that they would survive.

Immediately, therefore, new plans were drafted. Evacuation studies were commissioned by federal and state agencies. And strategies were discussed and developed, which would provide for the actual physical movement of the affected population.

This effort was further complicated by the fact that the American National Red Cross began implementing a policy of not sheltering individuals in recognized flood inundation zones.

In Louisiana, these new plans and strategies demanded that the majority of the population of the most densely populated region of the state be moved -- approximately 1.2 million individuals.

And, furthermore, this population had to be moved a minimum of 35 miles to assure that they would leave the flood inundation zone, as documented by FEMA and the United States Army Corps of Engineers SLOSH model.

The point I wish to emphasize is that from 1992 forward, all agencies of the local, state, and federal government knew that actual physical evacuation was necessary to guarantee the safety of the New Orleans metropolitan area.

Furthermore, beginning in 1994, the evacuation studies ordered by both the state and the United States Army Corps of Engineers recognized that a significant portion of the population of the area did not have adequate means of transportation which would allow them to evacuate.

In addition, these same studies recognized that it would take a minimum of 60 hours to have a real chance of evacuating this population.

Simply put, everyone involved realized the enormity of the task contemplated, and that special strategies would be necessary.

In the decade leading up to the now-infamous Hurricane Pam exercise, numerous officials of all government agencies addressed the enormity of the task.

Following on Hurricane George in 1998, a near miss wake-up call for the New Orleans metropolitan area, the Southeast Louisiana Hurricane Task Force and the Louisiana state police and the Louisiana Department of Transportation and Development updated the evacuation plan for southeast Louisiana, and included within for the first time the contraflow strategy, in an attempt to reduce the clearance time necessary for the area.

Although all involved with this first contraflow plan believed that it would shave a few hours off the clearance times, once again the lack of effective transportation for up to 100,000 residents of the area raised its head.

From 1998 on, in every exercise, presentation, meeting where evacuation was discussed, this issue was prominent.

At the Hurricane Pam exercise first sessions in 2004, all participants recognized the evacuation problem and, specifically, the lack of effective transportation for a large segment of the population as crucial to the planning for metropolitan New Orleans in a major hurricane.

Ron Castleman, FEMA Region 6 director in 2004, identified the Pam exercise as the major planning tool available to create a bridge between local, state, and federal evacuation and recovery plans.

And, although during those initial sessions of the exercise, evacuation was not directly addressed, it was foremost in the minds of all involved.

Pam allowed the local and state officials to identify the resources necessary to achieve the survival of the metro area and its residence, and the fact that they were not available in the state and local arsenal.

In fact, during the conference calls that took place between local, state, and federal officials before Hurricane Katrina made landfall, reference was made to the Pam decisions and recommendations regarding repositioning of transportation resources for evacuation of the citizens without adequate personal transportation abilities.

We all know the result of the failure to provide those resources.

And, while I understand the necessity of investigation and analysis of what occurred and who was responsible for it, I respectfully request that the committee consider using this catastrophic event as a method to identify what can be done to evacuate and shelter the citizens of any major metropolitan area in the nation if a major disaster occurs.

In closing, I want to sincerely thank the committee for the opportunity to share with it my understanding of these events.

I can assure the committee that the elected and appointed officials of Jefferson Parish, Louisiana, stand ready to join with them, and the president of the United States, in assuring that such a catastrophe never happens again.

Thank you.

COLLINS: Thank you for your excellent testimony.

Colonel, as Hurricane Katrina was approaching, for the first time in the city's history, a mandatory evacuation order was issued.

The mayor's staff has told us that the mayor made the decision to issue that order on Saturday morning. Yet, it was not actually issued until Sunday morning -- a loss, arguably, of 24 critical hours.

Could you tell us what happened during that day, and why there was a delay in issuing the mandatory evacuation order once the decision had been made?

EBBERT: Throughout the day, Saturday, one of the difficulties of dealing with a mandatory evacuation was the definition of "mandatory evacuation," and the complexity of issuing orders to agencies without the capability of carrying them out.

And, in particular, there was great discussion throughout that day when we looked at the large population we had in our hotels and the large population we had in our hospital system.

And to place the mandatory evacuation on people without them having the capability to evacuate themselves or the government having the capability to evacuate them, we finally reworked that into the night.

And the final declaration which was announced finally exempted those two particular areas from mandatory evacuation.

So that took a great deal of the time.

But one of the positive things during that time -- we had already worked with the state and the local agencies to start our three-phased evacuation, which was under control throughout Saturday.

And as we moved into Sunday, the traffic was already flowing and there was no great increase from the voluntary evacuation phase that we had gone through that the mayor and the media had helped communicate to the public.

But the delay was basically designed in and occurred because of the difficulties with doing something that we had not done before, and that's one of the challenges that we face this year is we have to, ahead of time, one, decide what mandatory evacuation means, two, what legal measures are we going to utilize to carry it out. Are we going to force people with police out of their particular homes? And then, three, ensure that when we issue that that we have the capability to move those people.

COLLINS: Yesterday, at our hearing, we heard from a police officer who was very involved in search and rescue operations. He also helped to compile an after-action report that was completed by the command staff of the New Orleans Police Department.

It specifically noted the lack of a unified command, and was quite critical, as you're well aware, of the

Office of Emergency Preparedness. In fact, the summary section of the report includes an entry which reads: "Total failure of OEP."

One of the captains on the command staff wrote in his base report, "OEP needs to be revamped." Another captain wrote, "Unified command was never established." A third captain wrote, "The Office of Emergency Preparedness needs to be revamped. If their role is to have us prepared to handle a disaster such as this, THEY FAILED," capital letters. "They lacked a plan, did not provide the necessary equipment, provided no direction or leadership."

This is language directly from three of the city's first responders, and they are those who launched the search and rescue operations to save the lives of New Orleans residents.

How do you respond to the criticisms in that report?

EBBERT: I think there are some valid criticisms in that report. I think those officers, especially Captain Bayard, who testified yesterday, is a wonderful police officer who is dedicated to his duty, who carried out his mission with the capabilities that he was given.

Equipment, I agree with. But, I think we need to go back and then, as the Homeland Security Committee, look at the definition of what I'm able to purchase and what I'm not able to purchase with the money that the federal government gives me.

Life-saving boats and motors were turned down by the Department of Homeland Security under our grant program. Twice, training that I requested for search and rescue -- waterborne training for fire and police -- was turned down, because it did not meet the parameters of the defined grant process.

So, I think we need to look hard as a nation in these dollars to provide "all hazards" approach -- not just weapons of mass destruction, not just terrorism, but utilize those dollars to the special needs of different communities throughout the nation.

COLLINS: Senator Lieberman?

LIEBERMAN: Thanks, Madam Chairman.

Thanks to the witnesses.

Dr. Maestri, I thought that your opening statement was very helpful. In some sense, your painstaking review from your own experience over the years, and the various warnings about what happened and the need to do something to evacuate those who could not evacuate themselves, is painful.

In that statement you referred, and I quote, "to the conference calls that took place between local, state, and federal officials before Hurricane Katrina made landfall."

I want to ask you a specific question, which is: Was Dr. Mayfield on those calls?

MAESTRI: At times, Dr. Mayfield was on those calls. He certainly had representation on all of those calls. The National Weather Service begins the conference calls by...

LIEBERMAN: Good.

MAESTRI: ... going through it and telling us the present state of the hurricane.

LIEBERMAN: And, therefore, I presume that representatives at the federal level of FEMA were on the calls, representatives of the governor and the mayor were also on the calls?

MAESTRI: Absolutely, Senator.

LIEBERMAN: And can you tell us in a little more detail when those calls began? How soon before Monday, August 29th when Katrina hit landfall?

MAESTRI: Approximately three days before the hurricane made landfall.

LIEBERMAN: So it would be Friday?

MAESTRI: That's correct.

LIEBERMAN: All right.

MAESTRI: Those conference calls began, in fact, late Thursday afternoon and then began in earnest on Friday morning.

LIEBERMAN: Do I understand correctly, from my staff, that you've had a long-time professional association with Dr. Mayfield?

MAESTRI: Yes. I've known Max Mayfield for approximately 10 years.

LIEBERMAN: Right. And did he call you directly, in addition to the conference calls you were on?

MAESTRI: Yes, Senator. I received two phone calls from Max Mayfield; one earlier in the week.

LIEBERMAN: Do you remember what day it was?

MAESTRI: It was probably Monday or Tuesday.

LIEBERMAN: A full week or a little bit less before the hurricane.

MAESTRI: That's correct. That's correct.

LIEBERMAN: All right.

MAESTRI: And it was a warning that this was, in his opinion, a very serious storm and a storm not to be ignored at all levels.

LIEBERMAN: I'm sorry. Go right ahead.

MAESTRI: Then, again, I received a phone call on Friday. And it was a phone call that, truthfully, changed my life and the life of the entire metropolitan New Orleans area because, in that phone call, he told me that he was now convinced that the storm was coming to New Orleans, that it would make landfall, in his opinion as a Category 4 or 5 storm, and that it was, in his words, "the big one."

LIEBERMAN: Right.

MAESTRI: This is the one that we had been waiting for.

LIEBERMAN: Right. So it's fair to say that there was no ambiguity in his warnings?

MAESTRI: I saw no ambiguity at all.

LIEBERMAN: And those were calls as of late Thursday, I believe you said, in which federal, state, and local representatives were present?

MAESTRI: Correct, Senator.

In fact, at the conference call that followed with the other members of the Southeast Task Force, I elaborated to them -- because of my personal relationship with Max -- what he had shared with me.

LIEBERMAN: Right.

