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Founded in 1972 by the American Civil Liberties Union (ACLU), the National Prison Project (NPP) seeks to ensure constitutional conditions of confinement and strengthen prisoners' rights through class action litigation and public education. Our policy priorities include reducing prison overcrowding, improving prisoner medical care, eliminating violence and maltreatment in prisons and jails, and minimizing the reliance on incarceration as a criminal justice sanction. The Project also publishes a semi-annual Journal, coordinates a nationwide network of litigators, conducts training and public education conferences, and provides expert advice and technical assistance to local community groups and lawyers throughout the country.

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The ACLU of Louisiana has protected traditional American values as a guardian of liberty since its founding in 1956. Our mission is to conserve America's original civic values embodied in the U.S. Constitution and the Louisiana Constitution by working daily in the courts, legislature, and communities. We defend the rights of every man, woman, and child residing in this state against attempts by the government to take away or limit civil liberties and personal freedoms guaranteed by the Bill of Rights, as well as federal and state laws. The ACLU of Louisiana provides its services free-of-charge, and without regard to a person's race, creed, religion, national origin, or sexual orientation.

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Created in 2004, the ACLU Human Rights Program is dedicated to holding the U.S. government accountable to universal human rights principles in addition to rights guaranteed by the U.S. Constitution. We incorporate international human rights strategies into ACLU advocacy on issues relating to national security, immigrants' rights, women's rights and racial justice.

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The ACLU Racial Justice Program aims to preserve and extend constitutionally guaranteed and other rights to segments of the population that historically have been denied those rights on the basis of race, ethnicity or national origin. Our work involves challenges to racial discrimination and issues that have a direct or disparate impact on communities of color, particularly in the areas of criminal justice, education, and discrimination. In the area of criminal justice, we are dedicated to reducing the unwarranted and disproportionate targeting and incarceration of people of color. In the area of education, we seek to ensure that all children have access to quality education, regardless of race or ethnicity. Specifically, we have filed civil challenges to the inadequate provision of indigent criminal and juvenile defense, pre- and post-9/11 racial profiling, and disparate educational opportunities. We also have done litigation and other advocacy, including public education and community organizing, against the racially disproportionate imposition of incarceration and the school-to-prison pipeline.

### *Human Rights Watch*

Human Rights Watch conducts regular, systematic investigations of human rights abuses in some seventy countries around the world. Our reputation for timely, reliable disclosures has made us an essential source of information for those concerned with human rights. We address the human rights practices of governments of all political stripes, of all geopolitical alignments, and of all ethnic and religious persuasions. Human Rights Watch defends freedom of thought and expression, due process and equal protection of the law, and a vigorous civil society; we document and denounce murders, disappearances, torture, arbitrary imprisonment discrimination, and other abuses of internationally recognized human rights. Our goal is to hold governments accountable if they transgress the human rights of their people. Human Rights Watch contributed to the section of the report on the abuse of prisoners at the Jena Correctional Facility.

### *Juvenile Justice Project of Louisiana*

The Juvenile Justice Project of Louisiana's mission is to transform the juvenile justice system into one that builds on the strengths of young people, families and communities in order to instill hope and to ensure children are given the greatest opportunities to grow and thrive. Our goals are:

- to create and support an effective and innovative juvenile defense system;
- to alleviate unconstitutional conditions of confinement for juveniles, both pre- and post-adjudication; and
- to work collaboratively with existing organizations and resources to develop and expand rehabilitation efforts and alternatives to incarceration for juveniles.

### *NAACP Legal Defense and Educational Fund, Inc.*

The NAACP Legal Defense and Educational Fund, Inc. (LDF) is America's first not-for-profit civil rights law firm. It's mission is to transform the promise of equality into reality for African Americans and, ultimately, all individuals in the areas of education, political participation, economic justice and criminal justice.

LDF has long been involved in racial justice litigation and advocacy in the Gulf South. LDF's current priorities include seeking to bring justice to African Americans through fair jury selection practices and adequately funded indigent defense systems. Since Hurricane Katrina, LDF has devoted significant resources to working on behalf of the Katrina diaspora, including advocating for voter protection, educational access and criminal justice reform in Orleans Parish.

Founded in 1940 under the leadership of Thurgood Marshall, LDF was initially affiliated with the National Association for the Advancement of Colored People but has been an entirely separate organization since 1957. LDF contributed to the section of the report on the abuse of prisoners at the Jena Correctional Facility.

### *Safe Streets/Strong Communities*

Safe Streets/Strong Communities is a coalition of community organizers, advocates and attorneys whose mission is to transform the New Orleans criminal justice system into one that creates safe streets and strong communities for everyone, regardless of race or economic status. Safe Streets envisions a public safety system that:

- keeps people safe from all forms of violence and crime including street violence, domestic violence, and law enforcement violence;
- is transparent, democratic, fair and accountable to the community it serves; and
- supports community-driven responses to crime that are based in best practices.

Safe Streets seeks reform of the New Orleans Police Department, the Orleans Parish jail system, and the Orleans Parish criminal court system, including the indigent defense system, in order to achieve our vision of real public safety.

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Rights Watch; and Corinne Carey, former Researcher for Human Rights Watch, and now Deputy Director for Break the Chains.

This report focuses on the experience of thousands of individuals who were trapped in Orleans Parish Prison (OPP) during and after Hurricane Katrina, and discusses the nightmare that many of them later faced at various receiving facilities around the state. The authors wish to thank the more than 1300 OPP evacuees who contacted the NPP to discuss their experiences. The same applies to former deputies, staff members, and family members of evacuees who discussed their own experiences during and after the storm. Special thanks are due to the individuals whose experiences and, in some cases, photographs, appear in this report. For many of these individuals it was incredibly difficult to recount what they went through during and after the storm, not only because of the suffering they endured, but also because they lost loved ones as a result of Katrina.

This report could not have been completed without the regular input and guidance the authors received from attorneys and activists on the ground in New Orleans. The difficulty of locating and identifying prisoner-evacuees in the weeks and months after the storm was enormous, and dozens of Louisiana criminal defense lawyers—led by attorney Phyllis Mann—volunteered their time not only to locate these individuals, but also to represent them in court. Among the many on whom we relied, the authors wish to recognize Ben Cohen, Meg Garvey, Mary Howell, Julie Kilborn, Rachel Jones, Katherine Mattes, Pamela Metzger, and Neal Walker. Their work this past year to defend displaced and voiceless Louisiana prisoners in the most difficult of all circumstances served as an abiding inspiration to this report's authors.

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— ERIC BALABAN, Staff Attorney, and TOM JAWETZ, Litigation Fellow  
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**Waterline from  
Hurricane  
Katrina makes  
its mark on  
Orleans Parish  
Prison**





claims, like so many that were repeated in the days after the storm, were never substantiated.<sup>3</sup>

The first accounts of what really happened at OPP during and after Hurricane Katrina came to light once the prisoners started recounting their experiences to family members, lawyers, and local and national civil rights and human rights organizations. The picture that emerged from all of these accounts was one of widespread chaos, caused in large part by inadequate emergency planning and training by local officials, and of racially motivated hostility on the part of prison officials and blatant disregard for the individuals trapped in the jail.

For many of the prisoners whose stories appear in this report, the nightmare continues to this day. At present, OPP evacuees sit in facilities around the state awaiting long-overdue trials on minor charges. Nearly every day, attorneys discover another prisoner whose case has slipped through the cracks. These are prisoners doing “Katrina time,” as it has come to be known.<sup>4</sup> Some prisoners have even been returned to a reopened OPP, which is now overcrowded and dangerous, full of post-Katrina hazards that Orleans Parish Criminal Sheriff Marlin N. Gusman failed to repair in his haste to repopulate the jail.

This report seeks to provide a comprehensive picture of what the men, women, and children at OPP endured before, during, and after the storm. It is written to capture their experiences, so that their voices can be heard.<sup>5</sup> In the year since the storm, the Sheriff has denied many of the claims made in this report, at times referring to the OPP evacuees simply as liars,<sup>6</sup> and at other times as “crackheads, cowards and criminals.”<sup>7</sup> This report is intended to serve as their unified response.

## Methodology

The report is the result of an eleven-month investigation by local and national activists and attorneys. In the weeks after the storm, criminal defense attorneys around Louisiana traveled to dozens of jails and prisons to generate lists of prisoners who had been dispersed following Katrina. Based upon these lists, in October and November 2005, the National Prison Project of the ACLU mailed approximately 2000 questionnaires to OPP evacuees in over 20 different facilities; these questionnaires asked prisoners to describe their experiences during and after the storm.<sup>8</sup> The ACLU has since received and reviewed written accounts from over 1300 prisoners who were in OPP when Katrina struck.

We, along with each of the co-authors and contributors to this report, have also interviewed hundreds of these and other OPP evacuees, their family members, as well as former OPP deputies and staff. In addition, we have interviewed current and recently released OPP prisoners regarding the living conditions in the reopened OPP buildings, and have reviewed court documents and public records produced as part of federal civil rights lawsuits challenging unconstitutional conditions at the jail.

In general, this report does not cover the experiences of other prisoners in the state of Louisiana who were affected by Hurricanes Katrina or Rita. The one exception is con-

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## EXECUTIVE SUMMARY

In the days following Hurricane Katrina, the public was inundated with stories of personal tragedies that were unfolding day by day in the city of New Orleans and throughout the Gulf Coast region. Some reports were of amazing rescues, but much of the coverage focused on the disaster within the disaster—the thousands of men, women, and children left stranded around New Orleans, in their homes, the Louisiana Superdome, and the Convention Center.

But just a few miles away from the Superdome and the Convention Center, another disaster within the disaster was developing at Orleans Parish Prison (“OPP”), the New Orleans jail. During the storm, and for several days thereafter, thousands of men, women, and children were abandoned at OPP. As floodwaters rose in the OPP buildings, power was lost, and entire buildings were plunged into darkness. Deputies left their posts wholesale, leaving behind prisoners in locked cells, some standing in sewage-tainted water up to their chests. Over the next few days, without food, water, or ventilation, prisoners broke windows in order to get air, and carved holes in the jail’s walls in an effort to get to safety. Some prisoners leapt into the water, while others made signs or set fire to bed sheets and pieces of clothing to signal to rescuers. Once freed from the buildings, prisoners were bused to receiving facilities around the state, where, for some, conditions only got worse. At the Elayn Hunt Correctional Center, thousands of OPP evacuees spent several days on a large outdoor field, where prisoner-on-prisoner violence was rampant and went unchecked by correctional officers. From there, prisoners went to other facilities, where some were subjected to systematic abuse and racially motivated assaults by prison guards.

At the time, public officials and traditional news media said little about the OPP prisoners. The first reports from government officials were based on rumors that prisoners had rioted and taken over parts of the jail complex. New Orleans City Council President Oliver Thomas told a local television station that rioting prisoners had taken a deputy, his wife, and their four children hostage.<sup>1</sup> Louisiana’s Department of Public Safety and Corrections received a report that prisoners had taken over an armory on the 10<sup>th</sup> Floor of an OPP building and that a fire was in progress.<sup>2</sup> These

tained in the section of the report discussing the experiences of prisoners from Calcasieu and Jefferson parishes who endured systemic abuse at the Jena Correctional Facility (Jena), where they were evacuated as a result of Hurricanes Katrina and Rita. Volunteer defense attorneys initially interviewed all of the individuals at Jena. Members of Human Rights Watch (HRW) and the NAACP Legal Defense and Educational Fund, Inc. (LDF) interviewed many of these prisoners a second time.

## Recommendations

In order to move forward with a jail that is more cost-effective, humane, and that ensures real public safety, local, state and federal officials should consider implementing the following recommendations:

### Recommendations to Local and State Officials

*The Orleans Parish Criminal Sheriff's Office,<sup>9</sup> the City of New Orleans, and the State of Louisiana Department of Public Safety and Corrections*

**Design and implement a coordinated emergency plan to ensure that all prisons and jails are capable of quickly and safely evacuating before the next disaster strikes.** An organization such as the National Institute of Corrections is capable of evaluating the emergency preparedness of individual jails and prisons, as well as entire correctional systems. In the months after the storm, the Louisiana Department of Public Safety and Corrections ("DOC") commissioned the National Institute of Corrections to prepare a Technical Assistance Report ("NIC Technical Assistance Report") to evaluate, among other things, its performance in assisting Orleans and Jefferson parishes in evacuating their jails. Although the state has refused to release the report to the public, it is encouraging that DOC took the time to learn from the Hurricane Katrina experience.<sup>10</sup> To date, it does not appear that the Orleans Parish Sheriff or any other local official in New Orleans has shown a similar interest in evaluating their performance. Only by analyzing—honestly—what happened before, during, and after Hurricane Katrina, will it be possible for New Orleans to respond better when the next hurricane hits.

**Downsize the jail by ending the practice of holding state and federal prisoners.** On August 29, 2005, the day Hurricane Katrina hit New Orleans, OPP was holding nearly 2000 DOC prisoners.<sup>11</sup> This number represented close to one-third of the total OPP population, and three times as many DOC prisoners as were held in any other parish.<sup>12</sup> The small amount of money given by the state to OPP to house these people is insufficient to provide them with adequate programming, medical care, or mental health care. Over 200 of the prisoners at OPP during the storm were in federal custody, charged with violations of federal criminal law or federal immigration law.<sup>13</sup> Given the tight fiscal situation of the city and the structural problems that are created by housing thousands of prisoners in what should be a county jail, OPP should not be rebuilt to host state or federal prisoners.

**Implement reforms to decrease the number of pre-trial detainees held at OPP.** Sixty percent of OPP's population before Hurricane Katrina was made up of individuals held on attachments, traffic violations, or municipal charges,<sup>14</sup> such as parking violations, public drunkenness, and failure to pay a fine. Pre-trial diversion programs, bail reform, and cite-and-release arrest policies are all examples of possible means by which the city of New Orleans could reduce this population of people at the jail, while both saving money and ensuring public safety.

**Convene a Blue Ribbon Commission to develop and implement a full set of recommendations for detention reform.** The first step to real reform is to bring together an investigative body comprised of local criminal justice stakeholders and national detention experts to conduct a full assessment of the New Orleans jail system and issue recommendations for reform. These recommendations would include: 1) making population projections at the short-, mid-, and long-term range; 2) identifying the jail capacity needed for the city in light of these projections; 3) assessing how to improve jail conditions and programming; and 4) diagnosing current inefficiencies in the system that inflate both the jail population and the cost of running the facility. Findings from the Blue Ribbon Commission should be reported to the Mayor, City Council, Sheriff's Department and general public, and act as a blueprint for system reform.

**Reduce the use of juvenile detention by exploring viable alternatives to detention.** Since the storm, neither of the juvenile detention facilities in Orleans Parish has been reopened to house juveniles. Moreover, since the release of a report detailing the plight of juveniles at OPP during Hurricane Katrina, Sheriff Gusman has pledged to no longer house juveniles at OPP. However, just weeks later, the City of New Orleans instituted a curfew for juveniles, and quickly began detaining juveniles.<sup>15</sup> For most kids, there is little risk that they will commit a new offense before their court date or that they will fail to appear for court.<sup>16</sup> Therefore, there is no public safety need served by locking children up wholesale before their trials. Adopting alternatives could result in youth being held in smaller, more therapeutic facilities. It would benefit both the children and their communities for officials to work with school systems to ensure that schools are not referring youth to the police for incidents that can be handled by the school or community. Children can be treated within their communities through a number of programs. By locking a child in detention, especially an overcrowded detention center, the risks for suicidal behavior and psychiatric illnesses are increased.<sup>17</sup> Furthermore, youth are removed from many of the safety nets that help them cope, such as family, school, and community supports.<sup>18</sup> It has been shown that treating most children in their communities does not compromise public safety and may in fact help improve it by reducing recidivism.<sup>19</sup>

**Begin to view detention as a process rather than a place.** Detention as a process refers to graduated levels of supervision and considers custody an act, rather than a physical placement. This concept moves detention beyond the notion

of a single building, and instead embraces a wide variety of services in the community. Viewing detention as process opens the door to more alternatives and allows officials to be more flexible, assigning levels of supervision to fit the particularized needs and risks of each offender. Many of the problems with the detention system stem from overcrowding. This is a common scenario in detention systems across the country. Overcrowding can affect the quality of basic services, such as medical and mental health care, and is the driving factor that leads to prisoner-on-prisoner violence. While simply addressing the issue of overcrowding will not solve all the problems, it will begin to make solving other problems a bit easier. By embracing the concept of detention as a process and developing effective alternatives to detention, Orleans Parish can begin to address overcrowding and avoid the onerous task of evacuating 6000+ prisoners.

**Appoint an Independent Monitor.** The Sheriff's Office should establish an Independent Monitor Office to review OPP policies, procedures, critical incidents, complaints and quality of complaint investigations. The Independent Monitor should make regular reports of its findings and recommendations to the public, elected officials and OPP staff.

#### *State of Louisiana Department of Public Safety and Corrections*

**Work with local officials to implement a coordinated emergency response plan that works across departmental boundaries.** Much of the responsibility for the chaos that ensued at OPP after Katrina can be laid at the feet of local officials, who failed to prepare for the storm and its aftermath. However, it is clear that the problems for OPP evacuees did not end when they left New Orleans. The safe and orderly evacuation of thousands from OPP requires a coordinated effort by officials on all levels of government. The state must ensure that there is a clear line of command and communication among state and local officials, that all necessary equipment, vehicles, and personnel are available in the event of an evacuation, that personnel have been trained through disaster drills, and that the receiving facilities are prepared to accept evacuees.

**Conduct regular audits of local jails holding state prisoners.** As outlined in this report, the problems at OPP began long before Katrina struck. The state has a responsibility to ensure that its prisoners who are in OPP and other local jails are provided with the minimal necessities required under state and federal law. In particular, the State Fire Marshal must conduct regular inspections to ensure that adequate fire and emergency evacuation procedures are in place, and that staff are trained in these procedures.

#### Recommendations to Federal Authorities

##### *United States Department of Justice*

**Commence an investigation into the treatment of prisoners at OPP and at various receiving facilities, to discover whether human and civil rights violations occurred.** Following their interviews with prisoners at Jena, HRW and LDF

called for the Civil Rights Division of the U.S. Department of Justice to conduct an independent and impartial investigation into the conduct of the state corrections staff at Jena. HRW and LDF sent a letter to the Justice Department on October 7, 2005, asking for an investigation into the abuses that took place at Jena in the aftermath of Hurricane Katrina.<sup>20</sup> On November 1, 2005, the special litigation section of the Justice Department responded that because the Jena facility had already been vacated, they were not authorized to conduct a civil investigation of the facility. The letter also noted that the Criminal Section requested that the FBI investigate the abuse allegations.<sup>21</sup> To date, no findings from an investigation have been made public. Such an investigation should be undertaken, and it ought to include, but not be limited to, the treatment prisoners received at OPP, Hunt Correctional Center, Bossier Parish Maximum Security Jail, Ouachita Parish Correctional Center, and Jena. Any investigation should include interviews with prisoners who were at the facilities during the reported abuses, and findings from such an investigation should be made public.

Orleans Parish  
Prison Intake  
Processing  
Center after  
the storm



a whole, a country with the highest national incarceration rate in the world.<sup>4</sup>

What makes OPP's massive expansion so surprising is the fact that it happened during a period of time when the population of Orleans Parish decreased by over 100,000 people. During Sheriff Foti's tenure, the capacity of OPP increased nearly 1000% (from 850 to 8500), while the population of Orleans Parish decreased over 18% (from over 593,000 in 1970 to under 485,000 in 2000).<sup>5</sup>

Prior to Hurricane Katrina, 60% of OPP's population on any given day was made up of men and women arrested on attachments, traffic violations, or municipal charges<sup>6</sup>— typically for parking violations, public drunkenness, or failure to pay a fine. Most of the prisoners at OPP were pre-trial detainees, meaning they had not been convicted of any crime. Thus, aside from its enormous size, OPP's population made it resemble a local jail rather than a prison, which generally holds individuals convicted of crimes that carry a sentence of more than one year of incarceration.<sup>7</sup>

As OPP's population exploded, the categories of persons held at the jail changed. In 1970 there were only four to ten women in the jail at any given time. At the time of Hurricane Katrina, OPP held approximately 670 women.<sup>8</sup>

Like women, juveniles were also initially held in the Old Parish Prison. Over time, the juvenile population was divided between the Conchetta Youth Center ("CYC"), which was part of the South White Street facility of OPP, and the city-owned Youth Study Center ("YSC"). Children who were being tried as adults were housed alongside adult prisoners.

In the mid-1970s, OPP began to house prisoners on behalf of Louisiana's DOC. These prisoners had already been convicted, and were awaiting bed space in the state's prisons. DOC decided to place some of its prisoners in local jails in response to an April 1975 federal court order concluding that the conditions of confinement at the state's overcrowded prisons violated the United States Constitution.<sup>9</sup> This arrangement was initially proposed as a short-term solution to the state's overcrowding problems; once new dormitory beds were added to the Louisiana State Penitentiary at Angola, the state prisoners were supposed to be transferred back into DOC custody. This never happened. "Sheriffs became accustomed to the cycle: a new prison would open, most of the state prisoners would be taken from the jails and then, inexorably, like flood waters rising toward the top of the levee, the numbers would begin to inch upward again, each time reaching higher than the time before."<sup>10</sup>

The decision to accept state prisoners exacerbated the serious overcrowding that already existed throughout Louisiana's large jails. This was especially true of OPP, which was facing a lawsuit filed several years before the courts ever turned their attention to the problems of the state prison system.<sup>11</sup> In April 1980, Sheriff Foti drew attention to the overcrowding caused by housing state prisoners at OPP by driving 147 state prisoners to Elayn Hunt Correctional Center in St. Gabriel, Louisiana, and abandoning them in the parking lot.<sup>12</sup> This would not be the last time that prisoners from OPP would be dumped at Hunt.

Three years later, in order to deal with overcrowding in the jail's buildings, Sheriff Foti constructed the Emergency Detention Center, known locally as "Tent City."<sup>34</sup>

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## I. ORLEANS PARISH PRISON

### A. The Unchecked Growth of Orleans Parish Prison

Long before Hurricane Katrina changed the landscape of New Orleans, the term "Orleans Parish Prison" referred not to a single jail building, but rather to the set of some twelve buildings: Central Lock-Up, the Community Correctional Center ("CCC"), Conchetta, Fisk Work Release, the House of Detention ("HOD"), the Old Parish Prison, South White Street, and Templeman buildings I through V.

The jail buildings are all located in downtown New Orleans, in an area commonly called Mid-City. Each building is within several blocks of Interstate 10 and the Broad Street Overpass that rises above the Interstate. The Louisiana Superdome is approximately one mile to the southeast of the jail complex, and the Convention Center is approximately three miles away.

Built in 1929, the Old Parish Prison is the oldest of the OPP buildings. Designed to house from 400 to 450 people, the number of prisoners held there increased over time, while the facility remained the same size.<sup>1</sup> In order to deal with the increasing population, other OPP buildings were constructed. In 1974, when Charles Foti was elected Sheriff, OPP had a population of about 800 prisoners. By the time Sheriff Foti left his position 30 years later, OPP's capacity had increased more than tenfold to approximately 8500 prisoners.

Before Katrina, OPP housed nearly 6500 individuals on an average day. Although New Orleans is only the thirty-fifth most populous city in the United States, this made OPP the ninth largest local jail.<sup>2</sup> OPP housed even more people than the notorious Louisiana State Penitentiary at Angola ("Angola"), which at 18,000 acres is the largest prison in the United States.<sup>3</sup> With a pre-Katrina incarceration rate of 1480 prisoners per 100,000 residents, New Orleans had the highest incarceration rate of any large city in the United States—the incarceration rate was double that of the United States as

“[S]urrounded by a 10-foot chain link fence topped with rolled barbed wire,” Tent City was “a military-like compound of canvas tents” that exposed prisoners to the elements year-round and was both unsanitary and overcrowded.<sup>14</sup> Although Tent City was supposed to stay open for only 60 to 90 days (hence, the use of the word “emergency” in the name), the tents remained in use for ten years.<sup>15</sup>

To compensate local jails for the costs of housing state prisoners, DOC makes a per diem payment to local sheriffs based upon the number of state prisoners housed locally. Initially, the state paid local sheriffs \$4.50 per day per prisoner, but this number has steadily increased over time.<sup>16</sup> At present, the state reportedly pays Sheriff Gusman \$24.39 per day per state prisoner housed at OPP,<sup>17</sup> \$2.00 more than the City of New Orleans pays Sheriff Gusman for housing its own prisoners.<sup>18</sup> Because state prisoners represent a source of income, local sheriffs have an incentive to make bed space available to them, either through expansion of prison buildings, or creative housing arrangements.

At the time of the storm, OPP housed nearly 2000 state prisoners.<sup>19</sup> Some of these men and women were enrolled in drug and alcohol treatment programs as a condition of probation.<sup>20</sup> These men and women were eligible to be released once they completed their rehabilitation programs, and therefore they were more akin to patients than prisoners.