In those conference calls, did Dr. Mayfield, to the best of your recollection, specifically speak to the need for pre-storm evacuation?

MAESTRI: Absolutely.

LIEBERMAN: Do you recall what he said?

MAESTRI: He told me, personally, for Jefferson Parish, to make sure that the elected officials understood the upcoming events and what they could mean -- the catastrophe -- and to implement and to use all authority that I had to implement the evacuation of the metropolitan area.

LIEBERMAN: Do you know whether Dr. Mayfield made other calls to individuals in the area that he knew, in addition to the conference calls?

MAESTRI: I know that he asked me for the telephone numbers and/or means of contacting other elected officials and appointed officials in southeastern Louisiana, because he wished to share with them that, in his opinion, this was an extremely serious hurricane and one not to be taken lightly.

LIEBERMAN: He's a real professional, as anybody who has met him knows, but also as we watched him on the TV leading up to Katrina.

Can you describe his mood as you heard it in the phone calls?

MAESTRI: Senator, I smile because I've known Max for many years, as I've indicated, and Max Mayfield does not give those warnings lightly.

LIEBERMAN: Right.

MAESTRI: When he called me and told me what to expect and what, in his opinion, was coming, I took it very seriously and I think anyone who spoke to him did.

I immediately called the elected local officials together, briefed them on what he had told me, and indicated that, therefore, in my opinion, I thought it was necessary for us to take all effective steps then to begin preparations for a very serious event.

LIEBERMAN: I mean, in some sense -- to use the convenient historical metaphor -- Dr. Mayfield became the Paul Revere of Hurricane Katrina. My impression is, not just on television, but he was so personally agitated by what his scientific knowledge told him was coming, that he just was calling anybody he knew, anybody in authority in the Gulf Coast to warn people that this was the big one, this was the worst.

How do you explain -- and, again, we focused on Hurricane Pam, the fictional exercise. You've described it, the specific warnings and, in this case, the focus of this hearing, the compelling need for pre-storm evacuation for those who couldn't evacuate themselves particularly.

But here now we have Dr. Mayfield, in the days leading up, saying, "This is it." I mean, it seems to me he couldn't have done anything more than if he had taken a two-by-four and hit people over the head.

Why wasn't something more concrete done to provide for the pre-storm evacuation of the poor, of the aged, of the infirm?

MAESTRI: First and foremost, our problem in Jefferson Parish is not as significant as that in the city. But, I think that...

LIEBERMAN: You mean because of the population?

MAESTRI: That's correct. Because of the economic differential, Jefferson Parish is the quintessential bedroom community suburb surrounding a metropolitan area in the United States.

But I think the issue that you're asking about has to do with the available resources. And the problem that we faced, and the problem that had been identified, and I think the problem that continues, Senator, is that metropolitan areas in the United States do not have and/or control the resources necessary to effectively physically evacuate that population without personal transportation assets to move themselves.

LIEBERMAN: My time's up. I'd like to come back to that.

Thanks very much, Doctor.

COLLINS: Senator Warner?

WARNER: Thank you, Madam Chairman.

My question to you, Colonel Ebbert. But first I wish to say how grateful we are as a nation for your distinguished to the country during the United States Marine Corps.

EBBERT: Thank you.

WARNER: And I saw that you were commanding officer of the Basic School. And one of my teachers in life was Colonel Leftwich, who was my E.A., as you may recall.

EBBERT: Yes, sir.

WARNER: This is a technical question, but it's one I've been pursuing for some time with the secretary of defense -- and they're studying it. And that is the doctrine of posse comitatus.

And for those who are not familiar, that doctrine prohibits active duty regular military from participating with local law enforcement in a variety of functions, primarily those of apprehending citizens for alleged infractions of the law.

Now, as we watched the tragic events unfold as a consequence of this hurricane, the local National Guards and others came in, the active duty forces came in, and you presumably had an opportunity to observe them.

As a matter of fact, in earlier statements you've praised them for their extraordinary service. And I think it's recognized across America that the uniformed individuals performed as best they could to help -- and with great commendation.

But did the inability of the active forces to participate with the Guard in such incidences may have occurred with regard to law enforcement, was that an impediment? And should this country re- examine the doctrine of posse comitatus in the light of this tragedy to see whether or not some exception should be written into that law?

I have written to the secretary of defense on this subject and urged that that be reviewed. And I'm just wondering if you had any first-hand observations, and any opinion that you'd like to contribute?

EBBERT: I think that there is, through this trying times, we've already seen a model start to evolve. And I believe that you can jointly operate in an environment which finally came into being about Saturday, after the storm. And that was with the office of Homeland Security through the Coast Guard, and Admiral Thad Allen being the principal federal official -- the National Guard and the Title X regular forces both reporting up that chain of command into a joint command without placing the active duty forces in charge of the National Guard.

I do believe that we need to go back and review all these items. We did not have an issue once we got on the ground with General Caldwell, we were fully aware of what his authorization in the way of law enforcement capability was.

We did not put those 82nd Airborne troops in a law enforcement mode. We used the National Guard and the NOPD to enter homes when we were searching or rescuing where they had to make forced entry -- but we used the Guard and NOPD to do that.

Where the 82nd came in was just the presence, the arrival or the presence of one of our most distinguished divisions in the United States Army had a calming effect on the population. It had a calming effect on those first responders who were coming from outside areas to assist us. And I think that it brought order and discipline to a city that was struggling.

It also showed hope that the federal government was on the scene and providing resources to help us in dire need.

But I do believe that you can do this without putting Title X forces in the line of fire in law enforcement, but still put them in the line of fire.

They're the only organization that has a command and control, radios, people, logistics, movement. We never had a logistics movement center, ever, in this operation. We never set up the joint command center, because we didn't have those capabilities.

All those are inherent in the regular forces.

WARNER: Let me just give you this example. Often they operated together, the Guard and the regular forces. And the uniforms, as you well know, are so similar that a citizen cannot, on the urgency of the moment, distinguish.

And if a citizen needed help and he went to a joint patrol and it required some law enforcement activities, the regular soldiers would have to step back and allow the Guard to perform the missions.

And that could be misunderstood and it could lead to confusion.

But so far as you know, that didn't occur?

EBBERT: That didn't occur. But it's a very distinct possibility that I think it would be prudent to look at those special needs when you place those Title X troops in a situation where they, beyond their control, they may be faced with that type of an issue.

WARNER: Right.

I thank the witness, and thank you.

COLLINS: Thank you.

Senator Lautenberg, I'd invite you to go ahead with your questions now. I am going to leave for the floor.

And if Senator Carper wants to stay and do his questions, I would just ask you recess the committee until 11:25. Or you will have an opportunity afterwards, because we will have a second round, whichever your preference.

LAUTENBERG: So do I understand you correctly that you're prepared to adjourn now, pick up where we are?

COLLINS: Yes. But if you want to...

LAUTENBERG: Well, I think it'd be a good idea, because to rush through these...

COLLINS: I think so, too.

LAUTENBERG: ... such an important array of witnesses that I would like to have a chance to talk to them.

COLLINS: OK.

The committee will stand in recess until 11:25. At that time we'll resume with Senator Lautenberg's questions.

(RECESS)

COLLINS: We will come to order.

Again, I thank the witnesses for remaining so that we could resume the questioning.

And we left off with Senator Lautenberg, so I would call upon him.

LAUTENBERG: Thank you, Madam Chairman.

I start by -- as soon as I catch my breath from running down the hall...

(LAUGHTER)

... I start by calling attention to the fact that Amtrak, or an alternative method of transportation, creeps into so many emergency situations -- notably the worst catastrophe that we had on our land when the Trade Towers were taken down on September 11th.

And we learned then that Amtrak was the only remaining transportation access that we had. Aviation had shut down -- impossible to believe, but it had.

And we see it again now in Katrina that, Colonel Ebbert, your commentary strikes me as being right on, hitting the nail on the head.

Madam Chairman, I would hope that one day we'd have a hearing on the relative value for our security interests in the role that Amtrak would play. And I hope that we'll be able to do that in the not too distant future.

Colonel Ebbert, I note in your testimony that one of the things that you called for, in a several point program, was to have an Amtrak available that would permit evacuation of 5,000 people.

Well, I that's a perfectly obvious, reasonable request whenever any kind of a situation is calling for evacuation is there.

But right now what we face is the determination to have Amtrak abandon its national mission and peel off to segments, depending largely on the states and the states and the states' financing.

What might it be like without Amtrak standing by -- even though, at the time of Katrina we had an empty train, Mr. Bradberry, waiting for people to board and get out of there? And we had room for 600 on the train, only 100 showed up -- there was so much confusion.

What do you think about the notion? Do you think our country's security might be impaired in any way if Amtrak or a national rail system were not in place?

EBBERT: In answer to your question, Senator, I believe that we have a capability that we have not utilized effectively. I think that we have basically a federally supported commercial system of Amtrak, which has capability across the nation to assist in this very serious nature of mass evacuation.

And I think that we need to look at -- currently, we try to work that at a local level. And we're at the bottom of the barrel working up.

LAUTENBERG: I heard you -- forgive me, because the time's so short -- I heard you and your colleagues at the table call for more federal resources, more help.

Dr. Maestri, simple things like communications equipment? I mean, if you're an emergency response organization, we had that terrible, terrible thing at the World Trade Center when fire departments

couldn't communicate with police departments, or with their own departments.

The federal government ought to complete its mission in protecting our citizens and not just do it overseas, but do it within the country.

So, I think we'd be far worse off in terms of our ability to manage our desperate needs for evacuation.

And, by the way, there is no exclusive on having the kinds of things that we've seen, either from terrorists, or a natural disaster, or how about a nuclear plant?

We abandoned two nuclear plants in this country -- at great cost -- after they were built and ready to function, because we found out that we couldn't get people out of there if we had to get them out.

By God, what do we have to do to make sure that we have a facility capable to respond to emergencies like that?

Mr. Bradberry -- and I know this is something that you said in commentary in the past, and that was that your Department of Transportation could not be, did I understand correctly, a transit agency?

BRADBERRY: We are not a transit agency.

LAUTENBERG: Well, how does that square with your obligation to provide transportation access for the people in your state when you say you're not a transit agency?

Doesn't it go beyond simply the definition of "transit" to say, "Hey, our mission is to carry people place to place, and particularly when a disaster like the one you witnessed takes place?"

BRADBERRY: Yes, Senator. The pure definition -- you're absolutely correct.

Historically, however, the state's approach to transportation has been on infrastructure, fundamentally, and not mass movement of people. That responsibility has historically laid with the National Guard.

Now, the new ESF-1 function identifies the Department of Transportation as playing a lead role in transportation, and we accept that responsibility -- although, at the time we had issues with that transfer of authority back to the Department of Transportation. We had issues with that.

But in a pure sense of the word, I believe you're right.

I'm not sure that any transportation in the country, any transportation department in the country, however, would encompass transportation of people in all states, like you might indicate.

LAUTENBERG: Well, our local rail system is under the jurisdiction of the Department of Transportation. And it seems to me it's such a natural fit.

Thank you, Madam Chairman.

COLLINS: Thank you.

Welcome, Senator Akaka. It's nice to welcome you back from Hawaii.

AKAKA: Oh, thank you very much, yes, Madam Chairman. It's good to be back with you and Ranking

Member Joe Lieberman, and to continue talking about Katrina and to try to reach information about how we can do, what happened, do it better the next time. And that's my intent here as well.

Colonel, welcome. I want to welcome the panel here.

Colonel, in response to the question by Senator Collins about the order for mandatory evacuations, you testified that it took from Saturday morning to Saturday evening to refine the list of who should be ordered to evacuate.

And I understand that your office had the responsibility to review the evacuation of nursing homes and hospitals.

There are several parts to my question. One is, did you review those evacuation plans, and did you find them workable? And then, in line with Senator Collins' question, to receive an idea of why you decided not to order hospitals and hotels to evacuate? Besides hospitals and hotels, what other questions were raised about whom to evacuate that took so long to decide?

EBBERT: On the first question, on the review of plans, I'd like to split that into two different areas. One is planning for assisted living homes, and another one is planning for hospitals.

The homes, as part of their registration and certification by the state, have to devise and submit to the state an evacuation plan. And it's part of their certification process. At the city agency, we are not in that review process.

On the hospitals, we had never evacuated our hospitals. And we have about 2,500 patients that were serious patients in the hospitals, and the intent was never there because of the capability of, one, how do you move very seriously ill people multiple times in a four- or five-month period of time? Two, where do you take them to?

When we evacuated after the storm this time we overloaded systems all over the United States by moving these individual patients.

What we're looking at in this year, obviously, is working with the hospitals to probably develop a meeting point of who is a serious ICU-type of patient versus an ambulatory patient that could be moved over buses or rail.

And I think it will probably be a combination of evacuation and taking some of the flood mitigation money and strengthening the capability for a limited number of hospitals to maintain those very seriously ill people that cannot be moved.

So, we're looking at a combination, Senator, to do both of those.

AKAKA: Yes. And part of my question was, in your review of the evacuation plans for nursing homes and hospitals, the question was, were they, you felt, were they workable -- the plans?

EBBERT: The nursing homes or special needs homes had plans and we were very successful at evacuating those people. One of the hospitals we did not have approved evacuation plans for, because they were not included as being required to evacuate.

AKAKA: Yes. Thank you for answering that one. I thought maybe that you did not have that responsibility about evacuation plans for hospitals and homes.

Mr. Bradberry, I understand that one of your recommendations is that a state or city should agree, through a memorandum of understanding with transportation companies, to retain the use of vehicles for an evacuation.

In Hurricane Katrina, we found that even though companies had contracted to provide vehicles, many of the drivers did not report for duty. And there is also concern that many contracted with the same companies, making it impossible to meet the demand.

Do you think the state has a responsibility for reviewing all evacuation plans, including the private entities such as nursing homes, to ensure that there are adequate plans?

And if the plans are deemed inadequate, what is the current enforcement mechanism?

BRADBERRY: I think that the state does have an obligation to be part of a team to evaluate all of the emergency plans that are, indeed, in effect.

And, just like USDOT has the responsibility around the national plan, we ought to be in partnership with USDOT.

We have not been fully in partnership with USDOT, as evidenced by the fact that, prior to Katrina, we were working on a new plan whereby the Department of Transportation, Louisiana was assigned the ESF-1 function.

It was new for us. It was a plan in transition. And I would venture to say -- and I would say on record -- that that plan was, indeed, new and in transition for not only the state of Louisiana and the Department of Transportation, but for the U.S. Department of Transportation as well.

I think we've heard Secretary Mineta say that at the time of Katrina only 10 percent of that plan was, indeed, done.

So there's a lot of work to be done. And I think the responsibility lies with all of us to assure that adequate plans and contracts and relationships and ties are in place.

AKAKA: Thank you very much.

Madam Chairman, my time has expired.

COLLINS: Thank you.

Mr. Secretary, the state of Louisiana's emergency operations plan clearly designates your department, the Department of Transportation and Development, as the primary agency responsible for developing plans and procedures to, quote, "mobilize transportation to support emergency evacuation for at-risk populations."

During an interview with the committee's investigators, you conceded that the department had, quote, "done nothing to fulfill this responsibility. We put no plans in place to do any of this," end quote.

I know you've stated that you disagreed with having the department tasked with this assignment. But nevertheless, the plan is very clear that your department did have the responsibility.

How is it that the department did not carry out such a clearly designated an important duty?

BRADBERRY: Yes, Madam Chairman.

Admittedly, I'll state that in April of 2005, I did, indeed, sign the plan that said that we would accept the responsibility for the ESF Function 1.

However, I signed it under the spirit of continuous improvement, that we wanted to keep things moving.

We went on record to say that there needs some work there. We don't necessarily agree with the idea that the Department of Transportation needs to have this transportation function.

Clearly, we didn't have it before.

And so to keep things moving, to assure that we did indeed at the end of the day have a plan, and not to get caught up in the bureaucratic channels that normally happen with things like this, I signed it.

And I'll admit to that.

At the same time, I want to go back to Hurricane Pam and that exercise and sort of build a story on relationships on how this came to be.

In 2005, the Hurricane Pam exercise, if you didn't know, did not have the transportation function as part of its exercise. That exercise was initially targeted for a 14-day exercise.

It got reduced to eight days by FEMA, because we didn't have the resources to completely do the exercise.

So at the time that I signed the approval and the acceptance of ESF-1 clearly first, and foremost, we didn't have, and didn't go through an ESF function relative to transportation in the Pam exercise.

That didn't take place until July of 2005. And on September 9th, 2005, we got a report back from IEM that basically says and lined out what we learned about transportation in that Pam exercise of July 2005.

And I guess, Madam Chairman, the other point I wanted to make -- so we clearly had a plan in transition. If, indeed, our new plan was based on the 15 ESF functions as defined by the National Response Plan, and at that time when I signed the plan we didn't even have closure on the transportation side of it, because we haven't had an exercise in that plan, it reinforced to me that I wasn't ready to really commit to that responsibility -- although I wanted, again, to keep the plan moving.

It also needs to be said -- and I'll take personal responsibility for my department -- that clearly I had a point man in that position, that hindsight is 20/20 but, in my opinion, lacked the skills, lacked the sensitivity of the importance of that and didn't inform me and my staff appropriately along these lines.

So, again, I take full responsibility for that. But, I believe that, indeed, it was a plan in transition. And I think we have indications to illustrate that.

And we placed a lot of our effort on getting people out. We placed a lot of time -- which is part of ESF-1 -- building a plan, building a good plan, and we spent a lot of time on -- I personally spent a lot of time with state police and putting a team together and making sure that we learned from Ivan, that we

built an evacuation plan that was as good as it could be, and get as many people out as we could.

And I think we were fairly successful at that in getting almost 1.3 million people out of the city.

And we had enough time, in my opinion, to get the remaining people out that they wanted to get out.

And those that couldn't, we needed to do a better job coordinating responsibilities with other agencies.

COLLINS: Did you ask the governor to assign the responsibility to another department or agency?

BRADBERRY: No, ma'am, we did not.

COLLINS: Prior to Katrina making landfall, did you have any conversations with the mayor of New Orleans or with anyone from the Orleans Office of Homeland Security concerning the large number of people left in the city -- or that were likely to remain in the city -- who did not have access to transportation?

BRADBERRY: No ma'am. I did not personally, and my staff did not.

But in my previous testimony, I also made a statement that I had a fairly high confidence level that a plan was in place to move those type of people out of the city.

And in May of last year, when we advertised and built our evacuation plan for the citizens, we made a million and a half maps and we communicated that plan across southeast Louisiana and beyond.

I remember at the press conference and the unfolding of this map and this plan, a reporter asking Chief Matthews in New Orleans whether or not the city had a plan for evacuating those types of individuals -- at least the homeless and people who couldn't afford to get out.

And I recall that the answer to that was, "We absolutely do. And we're continuing to work on it. We'll have it ready for the hurricane season."

And that essentially told me what I had assumed all along -- which was probably the wrong assumption -- that we had plans in place to do that.