OPP also rents bed space to the U.S. Marshal’s Service to house federal prisoners. Some of these prisoners are charged with violations of federal criminal law. The remainder are federal immigration detainees who are not charged with any crimes. Over 200 federal detainees were housed in OPP when Katrina struck.<sup>21</sup>

## B. A Brief History of Problems at OPP

The problems at OPP did not begin with Hurricane Katrina. OPP has a long history of cruelty and neglect toward its prisoners.<sup>29</sup> In 1969, a prisoner named Louis Hamilton filed a class action lawsuit on behalf of all of the individuals in OPP

regarding their living conditions at the jail. By 1970, the Old Parish Prison was routinely housing from 800 to 900 people at a time, despite the fact that the building was designed to hold half that number.<sup>30</sup> In June 1970, a federal court concluded:

*the conditions of confinement in Orleans Parish Prison so shock the conscience as a matter of elemental decency and are so much more cruel than is necessary to achieve a legitimate penal aim that such confinement constitutes cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments of the United States Constitution.*<sup>31</sup>

The court’s conclusion was based on a set of findings regarding horrific conditions at the jail too numerous to list here. Among them, the court found that due to overcrowding, many prisoners were given filthy mattresses, and were told to sleep either on the floor of their cell, or in the aisles between beds in the jail’s dormitory units.<sup>32</sup> The court also found that medical care was “woefully inadequate,” and that the “combined effects of the fearful atmosphere and crowded and sordid living conditions has a severe effect on psychotics, often causing those transferred to the prison from mental hospitals to be returned to the hospitals.”<sup>33</sup> Mentally ill prisoners were occasionally shackled to the bars in a hallway by the main gate.<sup>34</sup> Interestingly, the court also found that “[a]ll of the inmates are in constant danger of losing their lives should a fire occur in the prison.”<sup>35</sup>

Since 1969, the *Hamilton* class action has been modified to address continuing problems that have arisen at each of OPP’s new facilities. The ACLU entered the case as class counsel in 1989, and obtained court-ordered consent decrees addressing several of the biggest ongoing problems at the jail, including substandard medical care and environmental hazards. In 1994, women prisoners filed a separate lawsuit regarding their living conditions at OPP. They complained

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## FINES AND FEES

Under Louisiana’s Code of Criminal Procedure, any defendant who is convicted of a crime is liable for all costs incurred in the trial, even if the court does not assess the costs.<sup>22</sup> Where a court imposes a sentence that includes payment of a fine or costs, a defendant faces additional incarceration for failure to pay.<sup>23</sup> In many cases, indigent defendants charged with petty offenses agree to plead guilty to minor charges in exchange for time served. As part of the sentence, they are assessed fines and fees, which may total \$40 per month for up to five years.<sup>24</sup> According to one local attorney, this “creates a cycle of incarceration where poor people are routinely sent back to jail for no other offense, except that they couldn’t pay their fines and fees.”<sup>25</sup>

Some of the prisoners who were in OPP during the storm were there simply because of unpaid fines and fees. Many still were held for months after the storm, lost in a dysfunctional criminal justice system that was virtually destroyed by Katrina. For example, Greg Davis was in OPP during the storm, and was released in March 2006 only after law students from the Criminal Defense Clinic at Tulane Law School took on his case.<sup>26</sup> When the law students met Mr. Davis, he had no idea why he was still being held in prison.<sup>27</sup>

The reason: \$448 in overdue court fines.<sup>28</sup>

that they were kept shackled while in labor, and one female prisoner alleged that she was denied a gynecological examination despite the fact that she bled for 30 days after giving birth.<sup>36</sup> That case, *Lambert v. Morial*, was subsequently consolidated with the *Hamilton* suit.<sup>37</sup>

Immigration detainees at OPP have also endured horrific conditions. In a 1998 report by Human Rights Watch, immigration detainees at OPP provided “[s]ome of the most disturbing and consistent complaints of inhumane conditions,” including being subjected to excessive force by deputies, receiving inadequate medical care, and being denied visits with their lawyers.<sup>38</sup> Upon arriving at Central Lock-Up, one detainee explained: “I thought I’d gone to hell.”<sup>39</sup> An attorney remarked, “it’s easier to visit my clients on death row than it is to visit an INS detainee at Orleans Parish Prison.”<sup>40</sup>

Juveniles housed in OPP’s CYC faced similar problems to the adult prisoners. In 1993, the Youth Law Center filed a lawsuit on behalf of CYC juveniles, alleging that they were physically abused, denied educational programs and medical and mental health care, housed in unsafe environmental conditions, and denied visits.<sup>41</sup> That same year, the Magistrate Judge handling the *Hamilton* case held a hearing to investigate continuing reports that deputies were physically abusing juveniles at CYC. After interviewing several juveniles, the court personally addressed 33 deputies who worked at the facility. “Now, frankly, I am sick of having to come over here and deal with this issue that there has been mistreatment of juveniles in this facility,” she said.<sup>42</sup> The court went so far as to explain basic principles to the deputies, such as:

*If [juveniles] stand up and bad mouth you and curse you, that does not give you an excuse to hit them in the face. If they do something else that is provocative, that does not give you an excuse to kick them, to hit them, or to do anything other than to bring them to disciplinary, that’s what disciplinary is there for.*<sup>43</sup>

Ten days later, the court entered an order against all 33 deputies she had chastised, prohibiting them “from, in any way, violating the civil rights of any juvenile inmate either now or in the future to be housed in the Conchetta facility of the Orleans Parish Prison system.”<sup>44</sup> The Youth Law Center lawsuit later was settled after the first day of trial, resulting in a number of changes, including a 50% reduction of the population and increased educational opportunities for juveniles.<sup>45</sup>

Despite the *Hamilton* court’s order, and the Youth Law Center settlement agreement, both CYC and YSC remained violent and dangerous. Conditions were so poor that in 1997, the *New York Times* called the Orleans Parish juvenile justice system the worst in the nation.<sup>46</sup> In June 2002, a 16-year-old boy held at CYC complained that that “guards hit kids and threaten to beat them up . . . guards beat kids up every day.”<sup>47</sup> When interviewed by Juvenile Justice Project of Louisiana (“JJPL”), he was very upset about having had to wear the same underwear for three days in a row.<sup>48</sup> Children also reported that staff failed to protect them from violence by other children. One 14-year-old boy told JJPL that CYC staff members did nothing to protect him from the threats of other children; he stayed in his cell all day to avoid being

injured.<sup>49</sup> Among the problems one 15-year-old boy had to endure were routine strip searches and awful food.<sup>50</sup> He also reported that the rat-infested detention center made his “nerves bad.”<sup>51</sup>

### c. Recent Deaths at OPP

Many of the problems at OPP in the years preceding Hurricane Katrina were remarkably similar to those found to “shock the conscience” of the trial court judge in 1970. In June 2004, two OPP deputies allegedly beat to death a man named Mark Jones after he was picked up for public drunkenness. According to a lawsuit filed by Mr. Jones’s father, during processing at the jail, one deputy “grabbed Mr. Jones by the neck with sufficient force to result in a fracture of Mr. Jones[’s] thyroid cartilage and other injury to his neck.”<sup>52</sup> A short time later, a second deputy allegedly punched Mr. Jones in the face, “causing severe head trauma, including the laceration of Mr. Jones[’s] vertebral artery, damage to his brain and bleeding from his nose, mouth and head.”<sup>53</sup> Rendered unconscious by these attacks, Mr. Jones was taken to the hospital, where he was declared brain dead just one day after his arrest.<sup>54</sup> Both deputies were indicted by a grand jury, one on a charge of manslaughter and the other on a charge of battery.<sup>55</sup>

A number of OPP prisoners have also died in recent years from medical conditions that appear to be entirely treatable. In October 2004, an OPP prisoner died of a ruptured peptic ulcer. According to the Orleans Parish coroner, the man probably writhed in agony for twelve hours before his death.<sup>56</sup> Members of the public organized a rally to highlight the problems with medical services at OPP after another prisoner died in February 2005 of tuberculosis, and an OPP deputy died of pneumonia two weeks later.<sup>57</sup> On the same day as the rally, an OPP prisoner died of bacterial pneumonia.<sup>58</sup> In April 2005, a 64-year-old prisoner with health problems died nine days after his attorneys complained that he was not receiving his proper medications, and the following month a prisoner with a history of health problems died at Charity Hospital while receiving kidney dialysis.<sup>59</sup> In the two months preceding Hurricane Katrina, two more prisoners died while under medical observation at OPP.<sup>60</sup> Another prisoner is believed to have died the day before Hurricane Katrina hit New Orleans, although no information is currently known about his death.<sup>61</sup>

OPP has also had major problems with the provision of mental health care. In 2001, a young man named Shawn Duncan entered OPP on traffic charges. Identified as suicidal, Mr. Duncan was placed in HOD’s 10<sup>th</sup> Floor mental health tier. During his seven days at OPP, Mr. Duncan was twice placed in five-point restraints: in a bed, his arms were strapped down at his wrists, his legs strapped down at his ankles, and a leather belt was strapped across his waist, completely immobilizing him. The second time he was placed in restraints, he was left largely unsupervised for 42 hours and died of dehydration.<sup>62</sup>

## THE DEATH OF SHAWN DUNCAN

*A prisoner in five-point restraints is secured to a bed by straps on his arms, legs, and across his waist. In five-point restraints, a person cannot eat, drink, move, or relieve himself without the attention and care of correctional and medical staff. Mr. Duncan remained in five-point restraints for nearly 24 hours, during which time he was not properly examined by medical staff, nor given enough water.*

Shawn Duncan, a 24-year-old resident of New Orleans, was arrested on August 2, 2001 for various traffic offenses.<sup>63</sup> Mr. Duncan notified the arresting officers that he had ingested several valiums and Somas, and was transported to the Medical Center of Louisiana at New Orleans, where he was treated in the emergency room.<sup>64</sup> He was discharged from the hospital to OPP with a diagnosis of drug overdose and suicidal ideation, and a recommendation for "Psych followup."<sup>65</sup>

Upon entering OPP, Mr. Duncan was housed in the psychiatric ward on the 10<sup>th</sup> Floor of HOD.<sup>66</sup> He was immediately placed in four-point restraints, and was later placed in five-point restraints.<sup>67</sup> A prisoner in five-point restraints is secured to a bed by straps on his arms, legs, and across his waist. In five-point restraints, a person cannot eat, drink, move, or relieve himself without the attention and care of cor-

rectional and medical staff. Mr. Duncan remained in five-point restraints for nearly 24 hours, during which time he was not properly examined by medical staff, nor given enough water.<sup>68</sup>

Two days after being released from restraints, Mr. Duncan was again placed in five-point restraints.<sup>69</sup> The physician who ordered Mr. Duncan back into five-point restraints never examined him prior to giving this order.<sup>70</sup> After 12 hours, a second physician ordered that Mr. Duncan remain in five-point restraints for an additional 12 hours; this doctor also did not examine Mr. Duncan.<sup>71</sup> Nine hours later, yet another doctor finally examined Mr. Duncan, but failed to note that he had received no fluids for the past 21 hours, had

not been allowed to use the bathroom, and had not been released from the restraints for range-of-motion or circulation checks.<sup>72</sup> The doctor ordered that Mr. Duncan's restraints be continued with no time limit specified.<sup>73</sup>

Over the next 22 hours, no doctor examined Mr. Duncan. The deputies who were charged with checking Mr. Duncan every 15 minutes failed to perform their duties.<sup>74</sup> They never responded or called for medical attention when Mr. Duncan began "cursing, yelling or screaming."<sup>75</sup>

Mr. Duncan remained in five-point restraints for over 42 hours straight.<sup>76</sup> On August 10, 2001, another prisoner noticed that Mr. Duncan was not breathing.<sup>77</sup> That

prisoner notified the nursing staff, and Mr. Duncan was later declared dead at Charity Hospital.<sup>78</sup> The cause of death was dehydration.<sup>79</sup> During the autopsy, Mr. Duncan was described as "gaunt in appearance, with his abdomen and eyeballs sunken in."<sup>80</sup> His weight was 158 pounds. Just three days earlier he weighed 178 pounds.<sup>81</sup> Mr. Duncan received fluids once during the entire 42-hour period when he was in five-point restraints. Logs maintained by the deputies on duty indicate that Mr. Duncan was monitored every 15 minutes, and that he regularly ate food. However, at his autopsy, there was no evidence that Mr. Duncan had ingested any food during this period.<sup>82</sup> Mr. Duncan's mother and two children filed a lawsuit following his death. The Sheriff's office settled the lawsuit in 2004 with an agreement that the terms of the settlement remain confidential. ■



Less than two years later, another suicidal OPP prisoner died while restrained in the exact same cell where Shawn Duncan died.<sup>83</sup> The prisoner, Matthew Bonnette, was placed on suicide watch in HOD's 10th Floor psychiatric unit after he threatened to harm himself during his arrest. Although Mr. Bonnette was on suicide watch, deputies left him in a cell where they could not keep him under close and constant watch.<sup>84</sup> Mr. Bonnette was confined in four-point restraints, his wrists handcuffed and latched to a waist belt and his ankles shackled.<sup>85</sup> Twelve hours after Mr. Bonnette was placed in the cell, another prisoner notified deputies and nurses that Mr. Bonnette was hanging from the upper bunk and appeared to be dead.<sup>86</sup> Mr. Bonnette hanged himself with a leather belt that inexplicably had been left in his cell.<sup>87</sup> Just over three weeks before Hurricane Katrina hit OPP, yet another prisoner in the mental health tier committed suicide by hanging.<sup>88</sup>

#### D. Racial Justice and OPP

Hurricane Katrina exposed the deep racial divisions that have long existed in New Orleans. The city is one of the most segregated metropolitan areas in the country,<sup>89</sup> and its criminal justice system reflects this fact, from the disproportionate targeting of African-American residents by its police department to the over-incarceration of African-Americans in its jail. The New Orleans Police Department ("NOPD") in particular has a longstanding history of racism and brutality. In 1980, a mob of white cops rampaged through a black section of the city in retaliation for the murder of a police officer, killing four people and injuring as many as fifty. According to reports, people were tortured and dragged into the swamps to face mock executions.<sup>90</sup> In 1990, a black man accused of killing a white officer was beaten to death by officers who had gathered to wait for him at the hospital to which he was transported; no officers were criminally prosecuted or administratively sanctioned.<sup>91</sup>

These incidents, which would be termed a race riot and a lynching if performed by private citizens, are merely the most sensational examples of the department's racially discriminatory practices. The NOPD also has faced repeated accusations of racial profiling.<sup>92</sup> The number of complaints of police violence and unwarranted stops and arrests of black citizens recently reached such proportions that in April 2006, the ACLU of Louisiana filed a state Public Records Act request with the NOPD seeking information on racial profiling and police misconduct, and urged systemic reforms of the department.<sup>93</sup>

Institutional racism and the targeting of African-Americans by the NOPD have resulted in the over-incarceration of African-Americans in OPP. OPP itself is but one product of a larger pattern of racially differentiated incarceration practices in the United States. For example, while only 12.3% of American citizens are black, they make up 43.7% of the incarcerated population across the country.<sup>94</sup> In 2005, the incarceration rates for black males of all ages were 5 to 7 times greater than for white males in the same age groups.<sup>95</sup> Prior to Katrina, an astonishing 12% of all black males in their late twenties were in prison or jail in the United States.<sup>96</sup> In Louisiana, which has the highest incarceration rate of any state, the black incarceration rate at state prisons

and local jails was 4.7 times higher than the white rate in 2005.<sup>97</sup> Orleans Parish was no exception: although the parish itself was only 66.6% black prior to Hurricane Katrina, almost 90% of the OPP population was black.<sup>98</sup>

Racial considerations pervade every aspect of the OPP story, from the administrative decision not to evacuate the prison population to the mistreatment of individual prisoners in the weeks that followed. Endemic racial tensions played a central role in the disaster that unfolded following Hurricane Katrina. The testimonials of prisoners, staff, and deputies depict a situation marked not only by chaos and mismanagement, but also by racially motivated hostility on the part of prison officials.

#### E. Legal Protections for Prisoners

##### 1. Domestic Legal Protections

The state's power to imprison its citizens carries with it the duty to provide for their basic needs.<sup>99</sup> The Eighth Amendment of the U.S. Constitution, which prohibits the infliction of cruel and unusual punishment,<sup>100</sup> protects prisoners from the deprivation of food, clothing, shelter, medical care, and reasonable safety.<sup>101</sup> The Eighth Amendment is violated when the state shows "deliberate indifference" to conditions that pose a substantial risk of serious harm to prisoners.<sup>102</sup>

From the outset, the lack of preparedness demonstrated by OPP officials raises serious constitutional concerns, as does the chaos that followed, both at OPP in the days following the storm and at various receiving facilities in the weeks and months after the evacuation. Prison officials failed to meet their constitutional duty to adopt adequate emergency procedures and evacuation plans to protect prisoners from dangerous conditions or natural disasters.<sup>103</sup> Prison officials also failed to provide prisoners with adequate food and water,<sup>104</sup> and held them in unsanitary and hazardous conditions that posed a serious risk to their health and safety.<sup>105</sup> Prisoners were subject to unnecessary and wanton infliction of pain by deputies and staff, in violation of the Eighth and Fourteenth Amendments.<sup>106</sup> Prison officials also failed to meet their legal duty to protect prisoners from physical and sexual violence from other prisoners,<sup>107</sup> and failed to provide adequate medical treatment to prisoners during and after the storm.<sup>108</sup> Seriously mentally ill prisoners likewise did not receive adequate mental health care, as the Constitution requires.<sup>109</sup>

Prison officials at OPP and at several receiving facilities may have also violated constitutional and statutory prohibitions on racial discrimination. Specifically, the direct participation of prison officials in race-based violence and abuse at several other Louisiana prisons likely constitutes a violation of the Fourteenth Amendment and the 1964 Civil Rights Act. In addition, the brutal mistreatment of black prisoners at several receiving facilities may also have violated state and federal hate crimes statutes.

##### 2. International Legal Protections

The violations of prisoners' rights that are detailed in this

report also implicate several human rights instruments.<sup>110</sup> Many of these rights revolve around a tenet of human rights law that is absent from U.S. constitutional law: “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.”<sup>111</sup> This principle was ignored from the very beginning, when the welfare of the prisoners was not given its due, to the present day, when evacuees continue to sit in jail on minor charges—or no charges at all—without any ability to speak with a lawyer or appear before a judge.

In the days before the storm, phones were cut off, preventing prisoners from communicating with loved ones about their plans for evacuation. This problem was repeated at some receiving facilities, when prisoners were prevented for months from using the phones to locate family members. This denial of contact with family contravenes international protections,<sup>112</sup> particularly when it comes to the children who were separated from their parents during and after the storm.<sup>113</sup> Additional violations occurred in the mixing of juveniles with adults at several of the buildings during the storm.<sup>114</sup>

International principles prohibit the denial of food and water that prisoners in OPP experienced for days,<sup>115</sup> and require that prisoners receive proper medical attention.<sup>116</sup> The unsafe and unsanitary conditions in which OPP prisoners were forced to live inside the jail and at various receiving facilities violate several human rights standards.<sup>117</sup> International treaties also prohibit the kind of violence against prisoners that occurred at OPP and elsewhere.<sup>118</sup> At no time would the macing or beating of prisoners without instigation be permissible, storm or no storm; these norms cannot be avoided. The racial discrimination that prisoners faced at OPP and at several receiving facilities is universally prohibited by international norms.<sup>119</sup>

Most OPP buildings remain abandoned nearly one year after Hurricane Katrina





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## II. PREPARING FOR THE STORM

*“We’re going to keep our prisoners where they belong.”<sup>1</sup>*

In the days leading up to Hurricane Katrina’s landfall, local, state, and federal officials were taking steps to prepare for the storm.<sup>2</sup> According to a report issued by the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, the Federal Emergency Management Agency took efforts that “far exceeded any previous operation in the agency’s history.”<sup>3</sup> On Saturday, August 27, Louisiana Governor Kathleen Babineaux Blanco asked President Bush to “declare an emergency for the State of Louisiana due to Hurricane Katrina for the time period beginning August 26, 2005, and continuing.”<sup>4</sup> Later that day, the President declared an emergency for the state of Louisiana.<sup>5</sup> The next day, Governor Blanco again wrote to President Bush, asking that he “declare an expedited major disaster for the State of Louisiana as Hurricane Katrina, a Category V Hurricane, approaches our coast . . . beginning on August 28, 2005 and continuing.”<sup>6</sup> The next day, President Bush declared a major disaster for the state of Louisiana.<sup>7</sup>

The evacuation of southeastern Louisiana began on Saturday, August 27. Governor Blanco and Louisiana state agencies implemented an emergency evacuation plan that called for communicating with the public and opening up roadways on major highways to avoid congestion (the “Contraflow Plan”).<sup>8</sup> Although several parishes called for mandatory evacuations, and New Orleans Mayor C. Ray Nagin declared a state of emergency for the city, the Mayor did not order a mandatory evacuation of Orleans Parish. Instead, he recommended only that people living in certain areas of the city begin to evacuate.<sup>9</sup>

On the morning of Sunday, August 28, Governor Blanco and Mayor Nagin called a press conference at which the Mayor declared the first mandatory evacuation of New Orleans in the city’s history. Mayor Nagin recognized that the city was “facing a storm that most of us have feared,” and he emphasized, “the first choice for every citizen is to figure out a way to leave the city.”<sup>10</sup>

Mayor Nagin’s mandatory evacuation order for Orleans Parish excluded “[e]ssential personnel of the Orleans Parish criminal sheriff’s office and its inmates.”<sup>11</sup> When the Mayor began to field questions, he was asked about the decision not to evacuate the prisoners in OPP. Mayor Nagin referred the

question to Sheriff Gusman, who responded: “[W]e have backup generators to accommodate any power loss. . . . We’re fully staffed. We’re under our emergency operations plan. . . . [W]e’ve been working with the police department—so we’re going to keep our prisoners where they belong.”<sup>12</sup>

One day earlier, across town from OPP, the Louisiana Society for the Prevention of Cruelty to Animals (“LSPCA”) made a different decision regarding the welfare of the 263 stray pets that were in their care.<sup>13</sup> Despite the fact that on Saturday morning the wind had not yet begun to blow, LSPCA staff

packed up all of the animals and evacuated them to safety. Before doing so, they took digital photographs of every single animal.<sup>14</sup> LSPCA staff “made sure each pet’s paperwork was in order. And we IDed each collar; we had a tracking system in case any animal got separated from their paperwork.”<sup>15</sup> Although the process of moving 263 dogs and cats was difficult, the decision to evacuate was not; the animal shelter’s emergency policy unambiguously required an evacuation “for Category 3 hurricanes and above.”<sup>16</sup>

## A. What Makes a Good Emergency Operations Plan?

Having an emergency preparedness plan is critical for both public and private institutions, particularly prisons and jails, which “are responsible for the safety of large numbers of individuals who are usually locked up and cannot protect themselves in many emergency situations.”<sup>17</sup> In 2005, the U.S. Department of Justice, National Institute of Corrections, published *A Guide to Preparing for and Responding to Prison Emergencies* (the “NIC Guide”).<sup>18</sup> The NIC Guide contains a self-audit checklist of hundreds of questions that a facility’s commanders should ask to assess the facility’s emergency readiness. The questions address a prison’s written policies, its training practices, and the organizational structure needed to maintain command and control. The checklist is intended to serve a variety of functions, such as providing “management with an objective assessment of the progress and status of the emergency system” and creating an “opportunity to evaluate or reevaluate resource allocation.”<sup>19</sup> The “ultimate goal” of an audit is to “improve the system.”<sup>20</sup> The self-audit checklist contains questions regarding:

### EMERGENCY GENERATORS<sup>21</sup>

- Is there an emergency generator?
- Is the emergency generator adequate to run critical areas of the institution and critical equipment safely for 24 hrs?
- Are staff trained to know which systems will be run on emergency power and which will be inoperable during a main power outage?
- Do all emergency generators have sufficient fuel to run for a minimum of 72 hours continuously?
- If the emergency generators must be started manually in the event of a main power outage, are there staff on duty on a 24-hour basis who are trained to start and operate those generators?

### OFFSITE EVACUATIONS<sup>22</sup>

- Is there an offsite evacuation plan?
  - If yes, does the offsite evacuation plan include the following:
    - Potential destinations?
    - Specific transportation alternatives?
    - Security procedures during evacuation?
    - Which inmate records must be moved with inmates?
    - Procedures for providing medical services during and after the evacuation?
    - Provisions for coordinating with local and state police during the evacuation?
    - Arrangements for meal services at the new location?
    - Arrangements for inmate identification and count at the new location?
    - Arrangements for housing and security at the new location?
    - Predetermined evacuation routes?
    - Procedures for protection or destruction of confidential records that cannot be evacuated?

### MEDICAL SERVICES<sup>23</sup>

- Is there a comprehensive medical plan for an institutional emergency?
- Does the plan include mass casualties/triage?
- Are staff trained in blood-borne pathogen precautions?
- Is a location other than the infirmary identified for mass casualties/triage?
- Does the institution have an emergency-equipped medical crash cart?
- Are there adequate numbers of gurneys?
- Are backup medical resources for emergencies identified in the community?