COLLINS: I understand the confusion over the city's role and state of preparedness, but I would note that the city of New Orleans' emergency plan specifically says that local government resources may not be sufficient to provide for the transportation and care for those citizens with extraordinary special needs.

So the city anticipated -- and said in writing as part of its plan -- that it would not likely be able to take care of the transportation and needs of citizens with special needs.

That's why the disconnect here is really troubling when you look at who got left behind.

Dr. Maestri, just one quick final question for you. Did you think that the contraflow evacuation of the city should have begun earlier than it did?

MAESTRI: Now, in the Katrina exercise, we were onboard with the model that the state had presented.

However, in previous hurricanes, in previous implementations, we had difficulty with the staging of the

contraflow effort.

COLLINS: Thank you.

Senator Lieberman?

LIEBERMAN: Thanks, Madam Chairman.

Secretary Bradberry, I just want to come back to the exchange. First off, I think that your department and yourself deserve some credit for facilitating the evacuation from New Orleans of the people who could get out.

But, I must say, I don't feel that you've acknowledged enough responsibility here this morning for the failure to implement those parts of the state emergency plan that requires you to do more than that.

I mean that plan, which is the state of Louisiana emergency operations plan, it's Exhibit 2, and I'm going to quote, "Plan requires your department to develop plans and procedures to mobilize transportation of support emergency evacuation for at-risk populations," end of quote.

And I know in your pre-hearing interviews with our staff, you indicated that you felt the department was not in the bus business, as it were, and that, with respect to the plan's requirement to development procedures to mobilize in emergency, that you had done nothing to fulfill this responsibility.

Looking back at it, it was more than just in transition. For whatever the reason, the responsibilities that you were given under the plan, you just didn't fulfill.

BRADBERRY: Well, I think with all due respect, Senator, clearly we were in transition. And, I don't think there was any other agency, nor the federal government -- i.e. DOT -- had a complete plan. There was no plan in our EOC that showed that we were operating under that plan. We couldn't come to closure.

If Hurricane Pam indeed was a mechanism by which we were to justify that plan, it clearly wasn't to a point where we had tested the transportation function. That wasn't held until July.

It all points to me that -- and the staff that I had and the focus we were putting on...

LIEBERMAN: Were you -- excuse me, because my time is limited -- were you working on it?

BRADBERRY: We were working on evacuation contraflow, getting that as perfect as we could. Learning from those lessons.

LIEBERMAN: Yes. But, again, that doesn't deal with the at-needs population, the population that got left behind.

I want to go on because of the time.

Colonel Ebbert, as we look back, our investigators, you find different places here where you see missed opportunities. And one of them, I reference it as Exhibit 8, but basically I'll describe it to you.

The exhibit contains a draft memoranda of understanding between the city of New Orleans, the Regional Transit Authority, the school board and even Amtrak, for assistance in evacuation, including -

- from the way I read it -- pre-storm evacuation.

I'm reading from one of the drafts: "We are anticipating that evacuation in this case by the buses will commence immediately following the declaration by the mayor of voluntary evacuation."

These were negotiations entered into by Dr. Stephens, who we will hear from, I believe, on the second panel, earlier in '05.

What happened? Why were those negotiations never completed so that those assets were in place in the days before Katrina struck, to get the at-risk population out?

EBBERT: Those were ongoing and they really go back to '04, when we started negotiating with those external agencies which are not city agencies, and trying to draft and come to an agreement on the MOUs.

There were a lot of issues -- and we're still dealing with the Amtrak issues.

You had to deal with the individual liabilities that people were willing to accept both financially and libel.

LIEBERMAN: You know, excuse me again for interrupting, just because of the time. And we've got another panel. But basically what I'm hearing you saying is that it got into a lot of sort of legal back and forth, even though, I'm sure looking back at it you wished that you had completed those agreements and those assets?

EBBERT: Absolutely.

LIEBERMAN: Yes.

And, again in the context of the time is of the essence, Pam warnings and Hurricane Ivan. I presume it's painful for you to look back on it and see that those MOUs were not carried forward.

EBBERT: Absolutely. I think that those, the anchoring of those MOUs is the future in evacuation planning in the city of New Orleans.

LIEBERMAN: I hope you get them done before June, when hurricane season starts again.

EBBERT: We're working on it, sir.

LIEBERMAN: OK.

Dr. Maestri, a final question which, in some ways, gets back to where we were when I ended the first round of questioning about the fact that everyone was on notice -- both local, state and federal; Dr. Mayfield calling everybody.

One of the interesting pieces of kind of common wisdom in this field that we keep hearing, that I think we have to challenge, is that pre-storm evacuation is not the province of the federal government, for a variety of reasons.

Although, I must say, it does seem to me that the various federal acts here, the Stafford Act, the National Response Plan of the Department of Homeland Security -- all give federal agencies such broad

support that it would include this.

So I wanted to invite you, based on your long experience, to comment on that and, in some sense, to tell us, looking back at Katrina, what you made and make today of the federal government's lack of action to assist in pre-storm evacuation?

MAESTRI: Senator, I believe that no metropolitan community in the United States has the ability to provide the resources necessary to evacuate a population that does not have the ability themselves to move from the disaster, or the approaching disaster.

Therefore, it will be always necessary, in my opinion that we look to the federal government and to the agencies of the federal government, to assist in supplying those resources.

The Pam exercise, although it didn't address transportation directly, one of the undergirding assumptions throughout was that if we were going to avoid that massive death toll that Pam predicted, we would have to have those resources.

If you take the entire bus fleet that's available to a metropolitan area for its normal transportation operation, it would not meet the need that was faced in New Orleans for 100,000 folks who didn't have adequate transportation and had to leave.

LIEBERMAN: Right. Even the discussion that we've heard at one point about the need for 600 buses really wasn't enough, was it...

MAESTRI: No, it was not.

LIEBERMAN: ... to get 100,000 people out of town in a day or two?

Well, I appreciate your answer. It may be some comfort and some sense an acknowledgment by the federal government itself that they have the authority to do this.

As I'm sure the three of you know, when Hurricane Rita came, the federal government mobilized an enormous array of resources pre- landfall including directly a massive pre-landfall evacuation.

And we look back regrettably, painfully, ruefully, that that did not happen in Katrina.

Thank you.

Thanks, Madam Chairman.

COLLINS: Thank you very much.

I want to thank this panel for their testimony today. It's been extremely helpful. And we appreciate the fact that you are very candid in talking about the shortcomings, as well as your pledges for improvement.

I'd now like to call forward our second panel. This panel will discuss the extraordinary challenges of evacuating hospital patients, nursing home residents, people receiving home health care, and other individuals with special needs.

I want to thank our next panel for joining us, as well, today.

Dr. Jimmy Guidry is the state health officer of Louisiana and also serves as the medical director for the Louisiana Department of Health and Hospitals. His department is responsible for the special needs population at the state level, and he participated in the Hurricane Pam exercise in 2004.

Dr. Kevin Stephens is director of the New Orleans Department of Health. He is on the faculty of Xavier University, Dillard University, LSU Medical School, and Tulane Medical School. Dr. Stephens, is it "Stefans" or "Stephens"?

STEPHENS: Stephens.

COLLINS: Stephens' department cares for the city's special needs population in the event of a hurricane or other natural disaster.

And, finally, we will hear from Mr. Joseph Donchess, who is an attorney, who has been the executive director of The Louisiana Nursing Home Association for nearly 20 years. His association represents approximately 260 facilities amounting to 80 percent of the state's nursing homes.

I welcome you all to the committee and look forward to your testimony. And Doctor -- we'll start with you -- Guidry.

GUIDRY: Thank you Madame Chair, and distinguished senators for inviting me here today.

I do feel that, when it comes to the health care of the folks of Louisiana, our story hasn't been told.

The media was quick to show the things that we failed on. But I think when we looked at taking care of large numbers of people that were coming at us, and trying to figure out how to handle the volume of the need, there were a lot of things that we drew upon in our planning.

But I will admit that it was short of what we needed to accomplish, simply because there was so much to do in so little time.

If you will, I'll quickly go through some of the lessons learned and some of the things we achieved to kind of give you a breadth and depth of what we dealt with.

Pre-Hurricane Katrina and Rita, we opened -- with the Department of Social Services and DHH staff -- supplied seven special needs shelters around the state.

We established triage lines as of noon on Saturday, to assist special needs evacuees to help them make decisions about leaving with their families, reporting to where the shelters were available, or whether they needed to be in a shelter or at care at a hospital.

We accepted 150 special needs evacuees and I was told that that was more like 200 in Baton Rouge from the Superdome prior to the storm. This had never been done before in any previous hurricanes.

We assisted with equipment and staffing to the city of Orleans to open a section of the Superdome for special needs evacuees.

We cared for 1,200 special needs evacuees pre-storm and then, in Rita, we moved special needs shelters. We had one side of our state that was hit, and all the shelters were full, and then this other storm was coming at the other area of our state, so we started moving special needs shelters from Lake

Charles and Lafayette to Shreveport and Monroe.

We increased the capacity at the special needs shelters at Alexandria and Baton Rouge.

Taking care of medically fragile people is no small feat, and being able to do that in a setting outside of a hospital is certainly no small feat.

Special needs shelters expanded on two university campuses. This has become a phrase now, this is something that came out of Hurricane Pam planning -- the TMOSA is not a drink, it's a temporary medical operations and staging area.

LSU's TMOSA at the Pete Maravich Assembly Center, we opened a surge facility for emergency rooms with the capacity for 800 beds. And these are 800 emergency beds -- never done in the history of this country, or anywhere else in the world.

We've triaged 40,000 evacuees at the facility.

At Nicholls State in Thibodaux in Lafourche Parish, we opened another TMOSA triage, over 20,000 evacuees. We extended our capacity, especially in these shelters around the state to care for over 2,000. We reopened special needs shelters and operated TMOSA in Lafayette to serve returning Rita and Katrina evacuees. We assisted with hospital surge by accepting hospital discharged patients.

So, our special needs shelters, which were our charge, became our ability to take care of the sick and those that had no where else to go, no family to go with. And if they got too sick they were sent to hospitals, and hospitals would take care of them and send them back to us.

We became the hospital surge, if you will.

What did we learn? Well, certainly, communication is so critical. And even after all the things we've done since 9/11 to have redundant systems, they still failed.

Our ability to get visibility and know what was going on at any time -- we'd get reports 30 buses are coming out your way. People have been on rooftops in water, they've been picked up by search and rescue, we don't know their medical condition.

Medical folks from hospitals had to be evacuated after the storm. It wasn't a result of the storm. It was actually a result of the flooding, because the levees failed.

And in that, being able to communicate on how to get those hospital patients out and helping them with their patients -- when we have never evacuated those hospitals prior to this event in the last 100 years -- here we were found with the idea that these very sick people who couldn't make the trip in the first place, because medical professionals chose to stay in place because the patients they were treating were at risk of traveling. They might lose their lives.

Every day as a medical professional we make that decision when we treat patients. We put ourselves at risk of contracting an infection or disease that puts our own lives at risk.

And in this event, our hospitals decided to stay in place knowing the risk -- very well knowing the risk - - to protect the lives of the patients that couldn't make the trip out.

And certainly it was a lot more difficult to make the trip out, obviously. And we've learned our lessons

that the sick and infirm can't make it out if there's water and you have to make it by boat and by helipad, find a helipad, get on a helicopter and get them to the airport.

Policy implications and gaps -- I'll tell you, on the health forefront, we did some things that never been done in this country. We moved 1,800 patients by airplane from the airport to hospitals around the country.

There were some problems with making sure that their medical records were with them. There were problems with maintaining that medical home once you got them in the air, and getting that information to the caregivers on the other side.

There were some 12,000 total patients and caregivers that came out of hospitals in the affected areas.

There are implications and gaps, as you heard over and over again, that we can improve.

But, I can tell you this, when we're looking at a pandemic possibly hitting this country we better have our plans on how we deal at the regional level, how the state and the feds can help us.

But every community may be on its own if there's a major, major event where everyone's getting sick and dying.

Building codes -- we will come back and look at those. We are working with hospitals, we will be working with nursing homes to look at building codes.

Transportation issues I'm not going to dwell on.

We were set to take care of patients and save lives. That was our mission. Getting them to us was certainly an ordeal.

This is more generalities. And since I'm running out of time, I'll go to my final recommendations if I could.

Continuing HRSA grants would increase the level of funding. The HRSA grants are how we got equipment for hospitals and special needs shelters. Reformed Stafford Act includes health care costs of catastrophic events and long-term response. The Stafford Act does not address health care.

Funding for purchase and pre-staging of generators in special needs shelters, mitigation funds for relocation of hospital generators -- I've been asked, "Have you asked for these things in the past?"

And the answer is a resounding, "Yes."

I did not get that funding or that support in the past. We've had a major catastrophe. I have yet to have any visibility on any funding available for generators, whether it's for special needs shelters or hospitals.

And those patients are dependent on electricity and power for their lives.

So even though we've asked and asked and asked -- and we're now at a point where we've had the event, the major disaster and catastrophe that we all dreaded -- we're still in a posture of trying to defend, "Why don't we have these assets?"

And I'll go ahead and summarize that as my remarks.

Thank you, very much.

COLLINS: Thank you.

Dr. Stephens?

STEPHENS: Yes. Good afternoon.

My name is Dr. Kevin Stephens, and I'm the director for the New Orleans Health Department.

Thank you for allowing us this opportunity to share our story with you. There are just two important issues I would like to address today.

The first question is: What was the role of the New Orleans Health Department with respect to the special needs patients prior to Katrina?

And number two: What was the role of the Health Department with respect to the special needs patient, hospital patient, nursing home patient after Katrina?

As a little background information, the sole role for the New Orleans Health Department in the state and local plan was to open and operate the special needs shelter at the Superdome as a refuge of last resort.

Our primary message was for special needs patients to evacuate, and to evacuate early. And for those who could not, we opened the Superdome as a refuge of last resort for them as a safety net.

To address the first question, we opened the Superdome as a special needs shelter first during Isadore and Ivan. And with the lessons learned, we then convened our partners and developed the plan we used in Katrina.

We met regularly with the nursing homes, with the hospitals, the other providers in the city, to develop their own plan in terms of an executable plan for evacuation.

Now, it should be noted very clearly that the New Orleans Health Department does not have any administrative, we do not have any statutory, or we do not have any regulatory authority over any of these groups.

In fact, we have no funding neither for none of these groups. And our role was clearly merely advisory.

Now, to address the second question, the New Orleans Health Department role was to maintain the special needs shelter until appropriate relief was obtained at the Superdome.

We moved the special needs patients from the Superdome to the sports arena, and when the DMAT team came and assumed the care of the special needs patients, then at that point the Health Department went to the recovery process until we actually started to open up shelters and clinics for people who remain, for vaccinations and so forth.

In conclusion, the New Orleans Health Department role was to open special needs shelter as a shelter of last resort. We opened and operated the special needs shelter with volunteers and partners -- mainly a

whole number of community partners, including Catholic charities and so forth had donated dry goods, water and other food to make this a safe place until outside help could come.

And I think that, in my final remarks, I think there are a couple of things that will be very helpful for us.

Number one, I think it would be very helpful to adequately fund the Health Department. We have zero dollars in our budget for special needs, for evacuation, for sheltering, for planning.

And so all of our work has been done primarily gratuitously by our providers and with our own network.

And number two, I think it's very important that we -- in terms of hospitals and nursing homes, and the special needs patient population -- that we harden those facilities.

It's very difficult to transport our 2,500 patients in threat of a hurricane. And we know from Ivan and Isadore, oftentimes the hurricane will not come and so we have to have funding to evacuate these facilities even in a threat.

And the problem is we were told FEMA would not pay unless the hurricane hit. And, so, if the hurricane does not hit, like in Isadore and Ivan, there's no reimbursement.

And one nursing home provider personally told me -- he showed me copies of a receipt -- it cost him \$100,000 to evacuate his nursing home. And for him that was very cost-prohibitive because, if you have to do this two or three times in the season, it can be very, very problematic.

And number two, I think it's very important that we harden the medical facilities. Prior to Katrina, we didn't know that a lot of the medical facilities had their generators in the basement and on the first floor, and that if flooding were to perhaps happen, that they would be out of power.

However, we have made request after request to get them and others to help fund moving the generators and the switches to a higher level to where they will be operational.

And I think at this point it's imperative that we harden the facilities so that they can withstand a hurricane to a Category 5 so that they will not lose power and they can provide some services, not only before and during that disaster but, afterwards, it's very important to have those facilities open and able to take care of patients.

And, in fact, in the city of New Orleans today, we have two hospitals that are open, namely, Touro and Children's Hospital, and the other hospitals have not opened, which has created a significant problem in terms of our health care delivery system because we just don't have the capacity without the beds.

So I think it's very important that we get federal funding to make sure that we can strengthen and harden our medical facilities -- not only for the special needs, for the hospital patients.

And number two, I think it's very important that we use the regional port, because we just don't have the resources locally and even in the region.

And one last comment -- an example of a system that is great and that's operational is the system we have in place currently. Currently, we have a Daily Dashboard. And if you don't have a copy I'd be happy to forward you one. And on our Daily Dashboard we have every hospital in our metropolitan area. We look at their beds, the ICU beds, the E.R. beds, the capacity.

And I think that in the future, in light of a disaster like this, that we could have regional -- even a national -- database. And this is done all electronically. You can go online even currently as we speak and you can get the status of health care in terms of the available beds, available E.R. beds, that are available, the time you have to wait and so forth for every hospital in the metropolitan area.

So in a disaster like this, we could have a national system to where when we have to evacuate -- we could use the technology to help us efficiently determine where we could send patients, in what capacity, who has the capacity, how we can get them there, so we can take care of those who can't take care of themselves.

Our government has historically taken care of those who couldn't take care of themselves, and we feel this is a very important responsibility.

And we are willing to partner up with the state and the federal government to make sure that we ensure the safety and well-being, especially of those who can't take care of themselves.

Thank you, very much.

COLLINS: Thank you.

Mr. Donchess?

DONCHESS: Thank you, Madam Chair, members of the committee.

And, Senator Akaka, I'm a graduate of Chaminade University, and I have very fond memories of my four years in Hawaii.

LNHA is one of two professional associations that has a desk at the emergency operations center in Baton Rouge. The association has been an emergency operations participant since after Hurricane Andrew struck in 1992.

On Saturday, August 27th, 2005 at 6:30 A.M., LNHA began maintaining its desk on a 24-hour basis. We maintained that status for nearly three weeks. And then came Hurricane Rita, and we did it again.

For Hurricane Katrina, 21 nursing homes evacuated from the pre- storm and 36 nursing homes evacuated after the storm.

Approximately 5,500 to 6,000 patients were evacuated from nursing homes pre- and post-storm. LNHA posted 5,300 names of nursing home patients on our Web site. A special Web page was created to list patients' names and their host facilities.

This allowed family members to locate their loved ones and contact them.