The NIC Guide contains a separate checklist to test a prison or jail's readiness to prepare for and respond to natural disasters. Natural disasters are different from other types of emergencies, because the proper response may require an offsite evacuation of the entire prisoner population. Given the unique challenges raised by natural disasters, a special degree of preparation is also needed. The natural disaster checklist contains additional questions regarding:

#### **GENERAL CONSIDERATIONS<sup>24</sup>**

- Does the institution have policies in place specific to natural disaster planning, response, and recovery operations?
- Does the institution conduct routine training in natural disaster response, including drills and exercises?
- Does the institution have current mutual aid agreements with outside agencies to coordinate response activities during a natural disaster?
- Does the institution have emergency response plans and checklists specific to natural disaster response?
- Has the institution identified supplies and equipment that may be needed in a natural disaster (water, tents, portable toilets, portable lighting, blankets, etc.)?
- Does the institution have evacuation and relocation plans, alternative sites selected, and arrangements and agreements for natural disasters?
- Does the institution have a plan to operate the institution with reduced staffing levels should a natural disaster make that necessary?
- Does the institution have an emergency staff services (ESS) program to respond to staff and staff family needs in the event of a natural disaster?
- Has the institution planned for 'desert island operations' (operating for an extended period without contact or assistance from outside) in the event of a natural disaster?
- Is the institution prepared to maintain security and essential services, in the event of loss of power or other utilities, for as long as 72 hours?
- Does the institution have a 3-day supply of potable water onsite or an alternate water supply system?
- Does the institution have a 3-day supply of food that would not need cooking?
- Does the institution have a 3-day supply of medications for inmates onsite?
- Do staff and inmates participate in severe weather drills?

#### **FLOOD DISASTERS<sup>25</sup>**

- Has the institution conducted a thorough risk assessment of vulnerable areas and equipment in the event of rising water?
- Does the institution have detailed plans for a complete offsite evacuation in the event of a flood?
- Have those offsite evacuation plans been reviewed carefully within the past 12 months?
- Has the institution practiced or drilled with a flood-related offsite evacuation scenario within the past 24 months, at the level of table-top exercise or above?
- Does the institution have a plan for moving expensive or crucial equipment in the event of rising water?
- Is the institution's offsite evacuation plan for flood developed in stages, so it could be enacted in response to predetermined flood stages or severity of warning?
- Do the institution's flood plans include an analysis of which access and egress routes would be rendered unusable at various flood stages, along with alternate access and egress plans for those flood stages?

#### **HURRICANE DISASTERS<sup>26</sup>**

- Is there a plan for managing the inmate population while waiting to see if a hurricane actually will hit the institution?
- Have staff received any training specifically on preparing for and responding to a hurricane within the last 24 months?
- Do the institution's hurricane plans include an assessment of potential for localized flooding?
- Do the institution's hurricane plans include an assessment of the vulnerability of various utilities?
- Does the institution have portable water pumps?

## GLYENDALE AND COREY STEVENSON



**M**y son, Corey, was 15 years old when the hurricane hit New Orleans. Before the storm, I used to visit my son at OPP every Thursday. The last time I saw him was in August 2005, the Thursday before the storm hit. Now it is June 2006 and I still have not seen him.

When the storm hit, at first my family wasn't going to leave. The day before the storm, we went to a hotel room and stayed there. I tried to make contact with my son to see if he was okay, but I couldn't get through to the jail. After the hurricane hit, by the grace of God they let us come home to get our things. Our telephone was still on and I tried reaching the jail again—still no answer. We packed up our things and left on September 1, 2005.

After the storm I called all of the jails I could, trying to find my son. I kept bothering the jails, but no one was giving me any information. I was calling radio stations trying to get information and was given different numbers.

I heard stories on the news that they had inmates floating out on the water, that some had drowned. I was hysterical, not knowing where my child was, not knowing if he had eaten, not knowing if he was one of the body count. It was a mess.

It wasn't until a month and a half later that I finally found out that he was okay. The reason the jails couldn't find him was because he was a juvenile being held as an adult, so no one had him listed. I finally got through to Winn Correctional Center, and they told me that they had my son for a week or so

after the storm. When they found out he was only 15 years old, they shipped him to Tallulah.

At Tallulah, Corey was being housed with adults; they said, "you came in with adults, you stay with adults." He got beat up there by two adult inmates. They split Corey's jaw open and gave him a black eye. I still couldn't go to see him. They put him in isolation and told me he didn't have any privileges because he was an evacuee and was only there temporarily.

When I called Tallulah, they wouldn't let me talk to my son, and they told me that the inmates were not able to make phone calls because they were in isolation. But I kept calling. I just wanted someone to let him know I was calling, hoping they would let him make just one call. I was also worried because my son takes medication for Attention Deficit Disorder and another behavioral disorder. He received that medication when he was on the street, and he also received it at the juvenile facility where he was previously held. When he got to OPP, they didn't give him medication. They said Corey "should've thought of that before he did what he did." I was told they don't administer meds to juveniles housed with adults at OPP. After the storm, Corey still didn't get his medication. I think he first got the medication in April, over seven months after the storm hit.

The deputies at the prison told me

he would be able to make phone calls in one week. We were staying with other people, but we went back home because we had telephone service in case Corey called. We went home even though it wasn't a place to be.

When I finally got to speak with my son, to tell him that we wasn't home and that we had evacuated, he had a lot of things to tell me about what happened at OPP during the storm. He had a lot of things to tell me but he couldn't because they only gave him three minutes on the phone. The funny thing is that my son had the opportunity to escape and come home. At least then I would have known that he was okay; I could've turned him in later, as long as I knew he was okay.

About two months ago, my son was moved to Forcht-Wade Correctional Center, which is over 300 miles away from New Orleans. When he was there, he called me on the phone every weekend, but I still couldn't visit him. Because he was getting his medication, he was doing a lot better. He was able to focus, he could write. He is 16 years old now and he hasn't even been to court. In May, I went to court in New Orleans when I found out that his case was supposed to be heard. The judge was there, a lawyer was there for my son, and I was there, but Corey was still up at Forcht-Wade, so the case was continued. That was the third time his case was called in New Orleans,

and the third time his case was continued because they hadn't brought him back to New Orleans to see the judge. I went again in June, this time with my husband and Corey's two younger brothers. I called Forcht-Wade the day before the court date to make sure they brought Corey to New Orleans. The people I spoke to said they had no idea he had a court date at 9am the next day, but they promised to get him to New Orleans. Before arriving in court I called Forcht-Wade again, and they confirmed that he had been sent to New Orleans.

When I walked into that courtroom, I looked around and I couldn't see my baby. I wanted to see him so bad, but he wasn't there. An attorney for the ACLU called Forcht-Wade, and they said they had sent Corey to New Orleans early in the morning, and that he arrived in Orleans Parish Prison at around 8am. The Sheriff's deputy in the courtroom said that they only bring inmates to the court twice a day and they had already brought all of the inmates for the morning court hearing. Corey's lawyer told the judge that my son was sitting in the jail, just two blocks away, but the judge decided to set a trial date for my son without bringing him to court.

After that was done, I went to Central Lock-Up to see my son, but they don't allow visitation for inmates in Central Lock-Up. Corey has been locked up for over one year, and he was finally back in New Orleans and I couldn't even see him. One deputy allowed Corey to call me on my cell phone, and it was good to hear his voice, but I wish my other sons had a chance to see their brother.<sup>27</sup> ■

## B. What Was the Emergency Operations Plan at OPP?

Several months before Hurricane Katrina hit New Orleans, the DOC contacted the Orleans Parish Criminal Sheriff's Office to schedule a meeting regarding the evacuation plan of OPP; that meeting never occurred.<sup>28</sup> The day before the storm, Sheriff Gusman stated that the prison was operating under its emergency operations plan. But in the aftermath of Hurricane Katrina it became clear that the plan the Sheriff was relying on did not exist, was inadequate to provide guidance to staff and prisoners, or was ineptly executed.

Days before the storm, the DOC offered to assist local sheriffs in evacuating their prisoners. DOC successfully evacuated Plaquemines Parish Prison and St. Tammany Work Release on August 27, and completed the evacuation of St. John Parish Prison, Lafayette Community Correctional Center and Lafourche Work Release by the afternoon of August 28.<sup>29</sup> Sheriff Gusman declined the DOC's offer to assist in the pre-storm evacuation of OPP.<sup>30</sup> "We knew it was headed there," said Warden Jimmy LeBlanc of Dixon Correctional Institute, a state prison in central Louisiana, north of Baton Rouge. "We need to have contraflow emergency evacuation plans for corrections."<sup>31</sup>

But according to a technical assistance report commissioned by the Louisiana DOC, the contraflow plan for southeastern Louisiana *does* address the evacuation of prisons. According to that report, the evacuation of prisons in southeastern Louisiana is supposed to occur during a "specific window[] of time, but much earlier than the general population evacuation."<sup>32</sup> It is not clear whether this plan pertains only to DOC facilities, or if it applies more broadly to all prisons and jails in southeastern Louisiana. The DOC denied a Public Records Act request by the ACLU of Louisiana to review that portion of the plan.<sup>33</sup>

The scene that developed inside OPP was "nothing but chaos," according to Brady Richard, the jail's Medical Supply Officer at the time of the storm. "People need to understand that we just should never have been in there in the first place."<sup>34</sup> One deputy who was present throughout the storm agrees, noting: "It wasn't like there weren't people telling the sheriff you need to move these inmates out before the storm hits. It should have been done and would have kept everybody out of harm's way. . . ."<sup>35</sup> Another deputy explains that he faults Sheriff Gusman "for not reacting sooner. When he knew the water was going to rise up—on the 30<sup>th</sup> at the latest we should have been evacuated."<sup>36</sup>

The Sheriff's decision not to evacuate OPP when DOC first offered to assist also hindered the rescue efforts. Due to the late notice provided by OPP, some of the buses that DOC could have used for the rescue were already being used to transport prisoners *back* to facilities that had been evacuated earlier, and were not damaged by the storm.<sup>37</sup> Speaking months after the storm, a DOC spokesperson acknowledged, "[w]e had not planned for the evacuation of the entire Orleans Parish Prison all at one time and we did not plan for the fact that we would only have a certain amount of time because the water was still rising."<sup>38</sup>

Rather than evacuate, OPP opened its doors on August

28 to several hundred additional adult and juvenile prisoners from St. Bernard Parish, as well as juveniles from YSC. Because of a lack of space, the male prisoners from St. Bernard Parish were placed in a gymnasium on the first floor of the Templeman III building. In addition to importing additional prisoners, OPP also allowed family members of the deputies and staff at OPP to remain in the prison buildings, along with people from the neighborhoods around the jail.

Only after the storm did it become clear how horribly ill-prepared OPP was for Hurricane Katrina. According to one employee, Sheriff Gusman held a meeting on Sunday, August 28 to discuss hurricane preparedness. When notified that the jail was the least prepared for a storm it had ever been, and that there was insufficient water, flashlights, batteries, and food, the Sheriff reportedly stated: "Those are incidentals, and we'll deal with them later."<sup>39</sup>

## BRADY RICHARD, MEDICAL SUPPLY OFFICER

*From the veranda of the CCC building, I could see snipers on the roof of the HOD building shooting at inmates ... I remember thinking: "What in the hell have I gotten myself into?"*

**A**t the time of the storm, I had been working for the Orleans Parish Prison for less than one year. I was the Medical Supply Officer, which meant that I was in charge of purchasing medical supplies and distributing them to the 10 medical clinics in the prison system. In the days before the storm, I was not consulted about making any preparations for the storm. I was only told that I had to report to duty on Sunday evening, August 28. My supervisor, the Medical Director, was not included in any of the planning meetings for the storm either. I was told that on the Sunday of the storm, the Sheriff held a meeting with the ranking officers. At that meeting I understand it was brought to the Sheriff's attention that there were insufficient amounts of supplies needed for the storm.

When the storm made landfall, I was in the Community Correctional Center ("CCC") building on Gravier Street. The situation there deteriorated as the water rose. There appeared to be little communication with the inmates. As time passed the inmates became more volatile; they were breaking through concrete walls, yelling and chanting in unison, banging loudly, and knocking out exterior windows. They were in the dark for days and went without food or water for extended periods of time. The situation became too unsafe for medical personnel to distribute medication to them. I was unable to access my office and supply rooms on the 5<sup>th</sup> Floor of the building. Instead I set up a makeshift supply room and medical triage in the IT department on the 1<sup>st</sup> Floor from which I worked with doctors and nurses treating patients. It was really hot and stuffy in the 1<sup>st</sup> Floor administration area of the jail, and conditions had to be much worse on the prisoners' tiers.

On Tuesday night, I was sent out to the HOD building located on Per-

dido Street to deliver medical supplies. I was brought there by boat, but had to wade through chest-deep water from the entrance of the building to the stairwell inside that was filled with feces, diesel fuel, dead rats, garbage and other debris. It took about seven trips through the flooded halls to deliver everything. After making the last trip I sat in an empty boat that was tied to the entrance of the building for about 11/2 hours while waiting for another boat to transport me back to the CCC building. As I sat there in the dark night above at least six feet of water an eerie red glow illuminated the dark water as the electrical systems of the submerged vehicles shorted out. It was then that I reached a real low point as the severity of the situation began to set in to my mind and as I listened to the cries for help from civilians trapped in their nearby homes as the floodwaters rose inside of them.

Conditions continued to deteriorate and really took a turn for the worse just as I was approaching the CCC building on my return trip. The building's generators failed as the electrical systems in the basement became flooded. There were at least 200 frightened civilians (family members of employees) who had taken refuge at the prison now all in total darkness camping out on the 1<sup>st</sup> Floor veranda of the building. The deputies and the staff were rationing our food; one of my employees who had sought refuge at the prison with her family had an orange and some sliced bread, and she said it was what was given for breakfast. No one, including the deputies, seemed to know when or whether help was going to arrive. The administration and the Sheriff failed us miserably and communication was non-existent. At one point in CCC, the inmates breached walls and gained access to the entire building down to the 1<sup>st</sup> Floor; there was only one last door

separating them from the employees and civilians. The employees broke cots to use the wooden legs for protection. One deputy grabbed a curling iron to protect herself. Can you imagine how unprotected we felt? Conditions became better when the Department of Corrections arrived in armored gear to secure the building and assist in the evacuation of the inmates.

From the veranda of the CCC building, I could see snipers on the roof of the HOD building shooting at inmates. At the time I thought they were shooting real bullets, but I was later told that they were shooting rubber bullets at inmates who were trying to escape. At the same time that guards were shooting they were yelling "Get back, get back! Don't jump!" I remember thinking: "What in the hell have I gotten myself into?" I thought I was in a war zone. From my angle I could not see who was hit or whether there were injuries, but I guess that over a couple of days they fired dozens of shots. From the veranda of CCC, I could see doors open on the 3<sup>rd</sup> Floor of the Templeman III building, and there were sheets hanging out. The doors probably once opened onto a fire escape, but there was no fire escape that I could see.

I arrived at the jail on Sunday at around 5 pm, and I left on one of the last boats out on Friday afternoon around 4 pm. When I got to the Broad Street Overpass, I had to climb down scaffolding to get on a bus. There was no meeting of staff or deputies before we got on the bus, and we did not even know where the bus was going. The Medical Director did his best to keep the medical staff together so that wherever we ended up we would end up together—at least then our group could pool our resources and work together as a unit to help one another. We ended up at the Lions Club Hall in Gray,

Louisiana, near Houma. Sheriff Gusman got on a stage with the owners of the building and some dignitaries. He told everyone that we "should be thankful to these two gentlemen for taking us in and opening their building for us" and "you should be appreciative because they could be at home in their recliners watching television. Instead they opened their building up for you." The Sheriff then chastised the employees to contain their children and to respect the building. He stated: "I'm not sure what you'll eat tonight, but we'll try to get something hot for you tomorrow." He then left the facility without even thanking his employees. Luckily, the people of Houma began showing up with food and supplies for us. Dominos donated pizza for us also. Some people from the community offered to wash clothes and offered to let anyone shower in their homes. The medical staff took turns using one another's cell phones and chargers to make calls for help. That night I was finally able to get a call out to a friend who came to get me. I was luckier than others who were still at the facility a week later.

After the storm, in the local paper's online forum, I posted a response to a request for information about an OPP employee. I provided the person with factual information about our evacuation and made some general comments about how people were treated at OPP. The comments were posted on the general forum instead of a private message. I have been told that Sheriff Gusman does not want anyone who was not 100% behind him to return to the Sheriff's Department. It seems that his method of damage control is to just not acknowledge certain things or people. My request for information regarding the status of my employment and my desire to continue my health care benefits under the Consolidated Omnibus Budget Reconciliation Act ("COBRA") has been ignored.<sup>40</sup> ■



So what was the emergency operations plan in place at the time of the storm? The ACLU of Louisiana filed written requests to state and local officials, including Sheriff Gusman, for any evacuation plans that were in place for OPP on August 26, 2005.<sup>41</sup> Although the Louisiana Public Records Act requires that government officials respond to such requests within three business days, the Sheriff failed to respond for over seven weeks. Only after the ACLU of Louisiana sued the Sheriff for violating state law did the Sheriff's attorney respond to the request.<sup>42</sup> That response contains the cryptic statement: "All documents re[garding] evacuation plans were underwater—can't find any now."<sup>43</sup>

It defies common sense that all copies of the evacuation plan were destroyed in the storm, since each staff member who was responsible for carrying out the evacuation should have had a copy. However, long-time deputies at OPP state that they knew of no evacuation plan. Christina Foster served as a deputy in HOD for over two and a half years prior to Hurricane Katrina. According to Deputy Foster, the only plan she knew of to evacuate the building was the fire escape route displayed on the walls of the jail.<sup>44</sup> Rhonda Ducre, also a deputy in HOD, agrees: "I've been here four years and it's always the same old thing when hurricanes come. There's no plan."<sup>45</sup> Another OPP deputy who joined the Sheriff's office in 2002 recalls that there was "no training for emergencies in the training back in 2002. I'm certified to carry a firearm and every year we go and get re-certified. Initial training for deputies went on for like three months. We had a 90-hour course, and then we went to work and to academy class at the same time. We didn't even have fire drills. Only way we knew about fire exits is because they had posters on the wall, but no one ever told us."<sup>46</sup> Speaking with a reporter shortly after the evacuation, Deputy Luis Reyes said prisoners in CCC "had been escaping throughout the night because we were so shorthanded. People just did not come in. There was no plan for this situation."<sup>47</sup>

At the same time that the Sheriff said that all evacuation plans were underwater, he provided the ACLU of Louisiana with an undated, two-page document entitled "The Orleans Parish Criminal Sheriff's Office Hurricane/Flood Contingency Plan" (the "Contingency Plan").<sup>48</sup> It is unclear whether this plan even existed at the time of Hurricane Katrina, or whether it was hastily prepared in response to the public records request.

The deficiencies in the Contingency Plan are so vast that it would have been of little use even if it had been executed to perfection.

## Flaws in the Contingency Plan

## Effect on Conditions in OPP

The Contingency Plan provides no information about how to manage the prison population in advance of an expected hurricane.

Prisoners were prevented from making phone calls to family members days before the storm hit. They were not kept informed about the status of the evacuation, and were often falsely informed that their evacuation would be imminent.

The Contingency Plan contains no information about how to conduct an offsite evacuation of the prison buildings in the event of an emergency.

The evacuation was haphazard. Power tools were needed to open locked cells, and exterior walls and windows had to be destroyed to remove prisoners from the building. Deputies in at least one building chained cell doors closed using handcuffs and leg shackles, further endangering the lives of trapped prisoners.

The Contingency Plan requires that generators be fueled and tested to ensure that they are operational, but makes no mention of the fact that generators must be placed above 100-year flood levels in order to ensure that they remain effective throughout an emergency. The Contingency Plan also makes no mention of what essential services should be supplied power in the event of an emergency.

Soon after power was lost, the backup generators in each of the buildings also failed, plunging the jail into darkness. Some generators flooded because their electrical systems were located in the basement of facilities. Other generators appear to have failed because staff members ran out of fuel and/or were untrained at operating them. Even while the generators were working, power was not supplied to enable cell doors to open. In some buildings, prisoners were left trapped in flooded cells without ventilation and without any possibility of reaching a safe area.

The Contingency Plan requires that departmental vehicles and watercraft be fueled and tested for proper operation, but it does nothing to ensure that enough vehicles are available to evacuate thousands of individuals in the event of an emergency.

Only three boats were available to evacuate nearly 7,000 prisoners, along with many hundreds of deputies, staff members, and civilians.<sup>49</sup> Many prisoners waited in Central Lock-Up for over ten hours in chest-deep water, while boats took a handful of prisoners at a time to the Broad Street Overpass.

The Contingency Plan states that each building shall be stocked with a 96-hour supply of food and water, but says nothing about how food and potable water will be distributed to staff and prisoners during an emergency.

Prisoners and deputies report that food and water were not provided for days at a time following the storm. Deputies and their family members ate the food intended for the prisoners, while prisoners drank dirty floodwater or water that they collected in garbage cans before the storm.

The Contingency Plan states that the Sheriff shall meet with the Wardens of each building 24 hours prior to the storm to discuss the provision of medical services during an emergency, but says nothing about how medical services will be administered to staff and prisoners during an emergency. The Contingency Plan also makes no mention of whether prisoners who are particularly vulnerable should be evacuated in advance of other prisoners.

Deputies and medical staff in several buildings abandoned patients in need of critical assistance. In at least one building, all medical supplies were destroyed when the first floor of the building completely flooded. The loss of power and the general absence of deputies and medical staff from prisoner areas prevented prompt responses to medical emergencies in several buildings.

The Contingency Plan provides no information on what training staff members and prisoners should receive on proper evacuation procedure.

Deputies report that they had no knowledge of any evacuation plan. When the evacuation began, it was led almost entirely by DOC guards, not OPP deputies, and it was accomplished in many buildings with excessive force.

The Contingency Plan states that if a housing area is “rendered unfit for habitation for a period exceeding 12 hours,” the Sheriff shall call for an “emergency evacuation of the affected building(s),” and that such an evacuation will be “coordinated by the Sheriff with the La. DOC, the La. Sheriffs’ Association, or any other available agency.”<sup>50</sup>

Flooded areas of several jail buildings were evacuated haphazardly; others were not evacuated at all. Prisoners found themselves trapped behind locked cell doors as rising floodwaters reached their chests. In many cases, fellow prisoners had to break open locked cell doors to free trapped prisoners. The plan does nothing to identify the actual responsibilities that state and local agencies will have to respond to an emergency. The state DOC was only contacted to assist with the evacuation on Monday night, after buildings had already flooded, and chaos was already rampant.

To his credit, Sheriff Gusman seemingly acknowledged the inadequacy of the plan when asked about it several months after the storm. The Sheriff explained that no evacuation plan in place at the time of the storm could “detail[] what we did because no one ever imagined we would be surrounded by 7 to 8 feet of water.”<sup>51</sup>

In fact, local officials identified precisely that risk fewer than two years prior to Katrina. In 2003, the Parish convened a planning team in response to the Disaster Mitigation Act of 2000, a federal law requiring all local governments to develop disaster plans in order to remain eligible for federal disaster-relief funds. The planning team included representatives from a wide array of private and public organizations,<sup>52</sup> and concluded that the area in which OPP is located faced a risk of floodwaters rising up to eight feet.<sup>53</sup>

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### The Nebraska Emergency Plan

The problems with the Contingency Plan become even starker when the plan is compared with emergency preparedness systems from other state prison and jail systems. For instance, the Nebraska Department of Correctional Services has a comprehensive set of policies that provide for a coordinated emergency response in the event of a natural disaster. The Nebraska DOC employs an Emergency Management Supervisor charged with emergency preparedness for all DOC facilities. Nebraska has developed a series of interrelated policies that define who is responsible for what tasks in the event of an emergency, and what criteria should be used to decide when or whether to evacuate a facility. In the event of a total evacuation, the Nebraska DOC has policies in place for the sending and receiving institutions, and those policies include information on the amount of bed space available at each potential receiving facility and the types of prisoners that the facility is capable of accepting. The policies even identify which receiving facilities have the ability to hold evacuated prisoners with special needs.

Nebraska’s policies also discuss what steps need to be taken should a facility decide not to evacuate, but rather to “defend in place.” The policies call for the warehouse to stock thirty days worth of essential provisions. The policies also contain the contact information for emergency services personnel. Finally, the Nebraska emergency management system provides a series of checklists that are to be used before, during, and after a disaster to ensure that the most important steps are not forgotten in the middle of an otherwise chaotic situation.<sup>54</sup>

Prisoners  
broke holes in  
walls to  
escape the  
rising  
floodwaters.





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### III. THE DESCENT INTO CHAOS

There is no precise and reliable count of the number of people in OPP on the day Hurricane Katrina hit. According to the Sheriff's statistics, OPP held 6375 prisoners on August 29, 2005.<sup>1</sup> This figure includes OPP's own population of 6021, plus 354 juveniles from YSC who were evacuated to Templeman V prior to the storm.<sup>2</sup> The Sheriff's count does not include the more than 270 adult prisoner-evacuees from St. Bernard Parish, nor the handful of juveniles from St. Bernard Parish who came to OPP. Media reports vary wildly, with some estimating that there were as many as 8000 OPP prisoner-evacuees.<sup>3</sup>

The prisoners ranged in age from 10 to 73, and were overwhelmingly male (89.5% male, 10.5% female). Although only 66.6% of Orleans Parish was African-American prior to the storm,<sup>4</sup> OPP's population at the time of the storm was almost entirely African-American—89.3% of the population was black, and only 9.6% were white.<sup>5</sup> The racial disparity is even greater with respect to the juveniles who were being held in OPP: 98.7% of the juveniles held at CYC were African-American, and 95% of the juvenile population at the YSC was African-American.<sup>6</sup> More than 300 of the prisoners in OPP on August 29 had been arrested and booked between August 26-28, when the City of New Orleans and the State of Louisiana were under states of emergency.