LNHA's staff successfully located the list of out-of-state evacuees from the Global Patient Movement Resource Center. This list had more than 4,000 names on it, and LNHA staff were personally responsible for locating literally hundreds of displaced elderly who were flown out of state after Hurricane Katrina.

There are still 21 nursing homes in Orleans, Jefferson, St. Bernard, and Plaquemines parishes that are closed. Many others are operating fewer beds because of their inability to find health care employees to

staff all beds.

Katrina was an unusual, remarkable storm. On Friday, August 26th, the storm's projected path had it moving toward the panhandle of Florida. It was not until late Friday night that a projected path change was announced that the hurricane was coming to Louisiana.

By Saturday morning, health care facilities had less than 48 hours notice of the impending danger. This short period of time to react is rare. Health care facilities typically have at least 72 hours' notice of an oncoming storm.

Was this the reason that not more facilities evacuated by Sunday? Yes, I think so.

Also, many people remembered the transportation nightmare of Hurricane Ivan the year before. The transportation of elderly, fragile patients on buses for nine to 12 hours to traverse the 80 miles to Baton Rouge is an ordeal no one wishes to repeat.

Issues immediately following Katrina -- for the first two days there was an inability to communicate with decision makers in the emergency operation center. Our ETeam requests were not acknowledged for many hours.

LNHA staff set up our own rescue missions.

Colonial Oaks Nursing Home, which was told on Sunday that its bus transportation contractor had already released its drivers to evacuate, had no power after the storm and floodwaters were threatening to encompass it.

LNHA contacted State Senator Cleo Fields, who volunteered to take leadership buses to help with the evacuation of patients at Colonial Oaks.

Late Monday and early Tuesday, patients were loaded on the buses and transported to safety.

St. Margaret's Nursing Home evacuated on Sunday to Varnado High School, in a town which is nearer to where the eye of the hurricane passed. The area lost power and communication. We were fortunate to get intermittent contact with them through the Washington Parish Sheriff's Office.

With the help of State Senator Sherri Cheek in Shreveport, we located private bus companies which sent buses to Varnado late Tuesday night and transported the patients to host nursing homes in north Louisiana.

Bethany Nursing Home in New Orleans was surrounded by flood waters, but the patients were safely housed on the second floor.

On Tuesday, LNHA arranged for two buses to be positioned a few blocks away on high ground. Two high-water vehicles had been requested to drive through the flood waters and extract the patients.

As the buses were in place waiting, the two high-water vehicles were diverted from our mission by the National Guard, we were told.

Shortly thereafter the two buses were commandeered by FEMA, we were told. The surviving patients at Bethany did not get out until Friday, three days later.

Gunfire by marauding criminals made rescue missions dangerous, and some attempts to rescue elderly in nursing homes were aborted because of the gunfire.

Such was the case with Maison Hospitaliere. These are but four illustrations.

Lack of communications with certain parishes was a critical issue. Washington, St. Tammany, St. Bernard, Plaquemines, Orleans and, to some extent, Jefferson, are parishes that had very little communication capabilities.

Cell towers were down, land lines were not operating. Ham radios were the only reliable sources of communication.

Nursing homes and hospitals were not a priority during the rescue process.

For the first two days, LNHA was on its own to improvise and find ways to rescue the elderly in nursing homes. We helped members and nonmembers alike.

At first, LNHA could submit ETeam missions, but by the fourth day, our ETeam missions were denied because we were not a governmental agency. Our hands became tied.

Now, months later, our manpower is scattered to the winds. Many are out of state, and some may never return. Others have been hired by FEMA or clean-up crews or other businesses at higher wages.

Today, nursing homes statewide can hire 4,200 people, including 2,300 certified nursing assistants. Our Medicaid payment is not adequate. Our Medicaid agency, the Department of Health and Hospitals, refuses to pay nursing facilities in accordance with its state plan -- approved by the federal government.

Facilities are underpaid approximately \$3 per patient day, which amounts to \$23 million for our program.

And cuts by DHH of 10 percent will further hurt nursing homes' abilities to provide adequate care. This cut will take effect in a few days.

Overtime and transportation costs incurred from the storm have not been reimbursed by FEMA for private for-profit facilities.

LNHA is currently working with Louisiana's congressional delegation to change the Stafford Act to allow payment for Medicare and Medicaid patients in for-profit nursing homes who are affected by disasters.

Solutions -- passage of the reconciliation bill by the House of Representatives in the next few days is a helpful start to getting health care in the Gulf Coast region back on its feet. It provides 100 percent federal funding of Medicaid for most of this fiscal year.

Nursing facilities need staff flexibility. The use of uncertified aids for one year should be allowed until people can be attracted to south Louisiana in this work area.

We need an expansion of visas for more foreign nurses, registered nurses and licensed practical nurses.

While Congress can and should get tough on illegal immigration, it should recognize the need of health care providers in Louisiana and elsewhere and expand visas for trained individuals who can offer a

valuable needed service to the many fragile and elderly living in nursing homes.

LNHA has proposed state legislation that would empower and direct the state Office of Homeland Security and emergency preparedness to order the evacuation of health care facilities and provide wherewithal for providers to do it.

The state of Texas learned from the experiences and reacted quickly to an oncoming Hurricane Rita. And Louisiana reacted in a timely fashion for Hurricane Rita.

Nursing home patients were moved to host sites, including many uncomfortable gymnasiums, because all nursing homes were filled with Katrina evacuees.

The state agency, under our proposal, would provide the means of transportation, the host sites and the manpower, to effectuate a timely and safe evacuation.

If a facility fails to comply with a timely called and arranged evacuation order, it would be subject to regulatory sanction; facilities would be given immunity from lawsuits for acting responsibly in accordance with the evacuation order; and costs incurred by a facility would be reimbursed in a timely fashion by the state Medicaid agency.

Finally, the vast majority of our nursing facilities weathered Hurricane Katrina. At 10:00 A.M. on Monday, August 29th, after the storm passed, patients were safely sheltered.

Shortly thereafter, the breaks in the levee system created an unprecedented disaster with 80 percent of the city inundated with floodwaters.

The floods and unexpected lawless segment of those trapped created an untenable situation. Disaster plans became meaningless at that time.

In closing, let me say our nursing home population is a fragile one, and their safety must be a priority.

Thank you.

COLLINS: Thank you, Mr. Donchess.

I'm going to start my questioning with your last statement, where you said that nursing home populations are fragile ones and they must be a priority.

You said earlier that they were not a priority. To me, that's just inconceivable. Why weren't nursing home populations and patients in hospitals more of a priority?

DONCHESS: I don't have a clear answer for you, Madam Chairman. I will say this, that we worked with people in the operations center. They all seemed concerned. But when it came time to act, the action wasn't there.

As I said earlier, we actually had to do our own missions, create our own missions, contact outside sources to put these together.

And I'm hoping that with a proposal at state legislation, that the state legislature will see the need to make nursing homes and hospitals a greater priority -- and do something legislatively about it.

COLLINS: Now, you personally sat at the Louisiana emergency operations center during Katrina, is that correct?

DONCHESS: Yes.

COLLINS: So, you're familiar with the state's ETeam process whereby missions, including rescue missions, are assigned, correct?

DONCHESS: Yes, ma'am.

COLLINS: And, it's my understanding that while you were at the EOC, you tried to submit ETeam requests on behalf of specific nursing homes that were encountering difficulties.

Is that correct?

DONCHESS: Yes, ma'am.

In fact, on a software program, the Louisiana Nursing Home Association is listed as one of the participants.

For the first two days, we were allowed to submit missions -- even though it took a long time to get word as to whether they were missions in activity or whether they were still not a go yet.

By the fourth day, we were told that we're not a state or city agency and, therefore, we can't submit the ETeam requests at all. We would have to take our requests to Dr. Guidry and get him to initial them, and then it was a go after that.

But Dr. Guidry had 100 different things to do at one time. And oftentimes it was difficult finding him and getting these things approved.

So what we need to do, if we're going to be a participant at the emergency operation center -- and I might add that state legislation says that the Office of Emergency Preparedness can act with public and private agencies, that's right in the law.

And, therefore, I don't see why, if we're going to be called upon to assist, why we can't be given the authority to offer these ETeam missions.

COLLINS: Could you give us some examples of the kinds of mission requests that you submitted that were not carried out?

DONCHESS: Well, in the beginning, for instance, with Maison Hospitaliere, we asked for buses and we didn't get any word back right away as to whether the buses were rolling or not.

I know the first night, also, Colonial Oaks said, "We need to move out." I think we put in an ETeam request for them -- heard nothing back until the next day.

By that time, Senator Fields had his buses down at the nursing home and were extracting those patients. They actually left, I believe, by early Tuesday morning.

There were a number of situations that it became very evident that -- I'll give you another example. At one point in time, we were told the buses were rolling to Maison Hospitaliere. I went back about an

hour later and I asked where the buses were at this point in time, and I was told, "Well, the buses haven't left yet."

So, it's just a breakdown in communications.

One of the things I didn't add in my testimony that I have in my formal documents -- and I'm certainly not an expert at this -- but I think if you create small special operations teams that could be given an assignment and they then go in and take care of that assignment until it's done, that this might be a way to help nursing homes and other special needs types of people to get out.

The Bethany home was a very good example where we had buses there three days earlier. But, because of some snafu along the way, they were there for three more days -- and I think six or seven more patients died during that point in time, because they didn't have the air conditioning, and others needed equipment to keep those patients alive.

COLLINS: That is just so tragic and so unacceptable. Here you are, sitting at the emergency operations center, a recognized participant in the process, funneling requests from nursing homes -- some of them pretty desperate requests -- for evacuation help, for fuel for generators, I'm told, other urgent needs, and you can't mobilize the resources, even though you're part of the process.