#### A. The Phones Go Dead

On Friday, August 26, the prisoners' phones went dead, although Hurricane Katrina was still days away from land-fall, and the power had not yet been lost in any of the buildings. One prisoner recounts, "[n]o one was allowed to call out and talk to family members to see where they were going and if they were going to evacuate."<sup>7</sup> One female prisoner housed in Conchetta remembers being "pushed back [by deputies] because I was crying asking why did they turn the phones off. I wanted to know if my kids were okay."<sup>8</sup> Several prisoners recall seeing deputies using the phones in the control booths to speak with their loved ones. Another prisoner in Conchetta says that she was not able to speak to her family members who lived in the Ninth Ward, an area that was particularly devastated by Katrina; as of October 19, 2005, she

still did not know whether her family even survived the storm.<sup>9</sup>

On Sunday, many of the prisoners watched Sheriff Gusman's televised announcement that they would not be evacuated, but would instead remain in the prison to ride out the storm. Like everyone else in New Orleans, they worried for their safety and the safety of their loved ones. Unlike so many others, however, they were powerless to do anything about it. "What hurted also when Mr. Gusmen said to leave the inmates where they are. My God, he left us there to die."<sup>10</sup>

## B. The Prison Goes into Lockdown

Before the storm, deputies placed all prisoners on lockdown: those prisoners who were housed in units with cells were locked behind their cell doors; those prisoners who stayed in dormitory-style housing units were locked in their dorms.

In Templeman III, Tiers A and B serve as Receiving Tiers, where prisoners are held for a short period of time after being arrested and booked. While President Bush was declaring a state of emergency for Louisiana, and the population of New Orleans was ordered to evacuate the city, OPP was still packing in its prisoners. Over 100 of the men who were held in the Receiving Tiers during Hurricane Katrina had been arrested and booked on minor charges on August 27 or August 28.

One man was arrested five days before the storm for allegedly having failed to pay an old debt of \$100 in fines and fees.<sup>11</sup> He was assigned to Unit B-2, where he spent several days before the storm sleeping in the common area. He reports that the riot squad came through the tier to put everyone on lockdown. Although each cell was designed to hold two people, all of the prisoners were placed into cells. He was placed in a cell with seven other people. "They maced our whole cell twice while locking us up for asking when they would let us out."<sup>12</sup> Another prisoner in that unit also writes, "we was mace because we was asking them why are they locking us down where theres water is riseing by the minute."<sup>13</sup> One prisoner in Unit A-1—arrested several days before the storm for possession of marijuana (first offense)—explains that on Monday afternoon, water started to enter his unit. Prisoners were:

*Complaining and becoming loud because of the lack of food, water and plumbing (we were unable to use the toilets because the power was out, so all water was turned off). They [Special Investigation Division] told us if we'd go back in our cells they would feed us. We went, they locked us down, and did not return for hours. They knew water was coming in at that point. By the time anybody came back, the generator had gone out and we were pretty much in darkness, with the water substantially higher (about 3 feet).<sup>14</sup>*

## R A P H A E L S C H W A R Z



*The window in our cell was broken out, and we began waving our orange prison uniform tops every time we heard a helicopter pass overhead in order to signal that we were still in the jail.*

I was detained in New Orleans in August 27, 2005 on a public intoxication charge. I was brought to central lock-up at OPP for processing, then I was moved to Unit B-3 in Templeman III. There were no empty beds in cells available in that unit, so I slept in the day room that night. When I awoke on August 29, 2005, the day room floor was covered in several inches of water. The deputies gave prisoners a mop and bucket and told them to clean the unit's floor, and also announced that we would not be served breakfast that morning. We also had not been given food the previous night. The deputies then left the unit, as well as the control cage for the unit. Prisoners used the mop bucket to break the windows in the day room. Deputies then re-appeared wearing riot gear and forced prisoners into cells in my unit. I was forced into a cell on the upper tier of the unit with seven (7) other prisoners. The deputies then left the unit and disappeared from the floor. Prisoners began popping open their cell doors. Some prisoners broke into the control cage, and opened cell doors in the unit. Our cell door could not be opened. There were two other cells on my tier that also could not be opened—one cell held two prisoners, and the other cell held one prisoner.

Some deputies returned to the unit, and took all of the prisoners who were not locked down in cells out of the unit. One of the prisoners in my cell began to kick the cell door to get the deputies' attention. Two deputies came to our cell, and told the prisoner to stop kicking the cell door. When the prisoner con-

tinued to kick the door, the deputies sprayed two cans of mace into the cell, and left. I was in the back of the cell at the time, and I got mace on my arms. Other prisoners got mace in their eyes and on their faces. They washed the mace out with water from the sink in our cell. Some of us took off the clothing that had been maced and threw it out of the cell. The paint on the cell walls that were hit by mace began to peel off.

I did not see another deputy for the next two days. The power went off in our unit soon after the deputies left. We did not have ventilation. We had nothing to eat or drink for a total of four days. Though our cells had a toilet, all eight prisoners in my cell agreed not to use the toilet in case we could not flush it. The window in our cell was broken out, and we began waving our orange prison uniform tops every time we heard a helicopter pass overhead, in order to signal that we were still in the jail. We attempted to kick the cell door off of its track. On Tuesday, we broke off the metal top to the property bin that was below one of the bunks, and we used the metal to chisel around the cell window frame in order to kick the frame out and climb out of the

building. We worked in shifts over the next two days. By the time we were rescued Wednesday night, we had carved around half of the window frame.

On Tuesday, August 30, 2005, I saw flashlights in the hallway outside the unit. We began kicking on our cell door and yelling. Law enforcement officers came to our cell. They had weapons. They told us that they needed a key to open our cell door, and they left. We did not see these officers again. The next day, Wednesday, at around dusk, a female deputy came into the unit with a maintenance man, and another man who had a gun but no uniform. She told us that she had been told by officers that there was no one left in our building. She told us she came in to investigate only after she saw a prisoner who had jumped from another building on to the roof of Templeman III and had broken his ankles. She and the maintenance man opened our cell door through the control box on our floor. The female deputy told us that she had already found three dead bodies before she got to us during her search of the building.

She then gathered the 11 prison-

ers on our tier, along with about 14 other prisoners she found on the three other tiers in our unit. We left the Templeman building through water that reached my chest (I am six feet tall). One of the prisoners in our unit was so weak that we had to sling him over a cooler that floated in the water, and pull him along with us. Once we were outside of Templeman, we were put in a pick-up truck in groups of ten, then got on to boats, and were taken to an underpass, and loaded on buses bound for Hunt Correctional Facility.

At Hunt, all of the evacuees eventually were put on a football field. There were many prisoners there who had shanks and weapons, and there were assaults and fights. I did not see an officer on the football field in the three days I spent there. At Hunt, I spoke with fellow OPP evacuees who had been housed at Templeman III during the hurricane. Some of them told me that they attempted to swim out of the building through central lock-up, but were shot at from adjoining buildings. I did hear gunshots before I was rescued. Another prisoner I met at Hunt told me that he had been locked down at the House of Detention. He said that two deputies found him in his cell. After being removed from his cell, one deputy told him to stand against the wall, while another deputy told him to move. When he began to move, he told me that he was shot with beanbags. He also told me that a deputy pushed him down a flight of stairs for not moving fast enough. He had welts over his backs, shoulders, and arms.<sup>15</sup>

Prisoners were also placed on lockdown in HOD; according to one deputy, deputies “weren’t supposed to let them out for anything.”<sup>16</sup> On Monday during the storm:

*The prisoners started getting rowdy. They wanted the mops to clean the floors, but I said I couldn’t give them the broom or mop per orders. They were also upset because they couldn’t take showers because of the lockdown—the showers were not in the cells, they were in each tier. It was freezing cold on the tier because the windows had nothing to block the air and water. Lots of water kept coming on the floor.*<sup>17</sup>

Eventually, prisoners began popping open the locks on their cell doors. This was easy to accomplish in HOD even before the storm, because the building is old and the facilities are rundown. “HOD is a raggedy building. In that building . . . there is no central air or heat. You freeze in winter and burn up in summer. We would have to bring our own heaters to work to stay warm. The maintenance on that building was terrible.”<sup>18</sup> When one deputy notified the Watch Commander on duty that prisoners were opening their cell doors, the Watch Commander told the deputy to wrap handcuffs and leg shackles around the gates to secure them: “[b]efore the storm we used to do this on a normal basis because the inmates would leave their cells during the night.”<sup>19</sup> When prisoners on the fourth floor managed to get out of their cells, one prisoner writes: “[D]eputies came up firing rounds down the hallways to keep us in the cells. . . . [T]hey even handcuffed inmates to bars of the cells.”<sup>20</sup>

### **c. Power Is Lost and the Generators Quickly Fail**

Soon after Hurricane Katrina hit New Orleans, the OPP buildings lost power. Although backup generators in the various buildings initially kicked in, they soon failed. According to one deputy in Templeman III, the backup generator in that building only powered certain systems; the generator powered the lights in the building, but did not provide the power needed to open cell doors, to flush the toilets in the cells, or to power the ventilation system for the building.<sup>21</sup> In Templeman III, as in many other buildings, the lack of ventilation left prisoners without any fresh air, because the cells and dorms were sealed. Prisoners on some tiers were provided with large fans, which were powered by the generator, while other prisoners did not receive fans, because there were not enough available.<sup>22</sup>

According to one deputy in HOD, the building’s lone backup generator only provided power to the second floor of the building, where the family members of the deputies remained throughout the storm.<sup>23</sup> Power was lost completely on the floors holding prisoners.<sup>24</sup> Another deputy agrees that the HOD generator failed on Tuesday “because [it was] old, and probably no one knew how to operate [it]. I know they tried to get some diesel to put in there and somehow something went wrong and [it] didn’t crank back up. [It was] only on for a couple of hours.”<sup>25</sup>

Even if the generators had been properly connected to essential systems, the power they would have provided would not have lasted very long. Shortly after the generators kicked in, the levees broke and “water rushed into the jail and swamped the generators, along with the major mechanical and electrical systems located in the basement.”<sup>26</sup> Many months after the storm, Sheriff Gusman admitted, “[w]e started to have power failures because the generators were not placed high enough when the floodwaters came.”<sup>27</sup> The fact that the generators were not placed in a secure location—above 100-year flood levels—is a major failure of planning on the part of the Sheriff and local officials. It was only months after Katrina that Sheriff Gusman acknowledged that “you have to be really careful and not have electrical equipment in lower-lying areas and vulnerable locations.”<sup>28</sup>

Other generators apparently failed because the jail ran out of fuel. Sheriff Gusman notes that in one building, although the generator itself did not fail, “[t]he tank was on the ground floor, so [the warden] couldn’t refill it once the water came up.”<sup>29</sup> One deputy in HOD recalls a Sergeant attempting to fill the generator with diesel fuel until the fuel ran out.<sup>30</sup> Deputy Ducre saw a Sergeant and a Corporal attempting to fill a generator with diesel fuel, but neither man knew how to make the generator work, and it eventually failed.<sup>31</sup>

Without power, prisoners spent their nights in total darkness, in conditions that were growing increasingly foul due to the lack of ventilation and sanitation, and the presence of chest-deep floodwaters on the lower levels of the prison buildings. Many prisoners remained locked in their cells with bodily waste flowing out of the non-functioning toilets. The jail became unbearably hot, which made it difficult for many inmates to breathe.

### **d. Abandoned By the Sheriff, Many Deputies Abandon Their Posts**

Female prisoners in Conchetta and Templeman IV, and male prisoners housed on some floors of HOD, report that deputies largely remained on duty following Katrina. However, hundreds of prisoners report that deputies from other buildings abandoned their posts during and after the storm. After interviewing more than a dozen deputies and employees in the weeks after Hurricane Katrina, the *New Orleans Times-Picayune* reported “wholesale job walk-offs by deputies,” and wrote that “[a]ll of the sources told about multiple resignations, deputies who tossed their badges to the ground and turned their shirts inside out, only to find themselves in the awkward position of being stuck by floodwaters alongside their former colleagues.”<sup>32</sup> Deputy Renard Reed had worked as a sheriff’s deputy for over seven years at the time of the storm. He reports that in HOD: “Once the power went out, deputies started quitting right and left. They didn’t leave the building of course, but they just didn’t go back to work. Women especially got scared once the storm hit and the power went out.”<sup>33</sup>

Deputies reported to duty at the prison on the Saturday and Sunday before the storm. Prison administrators notified the deputies that they had to report to work, or risk being fired. The decision to report was difficult for some, because



they had to choose between evacuating the city with their family members and keeping their jobs. One deputy chose to report because she did not want to lose her job. “[T]hey told me I’d be fired if I didn’t come in. I wasn’t doing anything. They stopped me from evacuating. And my family and everybody evacuated without me.”<sup>34</sup> Many of those who did report came with loved ones in tow. Deputy Ducre arrived on Sunday afternoon with her husband, four kids, and several close friends. They settled down in a kitchen on the second floor of the House of Detention with many other people.<sup>35</sup> Deputy Reed decided to report while his wife evacuated to Georgia. He explains: “I never considered bringing my family with me into the jail. I don’t believe in bringing my family there. I don’t want them in that environment.”<sup>36</sup>

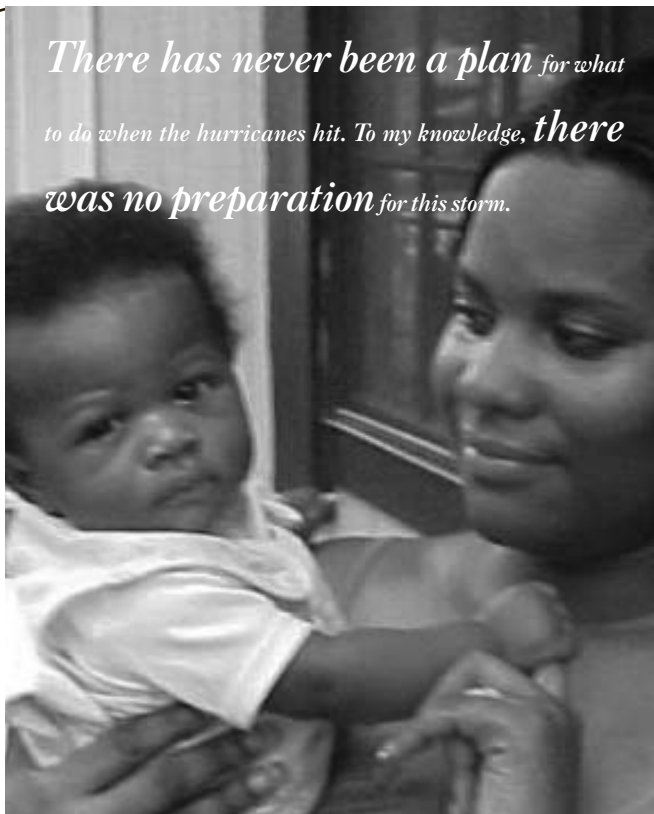
When the storm hit, and conditions inside the buildings deteriorated, morale quickly collapsed. According to Deputy Foster, “[a]ll the hard work we put in every day, we risk our lives going into the jail and dealing with these inmates. And when something comes like a hurricane we bring our families in because we think they’re going to be safe and think they’re going to have food and water. Gusman totally disappointed me and let me down when we needed him the most.”<sup>37</sup>

Shortly after the storm, supervisors in the House of Detention notified the deputies that their off-days would be cancelled. According to one deputy, this meant that she would have to remain at her post after her shift ended. “Unless you quit, and went down to the second floor, everyone else had to stay on the floor with the inmates.”<sup>38</sup> Another deputy agrees: “[W]e were told that we had to stay but weren’t getting paid when we didn’t work. I wasn’t really doing anything but stressing out and pacing.”<sup>39</sup> Deputies in Templeman III were also told that they would be working around the clock, but were not going to receive pay for additional duty.<sup>40</sup> Deputy Shantia Barnes resigned her position on the third day after Hurricane Katrina hit when she was told that the guards would be left to fend for themselves once the prisoners were evacuated.<sup>41</sup>

Deputy Ducre, who was four months pregnant at the time of the storm, began spotting and cramping, and a nurse told one of her lieutenants that she needed to rest for one day or risk a miscarriage.<sup>42</sup> “He just stared at me and waited for me to get up. If I thought I could, I would have done it. So basically they fired me because I couldn’t go to work that night.”<sup>43</sup>

## DEPUTY RHONDA R. DUCRE

*There has never been a plan for what to do when the hurricanes hit. To my knowledge, there was no preparation for this storm.*



I was a Sheriff's deputy for four years at the time of Hurricane Katrina. For all of those years, I worked in the House of Detention. Before the storm hit New Orleans, we received forms from the Sheriff's office telling us that it was our obligation to come to work during the storm. All employees are obligated to come to work, and if you do not you are supposed to be terminated.

I came into work on Sunday afternoon, and I brought with me my husband, four children, and a few close friends. In my four years there has never been a plan for what to do when hurricanes hit. To my knowledge, there was no preparation for this storm. If there had been anything special for us to know, I figure they would have told us about it.

My family settled into the 2<sup>nd</sup> Floor of the House of Detention. When it was time for me to go to work, I was assigned to the 5<sup>th</sup> Floor, where the juveniles are. At some point, inmates started to complain that their phones weren't working, but I knew the phones were working for the deputies. I called and told the people working the control room that the inmates' phones were not working, but I don't know what happened after that.

On Monday, the day of the storm, there was heavy rain, and the

power went on and off. Monday evening the power went out entirely, and the backup generators came on until the levees broke. When the levees broke, the kitchen connected to the Community Correctional Center went underwater, and there was no food to give the inmates. They ate one last time and it was a sandwich. It was at that point—when the water was shut down, the power was off, and the food was not coming on time—that everything got really hectic. From the 2<sup>nd</sup> Floor, we could hear prisoners shaking bars. They hadn't eaten, knew the water was rising, couldn't get in touch with families, and were hearing rumors. They started making noise—it sounded kind of like an army shaking on the bars. The supervisors got shotguns, and when my kids saw them going upstairs with the shotguns they really got scared.

After the power went out, I moved to the 3<sup>rd</sup> Floor, which is where the

general population was being held. I was moved because I was four months pregnant and the elevators quit. At one point I started getting cramps and I was also spotting. I told my supervisor about the problem, and some nurses told my supervisor that I needed to rest one day and should not be returned to duty. I was supposed to get an off day anyway, but they wanted to cancel our off days. When it was time to go to roll call to report to duty, I said that I couldn't go to work, and my supervisor basically told me that if I didn't report to work immediately, I didn't have to bother reporting at all. I figure I was fired.

The State Department of Corrections finally initiated the removal of the inmates. That happened on Wednesday and Thursday morning. The deputies had food to feed themselves, and we wanted to put all of our food together so that we could ration it. When the deputies were out of food, however, I went

out onto the mezzanine of the building and found supervisors barbecuing, surrounded by 50 cases of water.

I was finally evacuated to the Overpass on Friday, after all of the prisoners were gone. When I got there on Friday, nobody knew what the deputies were supposed to do. You could get on a helicopter, but I didn't want to leave without my family intact. I couldn't climb down the scaffolding, because I was pregnant, so I waited for a helicopter to bring my family to the airport. I did see Sheriff Gusman in a boat riding to the bridge on Friday, but I never saw him during the storm.

I returned to New Orleans to resign my position as a deputy in January 2006. I turned in my badge and my commission badge and I signed a release. I left the Sheriff's Office because I wasn't planning on going back to New Orleans, but even if I did return I wouldn't go back under the current leadership. They should have been more prepared. Sheriff Gusman's people were reporting that he waded through the water to cut through bars with handcuffs in his mouth. That man didn't touch that water, and he didn't try to tell anyone no different. My child was born on February 9, 2006. <sup>44</sup> ■

One deputy in Templeman III recalls that throughout Monday evening, deputies were moving some of the prisoners in the lower-level cells on the first floor to different parts of the building, and were moving St. Bernard Parish prisoners from the flooded gymnasium to another flooded area on the first floor of the building. “Once the moving of inmates was done, that Monday night — every deputy other than myself went to sleep, including the ones who were scheduled to work the night shift . . . . All of the deputies were pulled from the tiers.”<sup>45</sup> A prisoner in South White Street reports, “some guards quit the job doing the storm. They couldn’t handle it. They thought there lives was in jeopardy to.”<sup>46</sup>

“standing one foot on one bunk & one foot on the bunk across & pissing.”<sup>52</sup>

## E. Trapped: Prisoners Remain on Lockdown as Floodwaters Rise

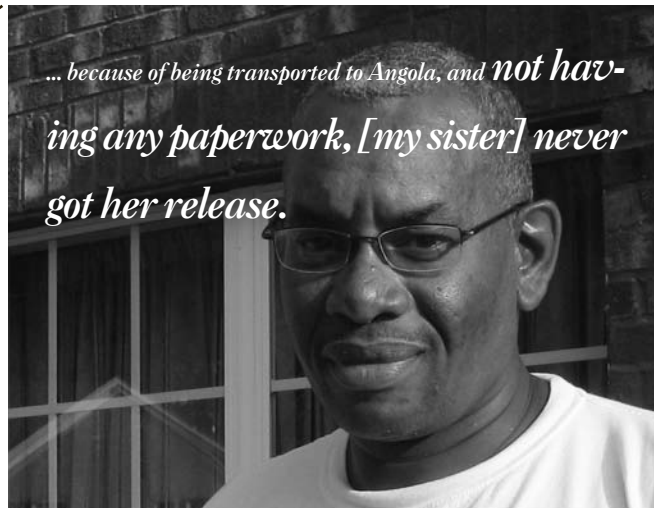
On Monday, August 29, floodwaters began to enter the lower levels of the OPP buildings. According to one prisoner on the bottom floor of the Old Parish Prison, “we had water past our feet at the time, they [the deputies] gave us brooms and told us sweep the water out the cells.”<sup>47</sup> On the first floor of Conchetta, deputies ordered one prisoner “to use a squeegee and pushbroom to push rising water of ground floor coming from outside and from inside sewer drains. It was futile. I looked for sandbags thinking we would use those for doorways and saw none.”<sup>48</sup> Another prisoner in South White Street reports that as a janitor/floor worker, or “Yank,” he was ordered to place sandbags to prevent water from entering the building. Once that was done, he returned to his unit, where he remained until water began flooding his cell the next day.<sup>49</sup>

On the first floor of Templeman II, prisoners saw water seeping into the dorm through drainage holes in the floor. According to one prisoner, they began

*sweeping the water under the door, in order to get the water from out the tier. . . . Unfortunately that didn’t work, water continue to rise. Before I knew it my bottom bunk was underneath water. At this point I knew for sure the deputies was nowhere in the building. Still time continue to pass by, water still rising. No food for us to eat. Finally a female deputy came by we shouted to her about our conditions. She than replied there’s nothing we can do because there’s water everywhere and she left. At this point water had risen to at least 4 ft deep. I thought for sure I would never see freedom again.*<sup>50</sup>

Many of the women in Templeman IV were being held on minor offenses such as prostitution or simple drug possession. Templeman IV contains dormitory-style housing units with triple-stacked bunk beds. When water began to enter the building, it quickly rose to chest-level, forcing the women to climb onto the second and third levels of their bunks. One female prisoner reports: “[w]omen were made to urinate and defecate over the sides of the beds into the water; the water was *well* over the toilet seats.”<sup>51</sup> Another woman recalls

## THE DEATH OF IRIS L. HARDEMAN



Iris L. Hardeman was a 53-year-old, African-American woman who had been arrested in March 2005 on minor charges. Ms. Hardeman had been in OPP before, and many of the women who were in Templeman IV (Unit B) with her during the storm remember her from years past.

According to Gedra Payne Robinson, Ms. Hardeman's closest friend at OPP, Ms. Hardeman took high blood pressure medication as well as heart medication.<sup>53</sup> "Iris was always complaining about having bad headaches; her head hurt real bad."<sup>54</sup> Because of Ms. Hardeman's poor health, she had a pass requiring that she be assigned to a bottom bunk. Approximately three weeks before the storm, Ms. Hardeman began to complain of bad chest pains and difficulty breathing. Joyce Gilson was present at the time: "You could see it in her face. She was weak and she wasn't feeling good. It took them about a half an hour to come and get her to the infirmary."<sup>55</sup> Ms. Payne Robinson, whose bed was right next to Ms. Hardeman's, believes that she "had a real bad heart attack and she went to the hospital and stayed gone a couple of days, but they brought her back."<sup>56</sup>

When Ms. Hardeman returned to the dorm, several of the women checked in on her. Although she said she was fine, the women were concerned for her health. Ms. Hardeman took a sharp turn for the worse a few of days before the storm. "Iris was feeling really bad. We kept calling the nurse, and Iris went out to see the nurse at some point. When she came back she went straight to her bed."<sup>57</sup> Ms. Payne Robinson believes that Ms. Hardeman had a stroke, and she

recalls that an ambulance came for Ms. Hardeman to bring her to Charity Hospital.