Is that an accurate picture of what happened?

DONCHESS: That is an accurate picture.

And when days go by and you hear people on the other end of a phone, during those few times we could get through, and you hear their voices cracking and knowing that they're at their very wit's end after two days go by and then three days go by -- and I wanted to do whatever I could to help. And I knew that we had to get these missions going in order to rescue those people.

COLLINS: Dr. Guidry, it's very troubling to hear what was just described. I'm also very troubled by an e-mail that is Exhibit 13 in the book -- the exhibit book -- before you. This is an e-mail from a federal official from the Regional Emergency Coordination Program Office at the federal Department of Health and Human Services.

And what she reports is as follows: "I spoke with Dr. Roseann Pratz (ph), who is the Louisiana Department of Health Emergency Preparedness director at 2:00 P.M.," this is on Saturday, August 27th, and "inquired if federal HHS assistance was needed for patient movement or evacuation or anything else." She responded no, that they do not require anything at this time, and they would be in touch if and when they needed assistance.

Can you explain to me why the state turned down an offer of federal assistance?

GUIDRY: Yes. If you look at the time of this e-mail, we were opening up special needs shelters, we had triage phones, we had requests coming in -- so we were aware of what the needs were.

HHS' offer -- HHS is not in the transportation business and, to this day, five months later, has not helped us with the things that they offered.

So when they asked us if we needed these things, there were no requests at that time for these things. And, as it states, we did not need these things at that point in time.

So at that point in time, the offer was for something that wasn't being asked for.

COLLINS: As the situation deteriorated in the days to come -- this is two days before landfall -- did you go back to HHS and request assistance?

GUIDRY: HHS showed up early in this event. They were there on that Sunday before the storm hit. And they were actually the ones helping us to fill out request forms -- what are called action request forms.

And so they were telling us what's available to us, what we can order. So they were on the grounds with us.

HHS brought the public health service and helped us provide health care.

Everyone said, in this event, that there would be a second wave of infections because of people being out in the water and the weather, and that did not occur because we were able to give vaccinations and take care of people once they got to where we could take care of them.

So we did use their resources. And their resources did not include transportation.

COLLINS: Well, Dr. Guidry, I have to say to you that in light of the predictions for this storm, in view of the findings from Hurricane Pam, I find it inconceivable that an offer of assistance from the federal Department of Health and Human Services two days before landfall -- really one and a half days before landfall -- specifically for patient movement, evacuation, or anything else was turned down.

And I must say that I wonder if the dire straits that we heard described this morning would have been as bad as they were if this offer had been accepted.

GUIDRY: I can say equivocally that I would have made the same decision, that what they had to offer I was quite aware of -- because I've been doing this for 10 years. And when HHS offered to help, I knew when I needed their help and I knew what they could offer, and I knew how to get that.

I spoke to several people, Stu Simonson (ph) at HHS. I spoke to a number of people at HHS, boots on the ground. And this call at that point in time was from somebody in Washington that did not know what we were going through there, offering something that they couldn't deliver.

I was told, when I asked for NDMS to move patients out -- and this is once the flooding occurred -- that had never been done in this country, and that good luck, maybe I could get them there and maybe I could get patients moved.

But we still asked. We put in requests before things occurred. We saved as many lives as we could.

The offer that was made on that day and put in this e-mail shows someone offering something that they weren't going to deliver -- because I'm aware of the system to the nth degree because I've lived this with this fear for a long time.

COLLINS: Senator Lieberman?

LIEBERMAN: Thanks.

I mean, I must say that I noticed the e-mail exhibit that Senator Collins referred to. And I must say I

was pleased that somebody at the federal government level had on their own exercised that kind of initiative.

HHS has, under the National Response Plan, the responsibility for patient evacuation. Your National Response Plan was activated by that time.

So Erin Fowler, I believe, just I presume on her own, took some initiative. And I admire it. I regret that for some reason you thought that she wasn't able to carry through.

But, I'm going to come back with another question.

Mr. Stephens, I want to go back to the line of questioning I had with Colonel Ebbert because, in so many ways, as you look back, there are points when you wished that something had happened that could have prevented the suffering of the people who couldn't leave New Orleans on their own.

And now, looking back here, you are trying to negotiate these memoranda of understanding with Amtrak, with the regional transit and with the school authorities for ways to get people out.

Just real briefly, tell me what got you starting to do that in 2004?

STEPHENS: Well, quite candidly, our previous chief of Office of Emergency Preparedness had retired. And so we knew that this hurricane season was coming up and the mayor hadn't named his successor.

And so in that critical time nothing was going on.

LIEBERMAN: Yes.

STEPHENS: And so I took the initiative myself.

LIEBERMAN: You just did it on your own...

STEPHENS: I did.

LIEBERMAN: ... knowing that there was no preparedness for that kind of evacuation?

STEPHENS: And so what I did candidly is I called the riverboats. I met with the Delta Queen. And we actually went on the boat and my staff actually rode up the river on a ride, I mean an excursion, to see how the water would be and if it's safe for patients and people.

LIEBERMAN: This was back in '04?

STEPHENS: '04 and '05.

LIEBERMAN: And '05.

STEPHENS: At the end of '04 and the beginning of '05.

LIEBERMAN: And then how about the memoranda that you were negotiating with those other people for transportation evacuation assistance?

STEPHENS: Well, in fact, most of the MOUs were typed by me personally, because I didn't have the

staff.

LIEBERMAN: Yes. Amazing. Right.

STEPHENS: And I called Amtrak and said, "Look, what can you do?" And so I met with Larry Beard...

LIEBERMAN: Yes.

STEPHENS: ... came down and a train came down and we actually went on the train to look at the trains to see how...

LIEBERMAN: Some time earlier in '05?

STEPHENS: Yes, yes.

LIEBERMAN: Did other city officials either in the department or the mayor know that you were doing this?

STEPHENS: We were working and negotiating with the Office of Emergency Preparedness, because it's a very complex problem because you have to look at egress, where did you go, how do you get out? You have to look at the trains, how many cars.

LIEBERMAN: Yes. So you involved the city emergency preparedness office as this went along?

STEPHENS: Yes. Yes, we did.

LIEBERMAN: So just -- because time is running short -- in a couple of words, why didn't these memoranda come to completion? Because if they had, a lot of the horrible scenes we saw from New Orleans after the storm would have been avoided, because people would have been evacuated?

STEPHENS: Well, I think there are two components in that. The first one is it was just a matter of timing. I mean, obviously, if we knew that this was the big one, then we all would have speeded up our deliberations.

Number two, though, it's very complicated.

When we looked at Amtrak, for instance, Amtrak could not go to Baton Rouge. Amtrak could only go to Hammond because they didn't own the tracks. Union Carbide owned the tracks to Baton Rouge.

And so when you look at the levees and the locks, Amtrak couldn't get out. If the locks were opened, the train couldn't go because of the...

LIEBERMAN: Yes.

STEPHENS: And so you have a plethora of complications.

And even when you got to Hammond, where do people go? How do they get -- Hammond does not have a public transit system.

LIEBERMAN: All right. I get the picture, unfortunately.

And, obviously, again based on the Pam exercise and all the warnings you look back, I'm sure, and you wished that that had been completed. And I admire you for starting the process really on your own.

Dr. Guidry, let me ask this question. The department that you're with, Health and Hospitals, licenses hospitals in the state of Louisiana. The regulations, as we've looked at them, require the preparation of emergency preparedness plans that must include identification of hazards and natural disaster and emergency procedures for evacuation of the hospitals -- including the designation of facilities to receive the evacuated patients.

From what we can see as we look back, notwithstanding all of that and the warnings of Hurricane Pam and those regulations, hospitals in southeast Louisiana seem not to have been prepared, or not to have followed what the regulations required.

And most particularly -- I know somebody mentioned this before -- generators and fuel supplies were not above flood level, and there were not adequate supplies -- or, in fact, in a lot of cases an overall evacuation plan.

Simple question: Why not?

GUIDRY: I asked the same questions. Went back and looked at how did we get to this point in time?

It is not a requirement for licensure to have generators at a certain level at a certain place. It's not a requirement for licensure that you show proof that your plan is operational.

We're at this point. We passed legislation this past special session to say we're going to go back and look at building codes and plans. But it was not a requirement prior to this event that they would turn in plans defining what their evacuation plans.

When I had discussions with a number of these hospitals in this area over the many years, the question was, "How are you going to evacuate?"

And their response was always, "We do not plan to evacuate. Our evacuation plan will be to get those people out that can travel, elective surgeries, but we will remain here with the people that are not able to get out and the people that are going to need our care so that we can be here after the event."

LIEBERMAN: Did that make sense, do you think? And now, in the aftermath of Katrina, does it make sense?

GUIDRY: I can tell you that, the next hurricane season, there are going to be a lot more people leaving and the plan's going to change drastically.

Those that do stay will be the hospitals that have the capability of hardening their structures and putting their generators higher, because it does not make sense to stay in a bowl, if you will.

LIEBERMAN: Right.

And I gather from the reference you made to the state legislative action this year, that it is your -- well, you tell me whether it's your intention that these evacuation plans that have to be submitted as part of the licensure for the hospitals, are going to be reviewed as to adequacy?

GUIDRY: It's our plan to review that with all the participants and people sitting around the table

saying: How can we make this work?

It's also our plan to hire a contractor that has expertise in this to help us develop this plan, such as the Rand Corporation, to help us with that..

LIEBERMAN: OK.

Madam Chairman, if I can quickly ask Mr. Donchess this last question.