After three days, Ms. Hardeman returned to the dorm with a new prescription for medication. When the storm hit, and Unit B began to fill with water, Ms. Hardeman was forced to climb to the top bunk along with the other women. Many hours later, deputies moved the women to the Templeman III building. When they arrived, they were placed in a room that had previously been the scene of a fire. The air was filled with smoke, and the women still received no food or water. According to Ms. Bailey Wilson, Ms. Hardeman "was doing a lot of sleeping" when they moved her to Templeman III.<sup>58</sup> The women were eventually moved from Templeman III to Central Lock-Up, where they had to stand for hours in deep water. "We were helping to hold her up in the water."<sup>59</sup>

According to Ms. Gilson, after 14 hours in Central Lock-Up Ms. Hardeman was taken by boat to the Broad Street Overpass. "We was all instructed to sit down and stay where we were. I knew Iris was sick, and I was concerned for her."<sup>60</sup> When many of the women were loaded onto a bus to be transported to the Louisiana State Penitentiary at Angola, Ms. Hardeman was transferred by van.

At Angola, Ms. Hardeman and Ms. Payne Robinson were placed

in Camp F, 4-Right. According to Ms. Payne Robinson:

When we got to Angola, we were fed, we saw a doctor, and we had to tell the doctor what kind of medication we were taking. A couple of days after that we had a physical by a doctor. It took about three days for me to get my medication. Iris got her medication at Angola as well. At Angola, Iris started to swell up with fluid. Her feet swelled up with fluid; I had never seen her fill up with fluid like that before. She put in sick call slips at Angola, but I don't think she had a chance to see a doctor. In September, in the early morning hours—maybe 3am—I was in my bed sleeping and hers was next to mine. I don't sleep hard, but she wasn't feeling good that night. She got up, said my name, and kind of reached over to touch me. She fell off her bed and hit her head on the corner of my bed. I got up and called the officers. They called the ambulance, and they took photographs, and they took her away.<sup>61</sup>

The rest of Iris Hardeman's account comes from her brother, William Hardeman. When Mr. Hardeman heard the above account of his sister's final weeks in jail, it was the first time he heard about what she had experienced during and after Katrina. "You telling me that story just put everything out of my mind," he explained.<sup>62</sup>

My family lost everything in Katrina. We lived in Mid-City, and when I went back almost a year after the storm there was nothing to recover.

After the storm, my family and I were living in a shelter. The Red Cross had representatives come around to see if there were any family members they could try to locate for us. We knew Iris had been arrested, so they took down her name and her last whereabouts in the city of New Orleans, and they did whatever they do. Eventually a family in Houma, Louisiana, took us in, and one day Red Cross gave us a call to say that my sister was in Baton Rouge, in the hospital.

My mother and I went to the hospital, and Iris was in intensive care, in a coma. They had a guard right there in the room. Initially we were there about three days, three nights. Then we had to leave, because my mother is elderly and she needed her own medical attention. We later came back and stayed almost about a week. We slept right there in the waiting area of the hospital. There were some blankets and pillows. The guard was in the room at all times.

When Iris passed, we had actually gone back to Abita Springs to get a change of clothes and come right back, and we got a call from the hospital saying that we should come right back to the hospital. And that was like 9am, but it was kind of obvious once we got there that my sister had already passed away. We had no money. We didn't have credit cards or that stuff; it was all lost in the flood. So we got some donations from a church in Covington, Louisiana and used that money for a crematory. That was the most that we could do.

We were told that my sister was actually supposed to be released shortly after Katrina, but because of being transported to Angola, and not having any paperwork, she never got her release. But who knows.<sup>63</sup> ■

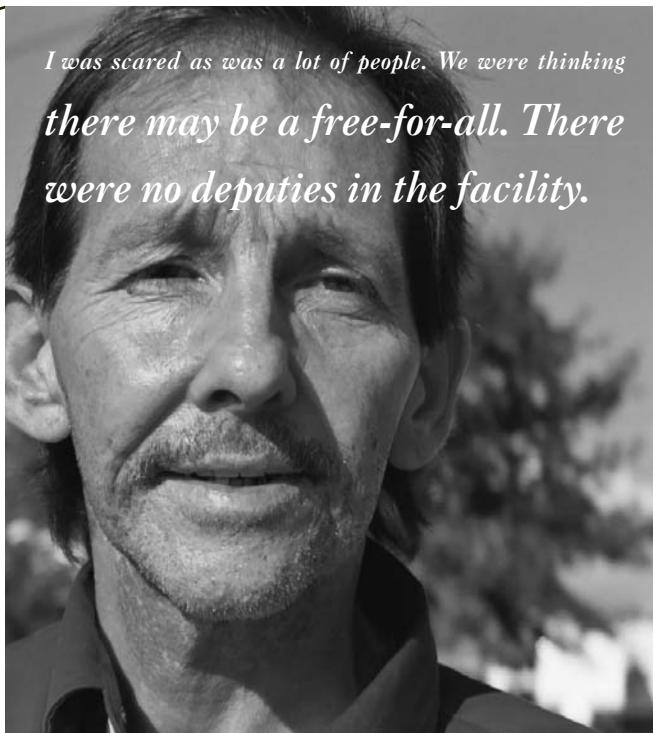
In Templeman III, one deputy recalls that when the water started to enter the building: “Our supervisors told us not to worry about it, so at first we did nothing. The water went from an inch to literally three feet in a matter of minutes. Then it eventually got up to four feet. This is on the first floor of the building. That’s when they decided to start moving inmates.”<sup>64</sup> The prisoners who most urgently needed to be moved were those who were locked in the lower-level cells in A-, B-, E-, and F-Sides, as well as the St. Bernard Parish prisoners who had been locked in the first-floor gymnasium.

David Williams was arrested and booked on a charge of public intoxication on August 27. Mr. Williams was placed in a cell on the lower level of Unit A-1 in Templeman III. Mr. Williams describes his experience in Unit A-1:

*I initially was booked and incarcerated on Sat. Aug. 27th. I was placed in TP3/A1 before noon and by 4pm the phones were purposely cut off, so I had no contact with my family members. We vaguely received a report about the possible evacuation before the televisions were turned off in the middle of the news broadcast. This was cause for alarm, because we were made to go into our cells and the deputies were constantly leaving their post. We are now locked down with no idea of what was to become of us. I constantly yelled for a deputy, only to be ignored. As an entire 24 hr. period passed we ate only once more. Now it is Sunday night and panic has set in because we began to suspect that something awful was about to take place and we are helpless to fend for ourselves. As the first waves of the storm came in, the lights (all power) went out. Into Monday morning—still locked down, no power, no food, no water. Into the evening on Monday, the toilets began to fill with water. The drains in the back of the dorm began to overflow with water and now we see the sewerage system backing up into the dorm—water began to rise slowly. I panicked to no avail because there was no way possible that I could open the steel cell locks to free myself. Now the water is waist deep, deputies come into the dorm, some armed with bean-bag guns, clubs, and others with crow bars. They had to use the crow bars to pry the cells open.<sup>65</sup>*

Another prisoner in Unit A-1 explains that the water was 5 to 6 feet deep by the time prison officials returned to free the prisoners from their locked cells. “Inmates were on the top bunk in their cells trying to escape the water. Due to the water the cell doors short circuited. The staff had to use long hammers to try in force the doors open. It was a race against time!”<sup>66</sup>

## ALBERT G. COUVILLION



*I was scared as was a lot of people. We were thinking there may be a free-for-all. There were no deputies in the facility.*

**B**efore the storm I was in St. Bernard Parish Prison. Maybe around 12:30 pm on Sunday, August 28<sup>th</sup>, they put us in buses and took hundreds of us to Orleans Parish Prison. They put us in a big gym facility, where we were fed two times. We were also given water to drink, but whoever was able to get water before the container ran dry got water. That was the last water we had for days. When we first arrived, one guy was coughing up blood and a St. Bernard Parish deputy said he couldn't take the guy to the hospital because the Sheriff wouldn't want cars to get damaged.

Five hours after we arrived in the gym we were given mats to lie on; this was done in the same disorganized way. After people got mats the St. Bernard Parish deputies left, and there was no supervision after around 5:00 pm on Sunday. The tension was real high in the gym. There were only two bathrooms for hundreds of people. There were groups of people going around fighting with different people picked at random. I was scared as was a lot of people. We were thinking

there may be a free-for-all. There were no deputies in the facility. The hurricane became worse late Sunday early Monday afternoon. Around 4:00 pm it was knee deep in an hour. Some people got through an open door and escaped. Two got caught. I know of one who escaped. Shots were fired, but I saw no dead bodies. After the escapes the deputies came in and took a count of prisoners. The water was waist-deep, and when they were through they left again. The water continued to rise. The deputies came back and promised food and water. It never came. Finally they threw loaves of bread to our crowd, and most went in the water; people were screaming to be brought upstairs but the deputies left again and didn't return. While we were in the gym, one inmate who was epileptic had some seizures. There were no deputies there, so at first we put him on his back. One of the other inmates told us to put the guy on his side so he wouldn't choke on his tongue or something, so we did that.

The water rose another foot by the time the deputies from St. Bernard returned to move us early in the morning on August 30. We thought they were going to move us upstairs, but when they led us down the hall and opened the door to F Side I couldn't believe they were going to put us in another area on the first floor. The water was above the tabletops in the day room. The people who had been in that area before had already been moved upstairs, so I don't know why they put us there. Some people stayed on the top bunks in the lower level cells, but most of us crammed into cells on the upper level—7 to 8 in a two-man cell—and on the walkway along the cells. Some people put on fresh clothes and shoes from the Orleans Parish inmates who had been evacuated from these cells. When the water level continued to rise, the people who had decided to stay downstairs came upstairs, crowding us even more. No one could see, because the lights had been off since Monday and it was

now dark. People were lighting styrofoam plates, paper—anything to see where we were. People were scared and were screaming that they could not swim. At one point, Orleans Parish juveniles who were in another tier came into our area and started breaking windows and attacking people.

On Wednesday, we were escorted out with our hands on our heads, and automatic guns pointed at us. I waded through slimy, greasy, trash-filled sewage water up to my neck to boats waiting for us 11/2 blocks from the jail. I climbed into a boat by getting on the tailgate of a pickup truck, and was taken to the Broad Street Overpass. On the Overpass, a group of Orleans Parish inmates came up to us because they saw some of us were wearing their shoes and their clothing. People started shoving and a St. Bernard Parish deputy sprayed mace at the crowd—I got hit in the face, chest and arm and my body burned for half an hour. I later was hit by tear gas a second time on the Overpass.<sup>67</sup> ■

When the St. Bernard Parish prisoners were finally moved from the flooded gymnasium, they were brought to F-Side, still on the first floor of the building. “Where they brought us next was worse than where we were before. They brought us to F-side in Templeman III where the water was up to our shoulders inside of a tier where people were still locked in lower cells screaming for us to help. There was no guards in the control booths, no food, no water, lights, or medical attention.”<sup>68</sup> One deputy who reports that he assisted with the transfer explains that “[w]e moved the St. Bernard inmates to F-Side—we put them in the dorms, not in the cells. They were on the lower level, so the only way they could have gotten out of the water would have been if they had gone up the steps to the F-Side mezzanine. We didn’t have anywhere to put them.”<sup>69</sup>

## F. Food and Water Are Nowhere to Be Found

Although the Contingency Plan called for stockpiling enough food and potable water to last 96 hours, nearly every prisoner with whom we spoke reports going days after the storm without receiving either.

Deputy Ducre was on duty in HOD when the storm hit. She reports that “when the levees broke, the kitchen connected to the Community Correctional Center went underwater, and there was no food to give the inmates. They ate one last time and it was a sandwich.”<sup>70</sup> Another deputy agrees, noting that the food ran out on Tuesday. “Apparently, they were trying to feed the inmates plus trying to feed the employees and their families and eventually ran out.”<sup>71</sup> A third deputy in HOD similarly recalls: “[t]he inmates only got one piece of cheese. The food that was for the inmates was given to the families.”<sup>72</sup> Deputies were “walking down the tier with a shotgun giving the inmates one piece of cheese. They didn’t have any water for them.”<sup>73</sup> The only water deputies gave to prisoners were bags of ice, which were distributed to groups of 30 prisoners. According to this last deputy, no ice remained by Wednesday night.<sup>74</sup>

In Templeman III, prisoners received no food after their Sunday night meal, according to deputies.<sup>75</sup> One prisoner from the Templeman III building who served as a Tier Representative was called to a pre-storm meeting with the ranking officer on duty. According to this prisoner, the officer told the Tier Representatives to prepare for the worst. She advised them to “fill garbage cans with water so we would be able to flush toilets if we lost power.”<sup>76</sup> Another Tier Representative in Templeman III met with the Warden of Templeman III, Chief Gary Bordelon: “Chief Bordelon told us to get prepare for a serious mess in our jail. He told us to fill all the trash cans with water so we would have water to flush the toilets. Now he never mention anything about how we was suppose to feed the dorm.”<sup>77</sup>

Brady Richard reports that in CCC, staff, deputies, and family members were rationing their food. Each person was given an orange and some sliced bread, while the prisoners received nothing.<sup>78</sup>

In Conchetta, the kitchen was located on the first floor, which began to fill with water on Monday afternoon. One prisoner reports that she was:

*Ordered to move deputies personal belongings to the 3rd floor classroom. When asked about the food in kitchen (kitchen was on 1st floor) boxes of cereal, leftover grits, crates of bread, cheese in refridgerator—was told to not worry about it to just get there stuff—I then assisted inmates on locked dorms 1-1 to move their belongings and mattresses upstairs to 2-2 then my dorm inmates belongings & mattresses to dorm 2-1, when asked what else I could do to help about food downstairs I was told to go on dorm 2-1 and they locked us all in. We waited hours for food—none came and then generators went down. No power, no windows, no air, no food.<sup>79</sup>*

Dozens of female prisoners in Conchetta report that deputies had prisoners fill garbage cans with water in advance of the storm. According to one woman held on the second floor: “The tier reps filled up our used garbage cans with water. That was the water we used to bath with and drink. It was nasty, dirty and funky. One large garbage can for over a hundred women.”<sup>80</sup>

With no water to drink, many of the prisoners resorted to drinking the contaminated floodwater, or water that was backed-up in the toilets. One man in the Old Parish Prison reports, “the only water we had was from the toilet and when we had to use the restroom we had to take our waste from the toilet and throw it out the window.”<sup>81</sup> Another prisoner in the Old Parish Prison writes: “As we the (inmates) were yelling for the deputies we were getting negative responds from them like: you better do the best you can with what you got, when mentioning about us being dehydrated and hungry, we were then told that we better swallow our (spit) or drink the toilet water which was contaminated, from chemicals, urine and bowel’s from inmates.”<sup>82</sup>

## G. Denial of Medical Care

*“I will not just accept that this happened to me.”<sup>83</sup>*

The Contingency Plan calls for the Sheriff to meet with each building’s Warden one day before a storm’s expected arrival to discuss, among other matters, “provision of medical services to inmates.”<sup>84</sup> The medical services provided in a jail range from responding to a prisoner’s complaints about his or her health, to handling promptly a medical emergency such as a seizure or a severe asthma attack. Many prisoners also require daily medications or special diets to treat chronic conditions such as HIV/AIDS, diabetes, and heart disease. More than half of the 6000+ OPP prisoners were receiving some kind of medication prior to the storm.<sup>85</sup> Regardless of whether Sheriff Gusman met with each of the Wardens prior to the storm, it is clear that proper medical care was entirely absent in the days immediately following Hurricane Katrina.

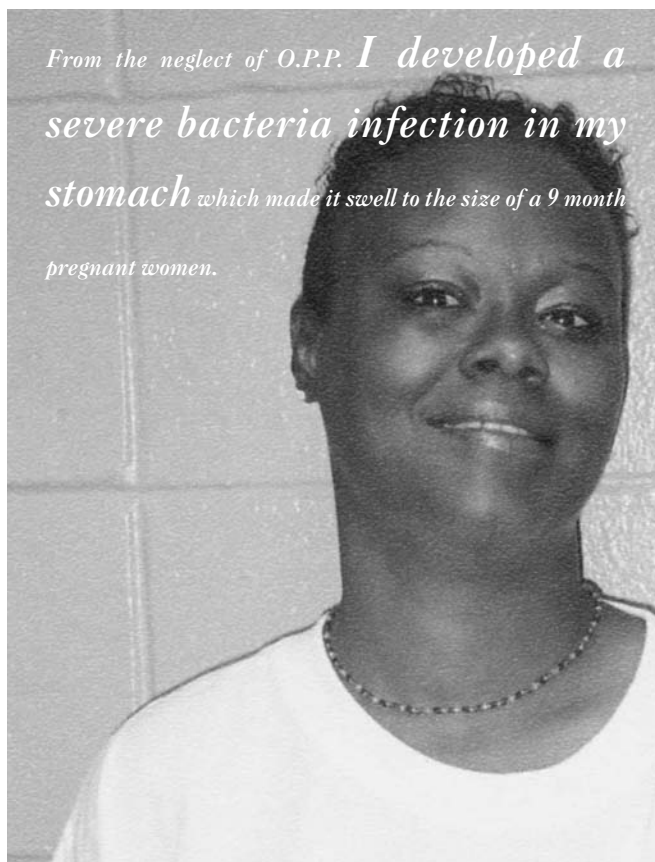
OPP endangered the lives of its HIV positive prisoners by failing to provide them with their medications after the storm. Since the advent of combination drug therapy a decade ago, patients living with HIV/AIDS have been

advised of the importance of adhering to their HIV drug regimens. Clinical studies have shown that patients who interrupt drug treatment have higher rates of HIV-related health problems, including death.<sup>cc1xxx</sup> The National Commission on Correctional Healthcare (“NCCHC”)—the leading correctional health care organization in the nation—offers the following recommendation to prison and jail health care providers: “Successful HIV therapy requires that there be no interruption in antiviral medications. Correctional medical programs can assure this necessary continuity by establishing mechanisms to enhance the continuous availability of HIV treatment to infected patients.”<sup>87</sup>



## KEANNA HERBERT

*From the neglect of O.P.P. I developed a severe bacteria infection in my stomach which made it swell to the size of a 9 month pregnant women.*



**P**rior to Hurricane Katrina, Keanna Herbert was housed in the Medical Observation Unit (“M.O.U.”) of Templeman I. Several months after being evacuated from OPP to the Louisiana Correctional Institute for Women (“LCIW”), Ms. Herbert wrote to the ACLU:

During my incarceration at O.P.P. my health was very poor. I am diabetic and am HIV positive. During Katrina extreme medical care was needed and not provided. From the neglect of O.P.P. I developed a severe bacteria infection in my stomach which made it swell to the size of a 9 month preg-

nant women. This is still visible and pictures should be taken. . . . Due to neglect my T-cells went down to 11 making me extremely ill. No medication’s were administered, injections for diabetes, nor HIV treatment etc.<sup>88</sup>

**Months later, Ms. Herbert wrote to the ACLU again, after she had been returned to OPP from LCIW. Ms. Herbert wrote:**

“I am writing back to stress the importance and seriousness of my accusations. I do not have the ability

to care for the problems that came about when M.O.U. (Medical Observation Unit), by no choice of my own, disregarded my problems overlooked the fact that everyone needed to be evacuated.

The outcome of that tragic mistake has left me and my already serious problems worse with much more complications on top them. As I made it clear in my 1<sup>st</sup> letter I am HIV positive also a diabetic. I take care of myself, treat myself. All that is choices I have made sure that my problems are taken care of.

In the days of Katrina my choice to do so was taken from me and put in the hands of M.O.U. We were abandoned there for 3 days in stagnant water without care for any of my problems.

In those 3 days I received an infection that affected me so bad that I looked as though I was 9 months pregnant. I received no care till I got to St. Gabriel where I was put in the hospital and had the infection drained out of my stomach.

I will not just accept that this happened to me.”<sup>89</sup> ■

One HIV positive prisoner who was in the Old Parish Prison during the storm writes that OPP “had a lot of sick people without their medication, which I was one of those people without my medication, and the medication is H.I.V. medication.”<sup>90</sup> He explains that he was finally evacuated from OPP and transferred first to Hunt Correctional Center and then to Rapides Parish Detention Center (“RPDC”). From RPDC, he wrote:

*[T]hey treat me bad, meaning the food my medication I'm not getting, then the mental disturbances from the guards at Rapides Parish. All they do is harass me all day for no reason, all I'm asking for is the medications I need, and the food that goes with the medications, do to the medications I take which is H.I.V. med I need the proper food, which I'm not getting, I'm not getting the proper medications. It's my life they are messing with.*<sup>91</sup>

At the time of the storm, OPP also held a number of pregnant women. At least ten pregnant OPP prisoners ended up being evacuated to Angola.<sup>92</sup> Two women report that they suffered miscarriages in OPP after the storm. One woman was seven months pregnant when Katrina hit. During the storm, she suffered a miscarriage and “[t]hey didn't do anything to help me at OPP.”<sup>93</sup> It was not until she arrived at Louisiana State Penitentiary at Angola that she received treatment. Another woman, held in Templeman IV Unit B, reports that she “was refused medical help so I miscarried and had blood all over me.”<sup>94</sup> When she was evacuated from OPP and brought to the Broad Street Overpass, she writes:

*[W]e slept out there all night long in urine because we couldn't get up. I passed out because I was bleeding very bad. No we didn't receive water or food. They refuse to give me medical service at all. . . . These days I wake up in cold sweats at night. I'm so afraid these days I barely sleep and when I do I wake up in a cold sweat crying. I don't think I will ever get over this at all. I thought I was going to die and never see my kids or family ever again. I prayed so much that day and night and God heard my prayers.*<sup>95</sup>

Another pregnant prisoner was transferred from St. Bernard Parish Prison to Conchetta. Once she arrived, she was led to the 3<sup>rd</sup> Floor, and given a meal. She and her fellow prisoners then went without food for four days. “There was one deputy that tried to work with me since I was pregnant. She would give me some of her snacks, granola, a bottle of water.”<sup>96</sup> The officers let her sleep on the floor by a large hallway window so that she could get some air.<sup>97</sup>

In Conchetta, at least one nurse remained on duty after the storm, but she was unable to provide the female prisoners housed there with any medical care. “There was no medication on or at hand, only a nurse was present. All medical supplies and medicine was under water on the 1<sup>st</sup> floor.”<sup>98</sup> One woman writes, “women were having seizures, birthing pains,

panic and asthma attacks.”<sup>99</sup> Another woman states: “Tuesday, I was woken up from screams because an elderly woman was catching a seizure and all we could do was watch and fan her not knowing if she was going to be okay but we all started praying and God must have heard our cries because she came threw. . . . [A] lady was going in labor and had her baby in all of that pollution.”<sup>100</sup>

Asthmatic prisoners reported suffering severe attacks after Katrina. Some prisoners ran out of asthma medication, and others lost their asthma pumps in the floodwaters. One 17-year-old being held with the adult population in Templeman III reports that he left his dorm to check on his uncle. When he found his uncle: “[H]e was drinking chemical water because that was all he had to drink. . . . I had to go and find him some water. He had asthma and didn't anymore medical to use. I also have asthma but it didn't affect me.”<sup>101</sup> Another prisoner in Templeman III writes:

*I have asthma very bad & could not breathe because inmates were setting fires in the jail. So for 3 days I drunk sink water & was sticking my nose out of a lil window that someone had bust open for fresh air because it was so foggy & moist in the jail. My cell mates kept trying to help me by sticking T-shirts out that window so the fresh breeze could hit because I started having an asthma attack. Finally after Sunday, Monday, Tuesday of being lockdown in my cell I was rescued by some other inmates who spot me lying on the floor gasping for air thanks to my cellmates who kept hollering for help for me.*<sup>102</sup>

One deputy was on duty several days after the storm when a prisoner in HOD suffered an asthma attack. She states:

*I know of one specific instance during the storm that an inmate was having an asthma attack and they thought he was gonna die. He could not breathe. They brought the medical team to the floor but they could not give him medical treatment because it was total lockdown and they couldn't open the door. They couldn't let nobody out or in. They opened up the tier, but not the cell, and they gave him a breathing mask or whatever and injected him with some type of medication, I don't know what it was.*<sup>103</sup>

Deputy Reed recalls what may be the same, or a similar, incident that took place several days after the storm on the 3<sup>rd</sup> Floor of the building. He recalls that when the prisoner's condition continued to worsen, he:

*tried to beat on the back door to get help, but no one heard. Eventually, I had to knock out a window with a broomstick to get help. Someone downstairs happened to hear me, and they called medical. There was no running water or anything, and they had to*

*bring him oxygen to save him. The doctors came and saved his life.*<sup>104</sup>

One prisoner on the 3<sup>rd</sup> Floor of HOD appears to recount the same incident, writing:

*One of my cellmates caught a asthma attack. It took at least 25 minutes before help arrived. The deputies claim that they just had one set of keys throughout the whole building, so they had to scream for the certain deputy to come and due to the power being out no door or cell could be open so they had to work on him through the bars.*<sup>105</sup>

When one of his cellmates at the House of Detention started to have a seizure, a prisoner says he called for the guards. “He went to shaking and his eyes went to rolling and stuff. One of the OPP deputies was trying to hand him water, but we were reaching for it too. They finally got him out of the cell after 20 minutes and took him away, but they brought him back.”<sup>106</sup>

Dr. R. Demaree Inglese was OPP’s Medical Director at the time of the storm. After the storm, he attributed his inability to provide proper medical care to prisoners during the storm to their bad behavior. “It would have been easier,” he stated, “had they not been lighting fires or breaking through cinderblock walls.”<sup>107</sup> Of course, those who lit fires to signal for help, and broke through walls in order to escape dangerous conditions, were driven to do so after they were abandoned in the jail.

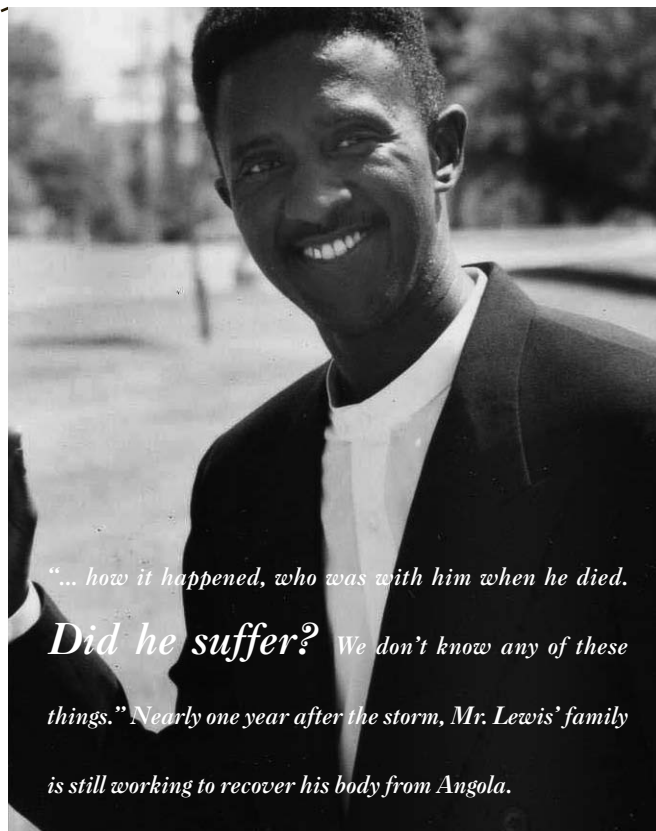
The physically disabled prisoners housed in the first-floor M.O.U. of Templeman I required particular attention during and after the storm. One wheelchair-bound prisoner explains: “I was in a wheelchair and my whole unit was fill with sewer water. The deputies left they post and we had to kick on the door to get help. It took for the water to get over our beds before we were moved and when they did move us, they brought us upstairs in a small room on the second floor.”<sup>108</sup> Several months before the storm, one prisoner in Unit A-4 had his right leg amputated due to bone cancer. He reports that deputies abandoned their posts, leaving him “in a medical housing unit in a wheelchair in such a dangerous situation and I actually drowned. Fortunately a guy on the tier knew CPR and brought me back to life.”<sup>109</sup> He continues: “There is no way a man with one leg could swim in all that water.”<sup>110</sup> “[M]any amputated inmates had to be carried out by other inmates due to shortage or refusal of deputies.”<sup>111</sup>

## THE DEATH OF TYRONE LEWIS

Tyrone Lewis was born on June 11, 1961. He was a gifted musician who wrote many popular songs, including some that were performed and recorded by the Neville Brothers. He was an active member of the Austerlitz Street Baptist Church, where he often gave free concerts of his Gospel music. Approximately five years ago, doctors implanted a pacemaker-defibrillator into Mr. Lewis's chest to treat his chronic heart problems.<sup>112</sup>

On July 11, 2005, Mr. Lewis was booked and placed in Templeman I (Unit B-1). According to Gary Wainwright, the Lewis family's attorney, Mr. Lewis notified the OPP staff at booking that he had been hit in the chest shortly before his arrest and that the blow may have dislodged his pacemaker-defibrillator.<sup>113</sup> During the time he was held at OPP, Mr. Lewis routinely complained to deputies about chest pains and shortness of breath.<sup>114</sup> His sister made numerous calls to the jail on his behalf, telling staff of her brother's need for proper heart medication.<sup>115</sup> According to Mr. Wainwright, despite these repeated complaints, Mr. Lewis "wasn't able to get any help."<sup>116</sup>

Like the other prisoners in OPP, Mr. Lewis spent days in the jail after Katrina struck, at times wading in chest-deep water for 8-9 hours at



*"... how it happened, who was with him when he died. Did he suffer? We don't know any of these things." Nearly one year after the storm, Mr. Lewis' family is still working to recover his body from Angola.*

a time.<sup>117</sup> When he was finally evacuated from the building, having received no food or water for several days, he was placed on the Broad Street Overpass.<sup>118</sup> Mr. Lewis was transported to Hunt Correctional Center, where he was placed on a field with thousands of other OPP evacuees, and left exposed to the late summer Louisiana heat and sun. Guards delivered food to the evacuees by throwing it over a fence.<sup>119</sup> Mr. Lewis had no opportunity to wash off or change clothing, despite the fact that he, like all of the other inmates, had spent hours or days in the same highly caustic and contaminated water that had stripped paint off of cars abandoned in New Orleans.<sup>120</sup>

On or about August 31, Mr. Lewis was transferred to Winn Correctional Center. According to his cellmate, Mr. Lewis complained to the deputies there about his chest pains. The only response he got was: "Fuck you nigger, we're not doing shit for you niggers from

New Orleans."<sup>121</sup> At some point during the next two weeks, Mr. Lewis's condition deteriorated. He was admitted to E.A. Conway Hospital in Monroe, Louisiana on September 14, and died three days later.<sup>122</sup> According to his death certificate, complications with his pacemaker-defibrillator played a role in his death.<sup>123</sup> "From what I saw of Mr. Lewis prior to the storm Katrina," writes one prisoner held in Unit B-1 with Mr. Lewis, "he looked to be in very poor health. Also, if he was receiving the same level of medical treatment I was receiving it's no wonder why he expired."<sup>124</sup>

According to a spokesperson for the state DOC, officials unsuccessfully attempted to contact Mr. Lewis's family to inform them of his death.<sup>125</sup> Despite the fact that a temporary morgue for hurricane victims had been established in St. Gabriel, LA, the Warden of Winn Correctional Center ultimately decided that Mr. Lewis should be buried. Mr. Lewis's body was transported to Lookout Point No.

2, a cemetery on the grounds of the Louisiana State Penitentiary at Angola for unclaimed prisoner remains.<sup>126</sup>

One month after Mr. Lewis's death, the chaplain from Winn Correctional Center finally notified Sandra Thompson, Mr. Lewis's sister, of the death. The chaplain explained that although it was not yet certain, it was believed that a prisoner who had died and been buried in Angola was Mr. Lewis. Not wanting to alarm other family members, Ms. Thompson kept the chaplain's news to herself for several days. According to Ms. Thompson, "It was even worse because I didn't know for sure. Eventually, I broke down and told my younger sister, and she was able to confirm it. She told the rest of the family."<sup>127</sup> Although the DOC spokesperson maintains that Mr. Lewis's burial was accompanied by "a very dignified service," the funeral director who is required to appear at such services had no recollection of it.<sup>128</sup> Denise Lewis Henry, another sister of Mr. Lewis, "wonders all the time what happened, how it happened, who was with him when he died. Did he suffer? We don't know any of these things."<sup>129</sup> Nearly one year after the storm, Mr. Lewis's family is still working to recover his body from Angola. According to Ms. Thompson, "We need to get him back home where he belongs."<sup>130</sup>

## H. Violence Breaks Out Between Panicked Prisoners

Tensions began to rise among the prisoners as conditions inside the prison buildings deteriorated and deputies abandoned their posts. One man in Templeman II reports that he was evacuated on Wednesday morning: "Throughout my confinement during Hurricane Katrina I watched many inmates fight each other. There were no safety measures taken to insure my or other inmates well-being."<sup>131</sup> One female deputy in HOD agrees: "I couldn't do a proper security check to make sure everyone was alright because I was the only one on the floor. If I was to go down the floor something could have happened to me."<sup>132</sup>

In HOD, many deputies were unwilling to monitor prisoners because they were asked to work their floors without any backup. One deputy states:

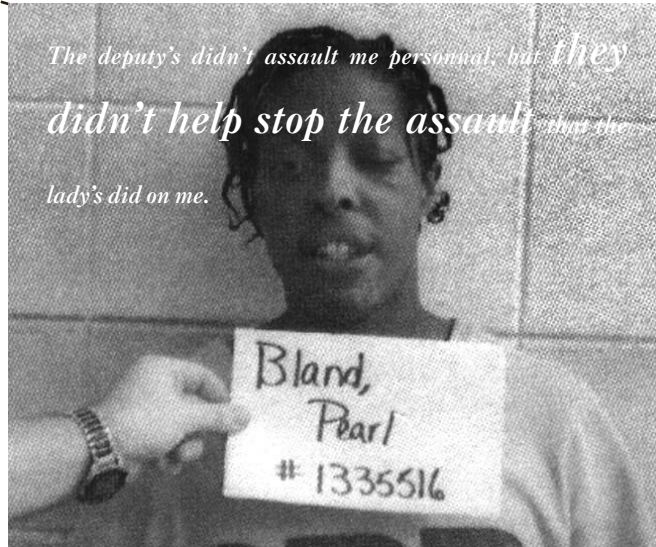
*They had deputies sitting in the dark with the inmates. The associate warden was going to the doors and locked them in with the inmates so they wouldn't leave off of their floors. If some inmates escaped. . . . Who's to say they can't get out of those gates because they know how to pop them. 120 inmates per floor and one deputy. Let's say they decided to attack a guard, there are female guards too. No radios or ways to call for help. People were so scared.*<sup>133</sup>

Deputy Reed also recalls Associate Warden Pittman locking the door behind deputies when they reported to duty on a floor. "I don't know why they did this, but the Associate Warden Bonita Pittman locked us on those floors with the inmates and no way to get out. I was trapped for the entire 12-hour shift! After my shift was over, they'd send someone to my floor with a key to unlock me."<sup>134</sup>

In the Templeman III gymnasium, the water was rising, the power was out, and hundreds of St. Bernard Parish prisoners were thrown together in a single room. One prisoner, held on a probation violation charge, "couldn't believe they put me in the same room with murderers arson rapist armed robbers and so on i was locked in a large room having to defend my self if i hade to thank god I didnt have to fight I stayed in one corner of the room for thirty five hours in that time I witnessed nine fights because there was no police at there post."<sup>135</sup> Another prisoner writes: "As soon the water started soaking the floors, mattresses started getting wet, and the water was now floating, tention was on edge, and before anybody could say anything, fights starts, with one fight here, one there, 2 on 1, swollen faces, buss lips."<sup>136</sup>

Female prisoners began fighting in the Conchetta building, where overcrowding grew worse once the St. Bernard women were added to the OPP population, and the first floor prisoners were evacuated to the second floor. Several prisoners recount a single incident when a woman named Pearl Cornelia Bland was jumped by a group of other women. Ms. Bland writes that when other prisoners asked the deputies to stop the fight, they shut the door and said "let them kick her ass."<sup>137</sup>

## PEARL CORNELIA BLAND



**P**earl Cornelia Bland should not have been in OPP at the time of the storm. Ms. Bland was arrested in August 2005 on a charge of possessing prohibited drug paraphernalia. At her arraignment on August 11, Ms. Bland pled guilty as charged; the judge ordered that she be released on August 12 for placement in the intensive drug rehabilitation program at Hope House. Recognizing that Ms. Bland was indigent, the judge waived fines and fees in her case.

On August 12, Ms. Bland was not released to Hope House. Instead, OPP continued to hold Ms. Bland because she owed \$398 in fines and fees from an old conviction. Under normal circumstances, Ms. Bland may have been taken to court in order to have her outstanding fines and

fees waived due to her inability to pay. In fact, Ms. Bland was taken to court on August 23, and was rescheduled for a September 20 status hearing on her case.

When Hurricane Katrina hit New Orleans, Pearl Bland was still in OPP, housed on the 3<sup>rd</sup> Floor of Conchetta. Ms. Bland writes that on August 29, the day the storm hit:

The deputy's didn't assault me personal, but they didn't help stop the assault that the lady's did on me. When the lady . . . hit me in the face 7 to 8 other girls started hitting me from the back. . . .The deputy's shut the door when [three other inmates] went to the door to

keep asking them to help me they said "let them kick her ass" and shut the door back and locked it. Several other lady's kept asking the deputy's . . . to please help her. And they just hunched their shoulders and watched. A yank which is a prisoner for them started pulling them off me and dragged me to the door and the deputy's still didnt want to open the door.<sup>138</sup>

When Ms. Bland was evacuated to Angola, her "right eye was black and closed," and the right side of her jaw was "very very swollen."<sup>139</sup>

In June 2006, Ms. Bland contacted the ACLU from a correctional center in Avoyelles Parish,

Louisiana. She recounted the beating that she suffered in OPP, and also indicated that she had not yet been to Court, and had been unable to locate any loved ones. The ACLU notified a local attorney with the Tulane Law Clinic, who confirmed that Ms. Bland had spent more than ten months in jail for her failure to pay \$398 in outstanding fines and fees. On June 28, 2006, Katherine Mattes of the Tulane Law Clinic appeared in court on Ms. Bland's behalf and obtained a release order. Ms. Bland herself was not present when this happened, because she had not been transported to New Orleans in order to appear in court—this was the fourth court hearing in ten days that she missed because her custodians had failed to return her to New Orleans.<sup>140</sup> ■

Some of the worst reports of fighting come from Old Parish Prison. One prisoner assigned to Unit C-4 explains that the problems in his unit began when deputies transferred the prisoners from Unit C-3 into Unit C-4:

*After the transfer there were about 48 to 56 inmates located in one cell designed for 21 inmates. There was no water, food, or air. Inmates began to be upset setting fires to plastic or whatever they could find to burn through the double plated glass to allow some type of air to circulate on the floor due to the fact that the door were locked we could not breathe for the smoke*

*[I]nmates had reached a level of frustration at that point they began to destroy the cell breaking through the chicken wire just to be able to move around, ripping the light fixtures from the ceiling to attempt to break windows and with the stress level being so high fights began to break out and the material that was ripped from the cell were at this time weapons.<sup>141</sup>*

A second prisoner from Unit C-4 explains that some people from C-4 had enemies in C-3, which is why they were held in separate units. Once they were combined:

*[i]nmates began to fight with each other. Inmates began to tear the tier apart, broke through chicken wires and used the items such as pipes broken from the tier to fight with. I tried to stop one fight and was hit in the head with a pipe. It left damage to my head where I still fill pain today and my hair has not grew back yet in that spot. I didn't recieve medication or no type of help in Orleans Parish Prison but was given Tylenol at Rapides Parish which still to this date does not work. I still have constant head pains and head aches.<sup>142</sup>*

Even before the hurricane, OPP was one of the top five prisons in the nation for substantiated reports of sexual violence.<sup>143</sup> According to one deputy, before the storm “[t]here was always somebody getting raped and abused . . . especially on the juvenile floor [of the House of Detention] where I worked.”<sup>144</sup> Several prisoners report that the prisoner-on-prisoner violence in Old Parish Prison included sexual assaults. “Some inmates were being forced to perform sexual acts. No way to call for help.”<sup>145</sup>

## **I. Prisoners Attempt to Escape Increasingly Dangerous Conditions**

Without power, the prison’s buildings were plunged into darkness. In Old Parish Prison, “[y]ou couldn’t see your hand in front of your face!”<sup>146</sup> Prisoners began to set fire to milk cartons, sheets, towels, and other items just so they could see.

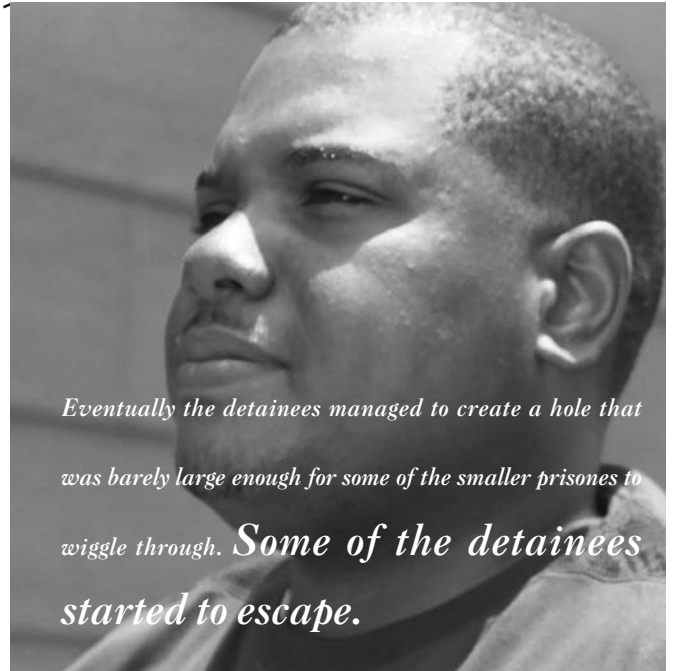
*We were in the Templeman III building without power, food, or water for at least three days. It was total chaos inside the building. Everyone that was not locked in a cell searched the dark building for food. We had to set fires just to be able to see. The building had no air so windows were broken out for ventilation. (Still no staff.) We tried to get the attention of people outside by waving sheets outside the window, but staff members just looked and did nothing.<sup>147</sup>*

In fact, deputies instructed prisoners to break windows so they could get fresh air. Shortly after the storm, Deputy Chief William Short stated that “[t]he inmates did break out windows. . . . In some cases, our staff helped them. If you didn’t break the windows, you didn’t breathe.”<sup>148</sup>

Many of the prisoners began to believe that they had been abandoned. One man in Old Parish Prison writes: “We were yelling for the deputies, and was not getting any respond back at all, at that time we realized that they (deputies) were not out there meaning on the floor. That’s when everyone begin to ‘panic.’”<sup>149</sup> Another prisoner held in a dormitory in Templeman I reports:

*All through the time of this you heard screams of terror, cries for help and no one was answered. . . . [M]ost of us was on meds, and did’nt recieve them. I myself went without my asthma pump and struggling with my breathing severely, being not able to talk and feeling weak. There was smoke everywhere and all you heard all night and early the next day was gunshots. I really felt inside like I was about to die and was left there to die!!<sup>150</sup>*

Prisoners in some buildings began to look for ways out of the flooded buildings. As water began to fill the first-floor Templeman III gymnasium on Monday evening, the St. Bernard Parish prisoners were growing increasingly worried. “[T]he night the Hurricane hit, the gym started filling up with water, they stopped feeding us, that evening before we had our last meal, the water got up to our waist for about a day.”<sup>151</sup>



*Eventually the detainees managed to create a hole that was barely large enough for some of the smaller prisoners to wiggle through. Some of the detainees started to escape.*

**O**n Saturday, August 27, 2005, I was arrested and charged with possession of marijuana. I was taken to the Orleans Parish Prison (OPP). At the time of my arrest I had with me approximately \$700.00. That money disappeared and has never been returned to me.

When I was first imprisoned at OPP, I was imprisoned on the A side of a building that I think was Templeman I. After I had been there a couple of days, the water started rising in the building. When it reached approximately 2 1/2 feet, the detainees were locked down and the corrections officers left.

After the staff left, one detainee was able to open his cell door because he had fixed his door so that it would not lock. He got through a broken window to the control area and used the controls to open all the cells in the unit. Because the cell doors were now unlocked, everyone was able to go to the second level of the tier, out of the water.

The detainees went to a second area in OPP and tried to help other detainees get out of their cells. They were able to get some of the cell doors open so that these detainees could move to the second tier in that area, but they were not able to open the doors for all of the other detainees.

Then the correctional officers came back and moved us to Templeman III. We were put into a basketball court. There was no plumbing, electricity or air circulation available at this location. When we were first in the basketball court, on the second floor, we had no access to water. The staff all left again.

After about a day and a half, someone broke glass to get access to a

water fountain. We had no food during this entire period and everyone was hungry. People wrote signs and put them in the windows asking for help.

Eventually someone suggested using the rim of the basketball hoop as a tool to get out of building to try to be able to breathe and get food and water. It took about twelve hours of various detainees working to try to make a hole out of the building. Eventually the detainees managed to create a hole that was barely large enough for some of the smaller prisoners to wiggle through. Some of the detainees started to escape.

About thirty minutes after people started to escape, I heard a shot. Other detainees told me that a detainee had been shot, but I did not see it. Detainees told the staff that we couldn't breathe, and that we needed food and water. The staff went away.

Some people tried to escape again. After people would start to escape again, the staff would come back outside. At first, staff tried to keep people from using the hole but eventually staff told us that if we could get out the hole we could do so, and then they would take custody of us. People tied sheets together to go down the wall. Eventually the sheets broke. I believe that some people who got out this way got away, and some were arrested.

All told, I was on the basketball court for two days without food, and most of the time without water. Eventually the corrections officers said that they were coming in to get us. When we were told that the correctional officers were coming in to take custody of us, we were afraid because we expected them to beat us, based on the reputation

of the OPP corrections officers. We lay down on the floor on our stomachs to try to give them no excuse to beat us. There was a lot of staff from other jails, and as it turned out, we did not get beaten.

We were then escorted to the first floor, where we spent about an hour. The floodwater on the first floor was almost up to my neck. Around 7:00 a.m. I was taken out of Templeman III to an overpass.

On the overpass we were put in rows. The rows in front had floodwater coming up to them. The staff who took us told us that we would be given food and water. Although we saw lots of food and bottled water around, we were not given any. We saw the correctional officers drinking the water.

The sun was bearing down on us, and it was extremely hot. Three boats were taking ten men at a time from the overpass. They took people from the front row. It took a long time to get to the front row, and lots of people were passing out in the sun. The only way we could keep from burning up was to wet our shirts in the floodwater. We sat out in the direct sun all day without food or water.

Eventually I was so desperate that I decided to act as if I had passed out, thinking that this would help me move up in the line. I was taken to the front, but all the people who had passed out were just left out in

the sun to the side, and not transported. One man in this section started acting out, and the correctional officer just sprayed all the people in the area, including me. I got mace all over my back. Eventually I got back in line.

At 5:00 p.m. the boats stopped coming. We were told that we would have to go down from the overpass and climb down scaffolding to the Interstate. We were told that once we got to the Interstate we would get some food and water. We climbed down the scaffolding around 3:00 a.m.

When we got down to Interstate 10, we were handcuffed in pairs and we were each given one small paper cup of water but no food. I saw cases and cases of water and boxes of food there. The Interstate was covered with ants, and there was a lot of debris because it looked as if at some earlier point food and water had been distributed to someone. The guy I was cuffed to and I asked a corrections officer if we could eat an apple we found on the ground and he gave us permission. We each ate half. We asked for more water. The officer said that he would check. He later told us that he was not allowed to give us water.

We were eventually put on buses and I fell asleep. We were taken to Hunt Correctional Center. When we get there the warden greeted us by saying so you are the people



who were left to die. We were promised tents, food, and water. We were told that we would stay outside a day or two and live in tents. We were given salami sandwiches the first day.

That night we were taken to a football field. There were thousands of displaced detainees and prisoners on that field. I saw a large number of home-made knives, and people making more knives.

On the football field we were sleeping on the grass. There was a pipe that we used for drinking water, but had no toilets or way to wash up. There was no security on the football field; staff did not interfere with anything that was going on as long as people did not try to get out of the area. I witnessed stabbings.

On the last of the four days we were held there we were given sandwiches. Staff first planned to throw the sandwiches over the wall to us, but eventually they made everyone line up and go through the line to a controlled area to get a sandwich. During this period, buses came to remove prisoners from the area. There was a lot of confusion. I was in line attempting to get on a bus but I never got to the front of the line. During this period I saw two people wrapped in blankets on the field who were not moving during the several hours that I saw them. I assume that these people were dead.

I estimate that the population got down to 800-1000 people. Then the warden decided to take us into the housing area of the facility. We were told that we would get mattresses and a shower. We were stripped and taken to the housing area at Hunt. While we were naked staff sprayed us with a fire hose to try to make us not so dirty. We were brought to an outside visiting

area, which had a concrete floor. We were given sandwiches, a toothbrush and toothpaste. We stayed there that night with no bedding or showers.

The next day we were taken to a gymnasium where we spent the night without any bedding. The following day we were taken to a dormitory. There was a water fountain and we got sandwiches. Eventually we started getting cafeteria food.

At first we were told that the phones were down, although we could hear phones ringing in the institution. We were forbidden to write letters. When I was housed in the dormitory, while we were outside for recreation, I saw a man stabbed and left unconscious. During the entire recreation period, he was just lying on the ground unconscious. I never saw him again after I went inside back to the dormitory.