As you said in your opening statement, during Katrina, 21 nursing homes evacuated before the storm and 36 evacuated after the storm.

It looks to us like many of the homes did not follow their own emergency plans which require evacuation in a catastrophic situation.

And surely, by that time -- Category 4, Category 5 hurricane being warned to everybody as we've heard again today -- why weren't those emergency evacuation plans followed?

In other words, what's the point of requiring the nursing homes to evacuate in case of an oncoming catastrophe if they don't do it?

DONCHESS: I think there are a number of items.

First, I think the professional staff used their professional judgment to determine what would be more harmful to the patients, because these are very fragile.

As we saw in Hurricane Ivan, there were deaths of patients on buses because it took so long to evacuate and to get to their host sites.

Also, the fact that the notice this time around was so short -- many of our nursing homes were not advised until Saturday morning that this was a serious storm, that it was heading for the New Orleans area.

Prior to that, I think everybody went to bed on Friday night thinking that it was still heading for the Florida panhandle.

LIEBERMAN: Did they not...

DONCHESS: It is a very long process in loading buses with nursing home patients. You literally have to put them in sheets and carry them up steps of the bus and then get them really situated in seats on the buses and then you do it all over again with the next patient.

So it's a very long process. And I think many of the nursing homes -- those that may already have been told that their transportation was not available either because the buses weren't there or the drivers had left, thought long and hard about whether it was going to be safer to keep the patients sheltered in place or to move them.

LIEBERMAN: I don't minimize the difficulty of the decision about moving frail elderly. But obviously on the other side of it -- and I'm not capable of reaching a judgment as to guilt -- a number of patients in nursing homes died, so that the risk associated with the movement of a frail elderly from a nursing home obviously has to be balanced against the very risk of their lives, which were taken in some cases.

I know that there's a state attorney general's investigation of possible criminal violations in that regard.

Do you want to offer any response to that?

DONCHESS: Well, hindsight is a beauty. And I'm hopeful that next time around, nursing homes will heed the warnings and that we will have 100 percent evacuation.

LIEBERMAN: Well, that's the point. Particularly when it's up to a Category 4 or a Category 5 -- then you know something really big is coming.

DONCHESS: Yes, sir.

And I can tell you that as time went on and I contacted nursing homes prior to the storm hitting and was conveying to them what I had just heard from National Weather Service people, like this is the making of the perfect storm.

LIEBERMAN: Right.

DONCHESS: I could tell that they were getting very concerned. But by then it was Sunday and the opportunity to move had been lost.

LIEBERMAN: A lot of lost opportunities. That's the tragedy.

And hopefully at all levels, as the hurricane season begins again in June that, not only the state and local governments and private sector but the federal government, are going to be a lot more ready to respond before landfall rather than weeping and being upset afterward.

Thank you.

COLLINS: Thank you.

Senator Akaka?

AKAKA: Thank you very much, Madam Chairman.

Mr. Donchess, welcome to the committee. And it's good to hear you are from Chaminade, too.

I'm sorry, but I'm trying to understand who is responsible for taking care of those people in society that are least able to take care of themselves, which includes nursing home-types?

And I would like to clarify an issue that was raised with Colonel Ebbert. Is it true that the state and city required that nursing homes develop evacuation plans and state and city officials reviewed those plans?

DONCHESS: Yes, sir. That is correct.

It was right after Hurricane Andrew that our Emergency Preparedness Committee at LNHA met and actually developed a model emergency preparedness plan.

That plan, with a few changes, was adopted by the Louisiana Department of Health and Hospitals, and the very front page calls for each of those plans to be reviewed by the local Office of Emergency

Preparedness.

And so our member facilities, I know, have been doing that since 1993.

AKAKA: All right. I assume that there were only a limited number of transportation companies that nursing homes could contract with in the event of an evacuation.

Who was responsible for ensuring that companies that have contracts with nursing homes are capable of meeting transportation requirements in the event of an emergency?

DONCHESS: Well, initially, I would say the nursing facility that contracts with the company should get some assurances from the company that it is capable of providing the buses that are required to get people out.

One of the things I was told after the fact is that some of these companies had multiple contracts with different nursing homes and may not have had enough buses.

I don't know if that's true or not, but that's something that I had heard.

AKAKA: Yes.

You said that disaster plans became meaningless once the city flooded.

Everyone knew New Orleans could flood if a Category 3 hurricane hit. Shouldn't disaster plans for the worst expected disaster have been made?

DONCHESS: Yes, sir. And hopefully they will be made for the next time around. I know our committee is going to be meeting on February 23rd and be going over some critical issues, such as having wrist or arm bands for patients with some vital information on them.

I had never fathomed that an elderly nursing home patient would some way be moved away from the rest of the staff or other patients of nursing homes.

But yet we saw, on many occasions where patients were actually -- because in one occasion a bus was actually taken over by a marauding band of criminals in New Orleans and some of those patients got removed from where they were supposed to be going. Some of those patients ended up on C-130s flying to points unknown that we then had to find after the fact.

But, absolutely -- we are going to be looking at many different issues such as arm bands, wrist bands; notifying the local OEP at the host site so if they have capability of assisting with offloading of patients that they'll be ready for that as well.

So there are a number of issues that we have outlined that we want to discuss at that meeting.

AKAKA: Dr. Guidry, I understand that the Louisiana State University system is supposed to function as a state agency responsible for acute care for all hospitals and nursing homes in an emergency situation under emergency support function number eight of the state emergency operations plan, but that LSU does not assume this role in practice.

Why is it that LSU and the Department of Health and Hospitals signed off on an emergency operations plan when they knew it was not operational?

GUIDRY: I'm going to answer this -- since I'm under oath -- as honest as I can. And that is: We just signed off on what DHH was responsible for, and that's what we tried to deliver.

LSU signed off. And that part which they signed off on was taking care of the indigent and the uninsured and taking care of those patients that wouldn't normally go in the private sector.

We have, since that was signed -- and it will now have to go back and revisit this -- work through the HRSA grant to build networks between hospitals so that in each region of the state there's a designated regional hospital.

And in some regions that is an LSU hospital; in some regions it's a private hospital.

The LSU system has been losing its funding, if you will, and its ability to provide the care for all the indigent -- and the private hospital has been absorbing that.

So the Department of Health and Hospitals, myself in the role, has worked with all the hospitals to make sure we can take care of patients.

So LSU has worked to take care of LSU's system as much as they can. And I've worked with the private hospitals and the Hospital Association to take care of the other hospitals -- all working together in a system we've set up through HRSA grant.

AKAKA: Madam Chairman, may I do one more question?

Dr. Stephens, in the Hurricane Pam exercise, the city assumed that all major hospitals would cease to function if a Category 3 hurricane hit New Orleans.

However, according to individuals interviewed by the committee, it is New Orleans' policy to direct patients who need constant care to go to hospitals.

Isn't it short-sighted to have patients being directed to hospitals which you anticipate would not be functioning during such a disaster?

STEPHENS: Well, I think there are a couple of issues with it.

The first thing is the level of category of a hurricane and whether or not the hospital will be open and operational.

And as you know, from Category 1 to 5, in a Category 4 or 5 like in Katrina, obviously the hospitals are not the place of diversion because they, themselves, should be evacuated.

But, in the Category 1 or 2, it is certainly feasible to evacuate people from wherever they need to go to go to a hospital for some type of sheltering.

And, indeed, with the state plan they have two components -- hospital sheltering and special needs sheltering. And they have specific criteria for each.

And in that event, I think it's appropriate to do that.

And one of the things I mentioned earlier, I think it's certainly wise for us all to look at the hardening of

our hospitals' infrastructure.

We can build structures to withstand Category 4 and 5 hurricanes. And I think we need to invest the resources to harden the hospitals, not only pre- and during the hurricane, but even more importantly, after the hurricane hits -- because then, when you have injuries, then you have no place to bring people to get emergent and imminent care.

But if the hospitals were hardened, that will be the first line of defense that we can get to them and we can start to take care of people who may have been injured throughout the process.

AKAKA: Thank you. I thank the panel.

Madam Chairman, I have a statement I'd like to have included in the record in the proper place.

COLLINS: Without objection.

AKAKA: And I may have questions to include in the record.

Thank you so much.

COLLINS: Thank you.

Dr. Stephens, before I dismiss this panel, I want to apologize for not having time to question you. Maybe you're happy about that.

(LAUGHTER)

But had I been able to, the line of questioning was going to be identical to that pursued by my colleague, Senator Lieberman, about the memoranda of understanding.

And I just want to commend you for stepping into the vacuum and trying to put together agreements that would have improved the response. And I think you deserve some public credit for that and I hope you will continue to work on that and make sure that they get finalized before hurricane season strikes this year.

I do want to thank all of our witnesses today for your cooperation and your testimony.

The hearing record will remain open for 15 days for additional information.

Senator Lieberman?

LIEBERMAN: Thanks, Madam Chairman.

I don't have really anything substantial to add. I just wanted to say that Dr. Stephens' admirable work must be explained by the fact that not only is he a medical doctor but he's a doctor of juris prudence.

(LAUGHTER)

COLLINS: I thought of that.

LIEBERMAN: And then finally, Dr. Guidry, are you related to Ron Guidry?

GUIDRY: I must be, but I don't know.

(LAUGHTER)

LIEBERMAN: Don't try to curry favor with the committee.

(LAUGHTER)

Thank you.

Thank you, Madam Chairman.

COLLINS: Thank you for your testimony. This hearing is now adjourned.

END

NOTES:

[????] - Indicates Speaker Unknown

[--] - Indicates could not make out what was being said.[off mike] - Indicates could not make out what was being said.

LOAD-DATE: February 3, 2006