Eventually we were allowed to stand in line for one two-minute call after 10:00 p.m. I was very fortunate because I was able to reach my wife. After a couple of days she was able to get through the procedure to get me released on a \$500 bond. I was released on September 22, 2005.

I suffer from mild congestive heart failure and asthma. On the street I use my asthma pump twice a day. After I got to the dormitory I filled out a sick call slip to try to get my asthma pump and medication for my heart condition. I was never seen in response to my first sick call slip. Staff told me to fill out another sick call slip. I filled out a slip and a nurse saw me two days before I left. She said she would check to see if staff wanted to order my medications. I never got my medication.<sup>152</sup> ■

According to one Templeman III deputy, three St. Bernard Parish prisoners managed to climb through the ceiling of the gymnasium at around 8 p.m. Monday evening. "I'm not sure how that occurred. I was on duty at the time, and I assisted St. Bernard and several of our deputies in reacquiring those inmates. When they got on the roof, they didn't know how bad it got outside, so they really didn't have any place else to go."<sup>1</sup>

One St. Bernard Parish prisoner who was in the gym at the time reports: "People were escaping through a side door, getting on the roof of the gym, and going from their. A few more were on top the roof when we heard police on the roof to 'saying put your hand up' then a couple of shots."<sup>153</sup> Another states: "People started escaping out of the gym about 4 people the caught a couple of them and maced them and hit them with their guns and threw them back in the gym with us and they told us if anybody else tried to escape they would come back in bodybags."<sup>154</sup>

*It was breezy and I was cold and wet. I remember looking around and seeing lots of people on the ground, but it wasn't until the next morning that I saw thousands of us and wondered what was going on. I looked around and saw water for miles around.*

On Saturday evening before the storm, there were rumors at St. Bernard Parish Prison that we might get moved. Deputies said buses were outside, waiting to transfer us. News reports were saying it looked bad, but that there was a chance the storm might turn. On Saturday evening, Sunday morning it got serious. At around 7 or 8am, deputies came running on our dorm saying that we should grab nothing but a blanket and sheet. They put plastic handcuffs and leg shackles on us and moved us out to the buses. By the buses we saw different guys from different tiers, and we were talking, thinking nothing was going to happen. When we got out to St. Bernard Highway we saw people still lingering, and in Orleans Parish we saw a few more people. We were yelling at people on the street. It looked like rain, and I wondered where we were going.

When I saw OPP, people started talking about whether we were going to go to CCC or HOD, the two tall buildings. Some people on the bus said that during previous storms they had gone to high up floors in HOD. Instead they took us into the Templeman buildings and put us in the gym. It was raining a bit, but the atmosphere was still light because we weren't thinking about the seriousness of the situation.

They fed us lunch and then supper. The rest of the day went

smooth, and the lights stayed on. During feed up, the St. Bernard and Orleans Parish deputies would be on a stage in the gym and OPP Yanks would feed us when we lined up. The next morning it was raining and the rain was running down the insides of the walls. We managed to get breakfast, but after that the Yanks and the deputies were out of there. It was raining hard, the wind was strong, and we saw the roof bending. More water was running down the walls, and then the water started rising and rising. The lights also went out.

Different guys kept going back and forth to the door to ask about the lights and whether we were going to be moved. At one point, someone noticed a door leading to the yard outside, and they managed to kick the door open. When the water was rising, and the deputies had left, inmates started fighting each other. The lights were off and people were fighting everyone.

One inmate who was in for murder and another guy beat one inmate real bad—they pulverized him. There were some other fights, but in the meantime guy charged with murder slipped out the door with another inmate. They must have climbed up onto the roof using a drainage pipe or something and ran across the roof until they escaped. The guy charged with murder was only captured after he supposedly murdered someone else.

Another group tried to escape after that, and we heard a loud Boom! A St. Bernard Parish lieutenant threw an inmate through the metal or tin roof. His hand was cut really bad from the fall and now it is disfigured. The Lieutenant came in after that and did a roll call to see who was gone. Another guy who had tried to escape said he got all the way to the courthouse steps before he was caught. I don't know if that was true, but he showed us bruises from where he was shot with beanbag guns.

By that point I had already had two seizures. One happened right after breakfast—I had a seizure and an OPP nurse came and others who were on my tier at St. Bernard told her I needed Dilantin and she told me to take two doses because my levels were really off. When you have a seizure, every muscle and bone—everything—is sore. Your body is like it's fighting itself. You can't stop someone from having a seizure. Once it starts it's got to run its course.

By Monday night I still hadn't eaten. St. Bernard deputies all day were saying that food was coming. At night they came in with racks of bread and started handing out three slices per person. They must have had 100 loaves of bread or

something. People started grabbing at the bread.

Early the next morning, deputies came in and said they'd get us out of the water; it was up to my stomach at that point. They said they'd bring us somewhere better. When we got into the hallway, the water started getting higher—up to my chest. They led us to a door and I saw we were still on the bottom level, by F Side. The water was freezing cold and had a stench to it. They told us to go in the room, and we went up the steps to the upper level. We ended up with 7-9 people per two-man cell. Two OPP guys were still locked in a cell upstairs. After a while, people started finding things that had been left in the cells by the OPP inmates who had been moved: cigarettes, food, dry clothes. Going into the next day, people started to make candles out of Vaseline. Smoke was everywhere—no oxygen. There was no way to breathe, and I caught another seizure. I also have asthma, so I wasn't doing well. Another St. Bernard inmate stayed by my side and helped me through that third seizure. At one point, juveniles from Orleans Parish came in with a key—I don't know where they got that from. They came into our area and were raiding the guards' booth with the key

they had. The deputies had food, cigarettes. I didn't go down, but the inmate who was watching over me brought back some food.

Someone found a huge floor fan with big blades and they dismantled it to make a big weapon. They used the pieces from the fan to break all of the windows out of the tier and make a hole in the wall on the upper level. Some people tried to jump out the hole, but deputies on the outside were shooting warning shots, telling them to get back in there. Some inmates were yelling to people on the Overpass. We were in F Side from early, early Tuesday morning to Wednesday night/early early Thursday morning. I think SID came to get us, barking orders. I had a seizure on the steps and another inmate carried me through the water to the boats.

When I got to the bridge, nurses came to see me and told me they had no meds and I should lay down and relax. It was breezy and I was cold and wet. I remember looking around and seeing lots of people on the ground, but it wasn't until the next morning that I saw thousands of us and wondered what was going on. I looked around and saw water for miles around. At one point, the guys whose tier we had been on saw we were wearing their tennis shoes and everything, so they surrounded us and wanted their stuff back. SID stopped that. Later, St. Bernard deputies told us we could

stand and stretch, but when we did SID told us to sit down. When they asked who told us we could stretch, one of our Corporals said he had told us to stretch. The SID officer showed no respect to him and said you don't run anything out here—don't do anything until we tell you to.

I was taken by boat to the Interstate, where it was dry, and boarded a bus to Hunt. At Hunt I was placed in a small yard, so I never went to the big yard. I caught a seizure in the yard at Hunt on Friday evening. They took me to the infirmary and gave me Dilantin medication and four breathing treatments. Breathing treatments are when they pour Albuterol in liquid form into a mouthpiece and you inhale.

That night they put me on a bus to Claiborne Parish, where I had another seizure in the lobby. I was so stressed—I didn't know where we were, how my family was. At Claiborne they increased my Dilantin medication, but I stayed stressed because they treated us pretty bad at Claiborne. I've never been through nothing like that in my life and I pray I don't have to again. Now I'm in jail hoping my lawyer will get me credit for time served. I have a 22-year old son and a 16-year old son I haven't seen since the storm. My 15-year old girl is running for class president. I can't live like this.<sup>156</sup> ■

The CCC building houses prisoners who participate in OPP's rehabilitation programs, such as the Francois Alternative Center at New Orleans, the About Face Boot Camp Program, and the Blue Walters Substance Abuse Treatment Program. CCC prisoners report that they were left in locked cells and locked dorms. According to the former Medical Supply Officer, who was in CCC throughout the storm: "It was terrifying and he [Sheriff Gusman] absolutely put our lives in danger. . . . The inmates were rioting, burning, busting down walls. They were angry and mad. We had no idea if they would take a hostage. We didn't know what was going to happen."<sup>157</sup> Medical Director R. Demaree Inglese told one reporter that the prisoners in the CCC building "were hardcore people . . . Some of them were federal inmates, rapists and murderers."<sup>158</sup>

In fact, many of the federal prisoners were actually immigration detainees, who were not charged with any crime at all. According to the Sheriff's own data, none of the prisoners housed in the CCC building were charged with rape, and only one prisoner out of more than 700 housed there was charged with murder. Rather, hundreds of the people in CCC during the storm were in on minor charges—including technical parole violations—and were participating voluntarily in the jail's rehabilitation programs in an effort to beat a drug addiction or obtain a G.E.D. What Dr. Inglese took to be rioting by dangerous and violent prisoners was more their desperate efforts to escape increasingly hazardous conditions inside the jail.

Left unsupervised, some of the CCC prisoners were able to open their cells and free others. "If it wasn't for inmates somehow getting my cell open I probably would have died."<sup>159</sup> One prisoner sentenced to the About Face Boot Camp reports:

*Our building lost power the night the hurricane came. Me and my cellmates were lock in the cell for two days with no food. The deputies left the night of the hurricane and never came back. Other inmates had to get us out of the cell. When we did get out of the cell some inmates were knocking a hole in the wall so we could get out to see what was going on. When we got out we found out that the other domes in the building were going through the same thing. Inmates all over the hole building were locked in there cells and the ones that were out where helping get them out. They also didn't have any food. In one dome you could see inmates escaping they were jumping out of windows in Templeman. They were getting shot at but we couldn't see who was shooting at them.<sup>160</sup>*

On the third floor of CCC, prisoners broke through a window and used the metal window screen as a ramp to get down to the roof of the second floor of the building. Darnell Smith, sentenced to the About Face Boot Camp, describes what happened:

Sunday night, August 28, all the power went out. The deputies were nowhere to be found. We had to break out of our cells. About 60 inmates walking around the tier, with no running water, no food, no electricity, & horrible living conditions. After 3 days of this, we decided to try & get out ourselves fearing we were left for dead. Wednesday morning we took a metal bar out of the ceiling, and used as a battling ram to break through the walls until we were out in the area where the elevators were. Once in this area we noticed that inmates on other surrounding tiers had started to do the same thing, fearing the worst. A few deputies showed up peering threw locked doors, that we could not get through, and told us to go back to our tiers. When we refused they started to point guns and threatened to shoot, if we did not comply. We located a long thin window overlooking Gravier St. We started to break the brick around the window. We continued until the window was loose enough for us to pull out of it's casing. Once we had the window removed, we started to jump out onto a patio roof over the main entrance of the C.C.C. building. We looked down and spotted a few deputies just sitting on the steps of the main entrance. We cried out for help from them. Once they saw us, they started to point their guns up at us thinking we were trying to escape, when actually we just wanted help. We had'nt eaten anything or drank anything since Sunday evening, and it had started to take effect on us. We pleaded with the deputies for help. They told us that boats were on the way to bring us to safety, and once the boats got there we would have to return to our tiers in order to be evacuated. In the meantime we sat on the patio roof, trying to suck up all the fresh air we could, before the boats arrived and we would have to go back inside this horrible building, and breath that toxic air again.<sup>161</sup>

One deputy from Templeman III made his way to the CCC building days after the storm. He reports that the prisoners in CCC took over the building "because all the guards were downstairs."<sup>162</sup> When asked what the guards were doing downstairs, he replied, "good question."<sup>163</sup>

In several buildings, prisoners tied bed sheets together to lower themselves out of broken windows so that they could jump to safety in the water below. One prisoner in Templeman III writes that after he suffered an asthma attack, other prisoners carried him to a hole in the wall and "told me to go through it & climb down a rope that they made from bed sheets that led from 3 stories high in tha air to ground in tha flood water once I climb down tha rope. Another inmate was waiting down there for me to help me they told him I was to

weak to do anything so he told me hold on to his back while he dog paddle through tha high flood water to safety."<sup>164</sup> One juvenile who was being housed in Templeman III writes: "[S]ome inmates were broking through the walls jumping from the third floor to the water. So of them could not even swim but that was their alone choice. As soon as they hit the water the deputies begin to shot at them."<sup>165</sup> Deputy Reed was on the Mezzanine level of HOD, where he was stationed to watch for escapes. Deputy Reed describes "people getting shot by snipers around the jail. It looked like people were getting picked off. You see somebody fall. . . . It seemed unreal. I don't know if they were getting shot with live rounds or what; they were falling in the water and that was enough for me to see right there."<sup>166</sup> One deputy in Templeman III reports that he swam to CCC, but chose to go no further out of fear of being shot by prison officials on the roof of HOD.<sup>167</sup>

Many prisoners and deputies report seeing prisoners hanging from the rolls of razor wire lining the fences that surround the facility. According to Ace Martin, a Templeman III prisoner: "One guy jumped out of the hole and they shot him. . . . He fell on a barbed-wire fence. They picked him up in a boat and told us to stay in the hole or we'd be shot."<sup>168</sup> One juvenile in South White Street states that he saw an escaping prisoner get "caugh on the bob wire, and all his muscle was out on his arm, and you know he did not get any kind of medical assitants."<sup>169</sup> Luis Reyes, a Deputy at CCC, reports that prisoners in a nearby building were "jumping out of the windows onto the razor wire and they were hanging there until we could get to them."<sup>170</sup> Another deputy recalls that the man "was yelling he needed a doctor. I can't recall which ranking officer said we can't get you a fucking doctor right now. You got to wait till we finish. We couldn't touch him without further hurting him. Don't know what happened to him."<sup>171</sup> One deputy saw several of the men who had jumped and landed on the razor wire surrounding the perimeter of Central Lock-Up:

*They were standing against a wall in the carport area of Central Lock-Up. They were in need of medical attention—there were some severe lacerations on them from the razor wire. One of them had a deep laceration under his right arm and on the side of his left eye as well as on his chest. Another had a laceration on his left shoulder blade and on his right bicep. I recognized these inmates as being in my building, but I do not remember what tier they came off of.<sup>172</sup>*

In some of the buildings, corrections staff ordered prisoners to jump into the water. One deputy in HOD recalls seeing prisoners from the Templeman I building lowering themselves onto a roof using blankets that they had tied together. "At night [staff members] were ordering inmates to jump into the water, and they were using flashlights to pick them up."<sup>173</sup>

Prisoners also hung signs outside of windows and set signal fires in order to get help. Writing several weeks after the storm had passed, one local reporter notes, "[n]ext to one smashed jail cell window, taped to the outside of the building, is a sign scrawled by an inmate, 'We Need Help.'"<sup>174</sup> One pris-

oner writes that when he saw a news helicopter several days after the storm, he and another prisoner hung a sign saying “HELP NO FOOD DYING.”<sup>175</sup> Another prisoner writes that he wrote a sign stating, “Help us.”<sup>176</sup>

## J. Officers Use Force to Contain Prisoners Until the Evacuation

Once OPP fell into disorder, it became much more difficult for the dwindling security staff to regain the control they needed to move prisoners to different parts of the buildings. Many of the deputies who remained on post did not have the weapons, ammunition, and other necessary equipment they

needed to maintain order. Some improvised, throwing hot water balloons at prisoners in order to keep them in their cells.<sup>177</sup> According to Dr. Inglese, OPP’s medical director, one deputy brandished a curling iron to keep prisoners at the CCC at bay.<sup>178</sup>

In Templeman III, deputies decided on Monday evening to move the St. Bernard Parish prisoners out of the gymnasium and into F-side. They also decided to move some, though not all, of the men housed in the first-floor tiers. The Special Investigations Division (“SID”) was called in to help with the move. SID is the Sheriff’s elite anti-riot force. They arrived with shotguns loaded with beanbags, pepper spray (or mace) and batons.

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### BEANBAG GUNS, TASERS, AND PEPPER SPRAY: “Less Lethal,” But Not “Non-Lethal”

Police officers and correctional officers are increasingly using three types of less lethal weapons to carry out their duties: projectile weapons, electric stun devices (e.g., Tasers), and chemical agents. These weapons are designed to apply less than deadly force, but three main problems are associated with their use.

**1. Less lethal weapons are being misused to stop non-threatening behavior and as shortcuts for non-dangerous pursuits.** Although the weapons were designed as an alternative to deadly force, they are being used in situations where deadly force would never even be contemplated. For instance, such weapons have been used on unarmed children as well as individuals who are already restrained or in custody.<sup>179</sup>

**2. Less lethal weapons cause serious injuries, and their use has been associated with deaths that have not been adequately studied.** Projectile weapons such as beanbag guns and rubber bullets are designed to cause pain and incapacitation without penetrating the body, but they have been the cause of penetrating traumatic injuries. Such weapons have caused serious injuries, including life-threatening cardiac injuries and fatalities.

Electric stun devices include various guns, belts, and shields. Stun guns fire a 50,000 volt-charged barbed projectile, connected to the gun by a long length of wire, causing involuntary muscle contraction and painful shock sensations. Harms caused by these devices include injuries from the barbs as well as falls or other injuries due to loss of muscle control. The most serious injuries result from the electrical discharge, and have included spontaneous miscarriages,<sup>180</sup> testicular torsion and sterility, as well as a number of injuries and deaths from cardiac injury, including ventricular fibrillation. Over 150 people have died in the U.S. after being shocked with a Taser since June 2001,<sup>181</sup> and in June 2006 the U.S. Department of Justice announced that it is reviewing the deaths of up to 180 people who were subdued with electric stun devices.<sup>182</sup>

Chemical agents such as tear gas, mace, and pepper spray are used on crowds as well as individuals. They act on nerve endings, causing pain and burning. The most common injuries from pepper spray include gagging and shortness of breath and eye injuries, including corneal abrasions. Amnesty International reports that more than 100 people in the United States have died after being pepper-sprayed.<sup>183</sup>

**3. Less lethal weapons are being used in a racially discriminatory manner.** Preliminary studies point to disproportionate use of less lethal weapons against persons of color.<sup>184</sup> This preliminary data, although incomplete, are consistent with findings concerning the disparate application of deadly force by race, as well racial profiling in traffic and pedestrian stops and searches.

During the transfer, one deputy explains:

*Inmates wanted food, water. They wanted to go home, some of them wanted to check on their families. . . . Pepper spray was used to subdue several inmates. In a normal circumstance, I would have said it was excessive, but under the circumstances we were in I would say it was appropriate. If this was a regular situation, not an emergency, we could have taken more time to talk the situation down, but under the situation we had to use the pepper spray to get the inmates in order to transfer them to where we needed to go.*<sup>185</sup>

He says that no prisoners were shot while he was present.<sup>186</sup>

Many prisoners tell a different story about SID's involvement. One man reports: "Some inmates were shot at by S.I.D. officers, they used beanbag shotguns. S.I.D. officers struck some inmates face as well. I was hit in the rib area (3) three times as well. This occurred during the move from F-1 to H-1."<sup>187</sup> Another prisoner in F-side reports that SID:

*came and handle 3 inmates really bad. They came and told everybody get down on the knee's and put your hands behind your head. They slowly evacuated us to higher ground. After they escorted us to higher ground they then abuse certain inmates because somebody had cursed them out and he had dreadlocks so whoever had said that they want to find out who said it. They had guns. I dont know if the guns were real, but when they first came in they shot the gun to get order.*<sup>188</sup>

Late Monday night, some of the prisoners who were left on the first floor at Templeman III began to break out of their tier. One St. Bernard Parish prisoner moved from the flooded gymnasium to the flooded F-side explains that deputies "had the airlock in the hall shut so inmates burnt a hole through it but the deputies were down the hall by the fence shooting them with bean bags."<sup>189</sup>

SID officers also used force against prisoners in other OPP buildings. One man on the third floor of Templeman II reports that when deputies and SID officers came to evacuate his floor on Tuesday, they assaulted and "shot inmates with mace & bean bag guns."<sup>190</sup> Another man held on the third floor recalls that on Monday, prisoners began yelling to get the attention of the guards:

*We simply want food & water. We want to know if we're going to be evacuated. Did our families make it out??? S.I.D. goes to several dorms spraying mace & shooting bean bag guns demanding silence. They simply leave after terrorizing us & answer none of our questions. It's the only police presence we see throughout the day.*<sup>191</sup>

I am thirty-two years old, and I worked as a deputy sheriff at the Orleans Parish Prison from June 1998 until right after the storm. Every year around storm season there's a possibility you might have to go and stay in the jail. You bring a change of clothes, your medications, and you're not sure how long you're gonna be in there. We didn't expect anything serious to happen, because last time the hurricane never actually hit. My supervisor told me that I had to report to work the Sunday before the storm. I think I was supposed to be off Tuesday through Wednesday. My wife wanted me to quit and evacuate with our family, but I decided not to. She was upset that I didn't go to Georgia with them—she had a feeling it would be different this time.

I went in to work because it's like a family there, and one less person on staff can make a big difference—especially since I'm big, strong, and experienced. I'm 6'7" and was 500 pounds at the time, so I knew my presence there would make a difference. Also, I worked with troubled inmates on the psych ward in the House of Detention, and I didn't want to let anyone else down by making someone else take over for me with those inmates. Even though I knew I couldn't evacuate, I never considered bringing my family with me into the jail. I don't believe in bringing my family there. I don't want them in that environment.

The first day I was there was pretty much a normal day. It was raining. I was assigned to the 10<sup>th</sup> Floor (psych floor). At night, the storm hit. I am in a huge brick building on the 10<sup>th</sup> Floor, and the whole building is swaying from side to side. I was scared. The floors and stairs got real slippery, and there was water coming in from places

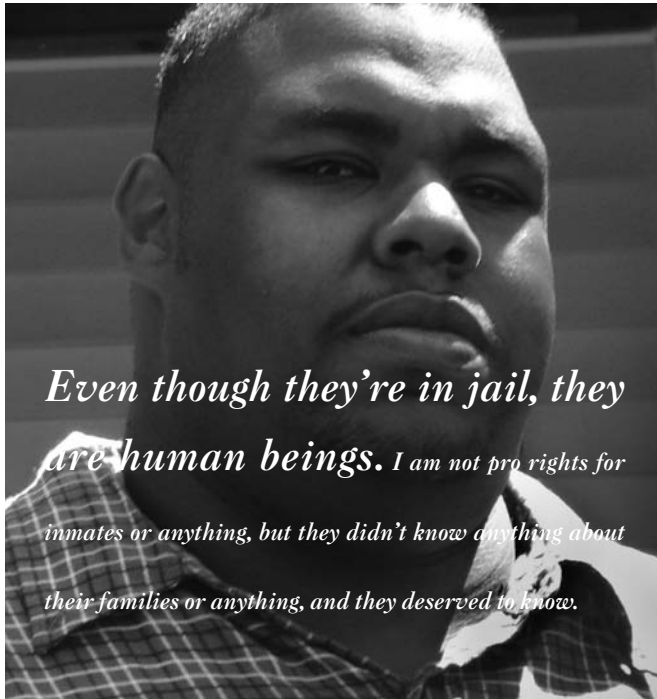
you didn't know water could come in from. The first day of the storm was alright—you're looking out at the rain and the water, it had to be about two or three feet at the time. But it was rising and rising even after the rain stopped. That was such a weird thing to see.

The next night, I really couldn't sleep. Phone lines were down, so you couldn't contact anyone outside the building. People's cells were going dead. We had these two-way radios, but they could only be used between people inside the jail. We listened to the radio and heard the levy had broke. When it got light, I looked outside and I saw the water was up to the roof of my truck. It was a horrible feeling. That's when it started to sink in: we're trapped.

Once the power went out, deputies started quitting right and left. They didn't leave the building of course, but they just didn't go back to work. Women especially got scared once the storm hit and the power went out. We really didn't have any problems with the inmates except that they were upset because they didn't know what was going on with their families. They didn't have TV or radio, so they had no way to know what was happening. It was tough for them. I let them know what I knew, which they really appreciated. Some of the younger deputies didn't know how to handle the inmates and instead of telling them what was going on, they yelled at them to be quiet. Even though they're in jail, they are human beings. I am not pro rights for inmates or anything, but they didn't know anything about their families or anything, and they deserved to know.

There was never any special training for us deputies about storm preparation, emergency evacuation, nothing. We didn't have fire

## DEPUTY RENARD REED



drills or any other emergency drills that I can remember. Plus, the new administration under Sheriff Marlin Gusman was always cutting down on spending, and they waited until the last minute to get supplies for the storm, so we ended up real short on supplies. Back when I started working as a deputy in '98, everything was abundant; you never ran out of supplies for your floor. There was always enough toilet paper to go around. If you needed a mop, you'd go into the store closet and grab one. As time went on, it was like you had to jump through hoops just to get the stuff you needed for your floor. All I know is that the supplies were so low during the storm that we ran out of food, and I didn't eat for almost three days at one point in time. I'm 32 years old—I was 31 at the time—and I'm big enough to survive. All I need is some water and I'll be okay. I am diabetic, so there were some issues with me not having food for so long, but I wanted to leave what food we had for the elderly, sick, and young, so I just went without.

Usually there are at least two deputies per floor. Since more people were working during the hurricane, before people started to quit there were about three to four people per floor. After people started quitting, there was only about one deputy per floor. I don't know why they did this, but the Associate Warden Bonita Pittman locked us

on those floors with the inmates and no way to get out. I was trapped for the entire 12-hour shift! After my shift was over, they'd send someone to my floor with a key to unlock me.

At one point, I think it was the third day I was in there, I was locked on the 3<sup>rd</sup> Floor for my shift, and I noticed that one inmate wasn't looking too well. I didn't know what was wrong with him specifically, but I asked what was wrong with him and he told me he had asthma problems. I asked him if he had an asthma pump, and he said yeah but that it wasn't working. I told him to lie down, maybe it will pass. He kept getting worse, so I tried to beat on the back door to get help, but no one heard. Eventually, I had to knock out a window with a broomstick to get help. Someone downstairs happened to hear me, and they called medical. There was no running water or anything, and they had to bring him oxygen to save him. The doctors came and saved his life.

The fourth day, I was sent to the Mezzanine, which doesn't have any inmates. It's got the heavy equipment like the generators. There's an exit to the roof there. I was supposed to go up there with a shotgun; in case anybody got out, I was supposed to do what I was supposed to do. I had live rounds there with me, but at the time there were rubber bullets loaded in the gun.

No one from HOD escaped. You could see that in the Templeman III building, someone knocked a hole in the wall and set the building on fire. It was almost like the Third World: people getting shot by snipers around the jail. It looked like people were getting picked off. You see somebody fall. . . . It seemed unreal. I don't know if they were getting shot with live rounds or what; they were falling in the water and that was enough for me to see right there.

I heard rumors of riots going on at the other jails, but I'm not sure if it's true or not. Not in the building where I was at. Some people tried to set fires, but those were put out quickly. I was up on the Mezzanine for about 48 hours, mostly alone. I couldn't sleep. Adrenaline, worrying, it kicked in. I hadn't spoken to my wife since Sunday, didn't know what happened to my parents. I didn't have any food. The inmates were eating cheese and cartons of milk. We melted buckets of ice for water.

Some time after that, DOC came down from around the state to start evacuating the inmates. HOD was the last building to get evacuated. We don't have any heat or A/C, so it's naturally ventilated. The other buildings were sealed shut because they had A/C and heat, but neither of those worked with the power down. So, because we had some kind of ventilation, we were better off I guess, and our inmates got evacuated last. Everyone had to come through the Mezzanine to get out because the bottom floors were flooded. We brought the inmates through the roof. I saw every face as they came out. The maximum-security inmates were handcuffed, but everyone else just had these plastic cuffs that linked two people together. DOC had people in full riot gear assisting

the evacuations, with stun guns, tear gas, mace. Most of the prisoners were calm during the whole thing; they were happy to be getting out. There were a few instances where someone needed to get stunned—I didn't see it, but you could hear it. A couple people were shot with plastic bullets, and a couple were tear gassed. But it was mostly calm. It's better to show force than to have to use force all the time.

After we got all the inmates out we thought it would be okay. But after they were gone, there were no more boats. The sheriff was gone too—he really wasn't worried about us deputies. Somebody had a two-way radio and called Charles Foti, the old Sheriff. Foti got us boats and shelters, while the current Sheriff left us stranded. If it wasn't for the Coast Guard who dropped cases of water and MREs. . . . I never want to see another MRE in my life! We finally all got out and took buses to the airport.

I think, in a situation like this, it's more common sense than training that gets you through. You see who are good leaders and who are not. Good leaders stepped up and solidified things. Bad leaders didn't. Two commanders stepped up real big, but my supervisors kind of caved in. After the storm, the sheriff's office asked me to come back to work with a raise. But I can't work under the warden, Bonita Pittman—she is not an honest person.

Today I'm in the process of looking for a job. My health has made it tough, because I am diabetic and now I need to take insulin. I was getting unemployment for a while, but not anymore. I never got any kind of compensation from the Sheriff's department. This whole experience was a learning experience—a horrible experience.<sup>192</sup> ■

In Templeman I (Unit E-2), one prisoner reports that SID was called in when some prisoners in an adjacent dorm became “unruly” over conditions:

*But, since we were curious as to what all the commotion was about, we were all looking out of the dorms’ window to see. So for our curiosity, “S.I.D.” came in “our” dorm & made all of us get down, put our noses to the wet, foul, and unsanitary floor, and when one of my fellow inmates proclaimed “that we hadn’t done anything wrong” one of the “S.I.D.s” assaulted him with the “butt” end of his rifle.<sup>193</sup>*

One man reports that when he was on the Broad Street Overpass, he

*could see prisoners breaking out windows on the 2nd & 3rd floors, waving blankets yelling for help. I personally saw 6 prisoners jump to the water below from the floors mentioned. After the shooting stopped there was a prisoner with a big hole in his left upper back bleeding very bad being dragged up the Broad Overpass where we were seated.<sup>194</sup>*

Officers stand guard over exhausted prisoners on the Broad Street Overpass



PHOTOGRAPH: REUTERS/JASON REED





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## IV. LEAVING ORLEANS PARISH PRISON

*“We were rescued, not evacuated”*<sup>1</sup>

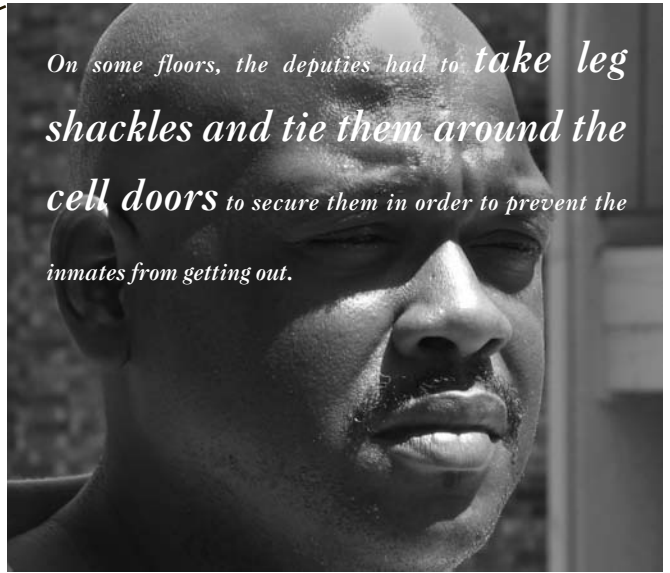
### A. Breakdowns in the Chain of Command

Having received reports about extensive flooding in New Orleans, DOC officials became increasingly concerned about Sheriff Gusman’s decision to not evacuate OPP.<sup>2</sup> By Monday night, many of the buildings in OPP were filling with water and had lost power. According to Sheriff Gusman, it was at this point that he called DOC and requested assistance in evacuating the prison.<sup>3</sup> Some deputies tell a different story. According to them, the evacuation began in earnest only after officers in charge of the OPP buildings “went over the head of Criminal Sheriff Marlin Gusman and called Attorney General Charles Foti for state reinforcements.”<sup>4</sup> According to one deputy, “[o]ne of the captains called Foti and said, ‘We’re losing the battle.’ . . . They (DOC) showed up with all the things we didn’t have: shotguns with beanbag rounds, tasers, rubber bullets, riot gear, bulletproof shields.”<sup>5</sup> The DOC’s technical assistance report indicates only that the department received a call at approximately 11:55 pm on Monday night from the Orleans Parish Criminal Sheriff’s Office requesting DOC assistance in evacuating OPP; the report does not indicate that Sheriff Gusman placed the call, or directed that it be placed.<sup>6</sup>

In Templeman III, the Watch Commanders were disorganized and unable to give clear directions to their deputies. At one point on Sunday evening, a deputy recalls receiving “[a] lot of conflicting orders from the Watch Commanders. The orders from our Watch Commander were to leave the inmates where they were, and another Watch Commander said to move the inmates to a higher floor.”<sup>7</sup>

Deputy Foster reports similar confusion in the House of Detention. “As the storm approached, [things became] chaotic. No one gave any orders. Everyone said, ‘I *think* we need to do this, I *think* we need to do that.’ Deputies were running the jail. . . .”<sup>8</sup> One deputy states: “When we got there, they hadn’t told us anything. They kept telling us they were waiting to see what the sheriff was going to say. No procedures, no safety precautions. No evacuation plan. The sheriff shouldn’t be a head of nothing. Anytime a man can’t even handle his employees. . . . I been there three years and I been through a whole lot.”<sup>9</sup>

*On some floors, the deputies had to take leg shackles and tie them around the cell doors to secure them in order to prevent the inmates from getting out.*



I became a deputy at OPP in 2002, and I was assigned to HOD. I showed up to work the Sunday before the storm at noon, six hours ahead of schedule. I'd been told to be prepared to stay for at least three days, so I'd brought enough food and medicine for my diabetes to last me that amount of time. My fiancé and family all evacuated before the storm hit. I didn't go with them because I'd been told at Academy class that if you don't report to work, you can be arrested for negligence of duty. My fiancé didn't want to me go to work, but I told her that I took on this job knowing the responsibilities I needed to do. She went to the Superdome, and my mother, niece, nephew, and daughter went to Jackson, Mississippi first, and then to Dallas.

Between noon and 6:00pm when my shift started, I helped people around the building getting supplies and stuff. At 6:00, I went to roll call and reported to the 8th floor. Two deputies, including myself, were on call for the 8th floor that night. That floor was solitary confinement, federal inmates, and protective custody. The inmates knew there was a storm brewing, but they didn't show any emotions that they were scared at the time. The shift went fine until the storm hit—about 5:30am. The transformers blew up, and we completely lost power. I was doing my rounds, and once the power went off, the electronic doors to the cells stopped working. Once that happened, I knew we had to go in and patrol more frequently to make sure the inmates were safe and secure. On some floors, the deputies had to take leg shackles and tie them around the cell doors to secure them in order to prevent

the inmates from getting out.

Sometime that first night after we lost power, my foot got injured. I don't know if something fell on my foot or what. My foot was swollen out, and by the time I was relieved from my floor, we had no power for the elevators to work so I had to hobble down the stairs. I needed help to make it down. By 7:15 am I told my supervisor that I was injured, but I continued working because I felt that with that amount of inmates and civilians in the building, it was my duty to protect the civilians. I'd heard reports, not sure whether they were confirmed or not, of rioting in other buildings, setting floors on fire. When I heard about that, I thought about the women and small children in the building, and I decided it was my obligation to protect them from the inmates in case one of them tried to riot to get out.

On Day Two, I was placed in a position to keep people from swimming up to the building. I was posted on the Mezzanine area, and right above there was where the civilians were staying. I had a .357 revolver with regular issue loads. No one tried to come up. I got very minimum to eat and drink that whole time. I'd brought my own food with me, and that was my main source of food. People were getting scared, 'cause there was no ventilation in the building. One deputy told people to get down because he was going to shoot the windows out on the Mezzanine where the civilians were to get some ventilation. That scared a lot of the civilians who didn't know what was going on.

When they started moving the inmates out of the building, some

were pepper sprayed and maced and forced out of the building. I didn't have to use force with anyone. Once we got the inmates out, they turned their back on us deputies. The way they treated us after the storm, you couldn't imagine it. We really didn't have any more food. Tom, a former deputy who was staying in the building, needed oxygen and they didn't have any oxygen for him in the building. The refrigeration went down when the power went down, so the insulin I had with me for my diabetes went bad. I was in a lot of pain, but I had to suck it up and give the others comfort.

At one point I called my mother and told her, in case I don't make it out, I want you to have it in the record that we are not being thought of. There is no food, water, or any form of sanitation. Thank God I have these two jars of peanut butter and two loaves of bread to help me survive. How can the Sheriff's office run out of food? Another deputy's husband swam out and came back with watermelons that were floating in the water. Now, I wasn't supposed to let him out, but I'm not gonna stop him from trying to get food in a state of emergency. We had a candy machine filled with chocolate, chips, all forms of energy. And we were told, "You better not break those machines to get to the food." All that food could have been used to feed people! We had children in there with us, but we

had milk go sour sitting in the milk machine. The helicopter came and dropped of food enough for thirty-three people, and we had over one hundred people in the building. If you had a helicopter drop off food, you could have that helicopter take sick people out. You were left to think, "How you gonna do this all on your own?" Thinking about all this now is bringing up a lot of mean emotions, but it's hard. The idea of bring forgotten about, and not even being told "thank you."

On the Friday after the storm, they got me by boat and dropped me off on a bridge. I was left on that bridge for about an hour to fend for myself, and then a helicopter came and took me to the airport. No one from the Sheriff's office was there to help me onto that helicopter. I took myself on an ambulance to Baton Rouge General Hospital for treatment of my foot. I had two surgeries done in Baton Rouge trying to save my toe. They thought they saved it.

I had to be flown from a small plane to Dallas to be with my family. In Dallas, I went to Baylor Hospital and met with a doctor who said my infection was too bad, that gangrene had set in, and we are going to have to take that toe. Two days after I woke up from toe amputation surgery, I received a phone call from Bonita Pitman. "Lewis?" she asked. "Are you planning to return to work?" "Yes," I told her, "when I am well. I just had surgery, I have a

106 fever.” What the hell? Not to send me a get well card? She knew what had happened to me.

Being diabetic, I was going through a real hard time. I went from walking on crutches to using a wheelchair to using a walker. I had to take antibiotics for roughly a month—they had to run tubes up my arm into my heart. When I called in and filed my first report to try to get workman’s comp for the injury, they denied me and told me my injury wasn’t work-related. To this day, I cannot work, and it is undetermined when I can go back to work. I am on my own financially. I am two inches from being put on the street.

These days I deal with post-traumatic stress—I am taking medicine for that—depression—so that I can sleep at night. I have violent tendencies from being faced with a place with no food, no fresh water, and when we did get food, there was only so much. Last time there was a thunderstorm, I ran and got in a closet. I’ve bitten my fiancé in my sleep from having violent dreams. I was fighting in my mind. I’ve had people send me copies of the things Marlin Gusman said he did for the hurricane. Wait a minute man! You didn’t do shit! I didn’t see you walking in that water. I didn’t see you getting people out of that building. Marlin Gusman made it seem like some big successful thing that he done. It wasn’t you. You were just a figurehead with makeup on your face. Come on man, I’m not stupid. You were supposed to be a man among men. You are the leader—you should hold your head up and at least make me feel like you know what you’re doing. I’m sitting here with gangrene setting in past my ankle,

and you couldn’t even send me a get well card. But you managed to send me a form saying how much I owe for my equipment. You can’t even send me a card and say to me, “I’m sorry you lost your toe and if there’s anything I can do, let me know.” I have to deal with depression, fear, snapping at my fiancé, and going from a forty-year-old man to a little baby when it rains. But all I want to hear is, “Thanks. Job well done. You did a good job, bro. I’m glad you were there, glad you helped out.” That’s the biggest thing. A lot of us feel that way. All we wanna hear is for the man to say thank you. That’s it: thank you.

The one thing the jail needs is to be better prepared. They need to have emergency preparedness training every six months or three months. They need to train each building so that each one is a complete self-sustained entity. Train people so that people in each building can handle all situations in each building. Ask: “Is the fuel for the generator where it can’t be contaminated by water or wind?” Train everyone how to use the riot gear. Train deputies to put on air packs in case you have a fire inside the building so they can get people out in a safe manner. They don’t have training like that. I am a merchant marine: I’ve had training. But not here. There is no fire training in the jail system. There is no biohazard training. You’re waiting for the fire department to get here, but the floor is full of smoke. You should have a special unit, whether it’s deputies or inmates or both, trained to use the thermal imager to find people who may be lying on the floor. That might sound far-fetched, or too far in the future, but to me, that kind of training could be done.<sup>10</sup> ■

Even after the storm was over, Orleans Parish and St. Bernard Parish officials continued to bicker over who was responsible for the St. Bernard Parish prisoners who were transferred to OPP prior to the storm. Discussing the three St. Bernard Parish prisoners who managed to escape OPP, Sheriff Gusman wrote: “The St. Bernard Parish Sheriff’s Office maintained responsibility for the security and well-being of these inmates. . . . They provided their own deputies to guard their own inmates.”<sup>11</sup> St. Bernard Parish Colonel Richard Baummy disputed Sheriff Gusman’s account, stating: “We sent six deputies there to assist their operation. . . . They were under the command of New Orleans deputies. It’s their jail, of course, so we had to operate under their supervision.”<sup>12</sup> According to one OPP deputy who was on duty in Templeman III throughout the storm, the St. Bernard Parish deputies were “scared to death of their inmates. We were told not to deal with them because if something happened we’d be responsible. We eventually had to feed them because they [the St. Bernard Parish deputies] wouldn’t.”<sup>13</sup>

## B. The Evacuation Finally Begins

The OPP evacuation began after state DOC officers from Angola arrived with Warden Burl Cain. The process took over three days, and appears to have been completed at some point on Thursday evening or early Friday. Prisoners report that various corrections personnel rescued them by boat, including DOC guards, OPP deputies, and national guardsmen.

In some buildings, rescuers were unable to free prisoners because their cell doors could not be unlocked. In Templeman III, many of the prisoners in the first-floor B-Side remained locked in lower-level cells while the surrounding tiers were evacuated. One deputy explains: “The inmates that were the easiest to move were moved first. . . . B-Side was primarily last, because one of the Watch Commanders misplaced the key and we had to find an alternate key.”<sup>14</sup> “Before the water got to my waist, we put them all on lockdown and the scary thing about that was the cells wouldn’t open back up,” says another Templeman III deputy.<sup>15</sup> “[S]o we had to go in the water, open your eyes and try to open them manually and only my Chief Bordelon and Major Jones were able to do it. That was a big help that they were on hand—without them, the inmates would have died because they never taught us that.”<sup>16</sup>

Most prisoners report that they were instructed to leave all of their belongings behind, and were told that they would still be

**A**t the time of the storm, I had been in Orleans Parish Prison for about one year. I was housed in a ground-floor dorm (Unit B) of Templeman IV. The women in our unit stayed in open dorms with triple-stacked bunk beds. At the time of the storm, some women were even sleeping on the floor because there wasn't enough bed space.

We found out the storm was coming by watching TV, but on Sunday the TV cut off. The phones were already off, so after Sunday we had no more contact with what was going on outside. All we knew was what the Yanks were telling us when they came back to the dorm after talking to the deputies. On Sunday they were telling us that we should pack our stuff because deputies were about to move us. But we never was moved. When the deputies locked the Yanks and us in the dorm, we didn't know what was happening, and we didn't see the deputies for a long time.

When the power went out, it was dark—no lights. Water backed up from the commodes and sewer water from the flood came under the doors and filled up our unit to the second bunk. We didn't know what was going on, and it was hard to even know what day it was. In our unit there were elderly women who had trouble getting onto the top of the third bunk to avoid the water, and there was at least one pregnant lady who also had trouble. We tried to help those women as best we could. My friend Iris Hardeman was really sick, and we were worried about her.

We were all trying to stick together, praying, singing. Trying to be strong through it all because we didn't know what was going to happen. We had no food to eat,



*You wouldn't imagine that one person would let another human being go through that, when there was time to let us out. It never would occur to me that a person could let that happen; even though we're in jail we're human beings.*

except the little bit that people had bought from commissary, but we'd eaten all of that long before they finally moved us.

When it was time to move us, deputies came in at night with flashlights and everyone got up. It was completely dark, and they just told us to get all of the stuff that we could and bring it with us. With no light, we couldn't find anything, so we just carried out our own bodies, and we held people who couldn't hold themselves up.

We walked through the jail on the ground floor from Templeman IV to III; the water was up to my chest and I am 5'2". It probably took half an hour to one hour to get all of us to Templeman III. When we were walking through that water, Sheriff Gusman was there. He was telling us to be careful, to hold on to the wall or the fence as we were walking. That was the only time I ever saw him.

In Templeman III we climbed the stairs to a higher level, and male deputies with flashlights were leading us up the stairs. There wasn't any floodwater in that dorm, but it was dark and we couldn't see anything. The men had already set fires in that dorm, which they did so the guards would get them out of there. But then they moved us in

there instead. There were all kinds of smoke in the air, like they just put a fire out. We were coughing, black stuff was coming out of our noses. It was terrifying. At that point, the deputies were telling us that they were trying to contact people to get us out of there, but they couldn't get any help. We were there for a few hours, until the next morning when the sun came up and we could see around the room. There were blankets in the bathroom that the men had burnt before we got up there, and the room was all dirty and nasty. All the chemical bottles they use for cleaning were thrown around. When we looked out the window we saw how high the water was and we wondered how we would get out of there.

They came up to take us out of the building and took us to Central Lock-Up, which was filled with water. We left Templeman III probably at around 7 or 8am, and we only got out of Central Lock-Up late that night. In Central Lock-Up there were men as well as women. The women were still being pretty supportive of each other, but some men were trying to escape any way they could and there was shooting around us. There were big double doors where the boats were picking people up and we could see outside. We stood up on a truck to get into the boat.

They took us to the Overpass and told us to sit down. We were on one side of the bridge and the men were on the other side. There were dogs and other officers there. The officers used plastic cuffs to cuff each woman to the woman next to her. Then they told us to sit down back-to-back with other women.

There were ice chests full of bottled water on the bridge, and we were asking for the water. We were so thirsty and it was really only then that we started to get wild, really trying to get to the ice chests. They could have given us a piece of ice or something. Some women reached in and that was when they maced us and put the dogs on us. I didn't get to touch any of the ice. Some civilians on the bridge were trying to give us water too, but the officers wouldn't allow them to get close. Some of them threw bottles to us and we just tried to get a few sips.

They took off the plastic cuffs so I could get into a boat to go to the interstate. On the interstate they put the cuffs back on and told us to sit down again. They threw bottles of water to us, but still no food. I was tired and very weak. They had people passing out at that point. I lost sight of my friend Iris at that point and didn't see her again until we got to Angola and they were deciding where to put us.

She died a little while after we got to Angola, but I didn't see her die because they placed me in a different part of the building.

I can't remember how long it was before I found out where my family was—maybe two or three weeks. I was sitting down talking to another woman about how I still didn't know if my family was okay, and she was saying she didn't know where her family was. Then a deputy came and brought me the message that my family was okay and that they were in Mississippi and that I should call them. I will never forget that. It was a relief—so wonderful.

I thank God today that I am alive. With all that we went through I thought they would really leave us for dead. I'm still trying to get myself together. Some people I meet ask me about what happened, because they talked to someone who was there during the storm, and they heard that I was at the jail too. I don't converse about it because I'm trying to forget it.

If I could talk to the Sheriff, it wouldn't be nothing nice. The people from Angola said they came to the jail on Friday and Gusman refused to let them take us. He should have let them take us. You wouldn't imagine that one person would let another human being go through that, when there was time to let us out. It never would occur to me that a person could let that happen; even though we're in jail we're human beings. And then Gusman lied about us having food and water when he knows we didn't. He knows we didn't. There's just no way he can correct this. If I had anything to tell him, it wouldn't be nothing nice.<sup>17</sup> ■

there when they returned to the jail after the storm. Prisoners lost irreplaceable items such as legal paperwork and personal belongings. They also lost medications and medical paperwork that would have helped them obtain treatment at the facilities to which they were later sent. Ronnie Lee Morgan, Jr., a federal prisoner in HOD, explains:

*On Thursday, DOC guards came on the tier throwing guns in our face. They told us to leave everything there, because it would be there when we got back. I tried to get my legal paperwork, but a guard pulled his gun on me so I left it there. I lost all of my legal work. I also lost baby pictures of my daughters, and the storm took the pictures that their mom had. My daughters are now 9 and 11 years old, and that whole memory of them as babies is gone now.<sup>18</sup>*

### **c. Prisoners Were Held for Hours in Central Lock-Up Before Being Evacuated by Boat**

Central Lock-Up is a small building where prisoners are brought to be booked after they are arrested. It served as a staging area for the evacuation from OPP: hundreds of prisoners were moved there from other buildings, where they remained in chest-deep water for as long as twelve or thirteen hours. One reason prisoners waited there so long was because the Sheriff did not have enough boats to transport them. Early reporting indicated that the Sheriff had only five boats to transport the nearly 7000 prisoners who were in the facility when Katrina hit, not to mention all of the deputies, staff members, and civilians who were invited into the facility to ride out the storm.<sup>19</sup> More recent information from the Sheriff's office indicates that only three boats actually were on-hand.<sup>20</sup> According to one high-ranking official in the Sheriff's office, when one of the larger boats broke down, prison officials "broke into an adjacent parking garage at police headquarters so they could 'scavenge' car batteries for the boat's electric trolling motor."<sup>21</sup>

When they arrived in Central Lock-Up, prisoners were "bunched together like cattle."<sup>22</sup> The water was deep. Some prisoners report it reached their necks. Some were too short or too weak to stand above the water on their own. When Iris Hardeman passed through Central Lock-Up, other women took turns holding her up.<sup>23</sup> Another woman from Templeman IV reports that she carried an elderly woman on her back from her building to Central Lock-Up:

*We waded thru 4 1/2 sometimes 5 foot deep water. I carried a 65 year old lady on my back because she was 4 foot 9 inches and could not swim and had a heart condition and the officers told her that if she didn't learn to swim quick they had a body bag with her name on it. . . . [W]e were moved to Central*

*Lock Up to wade and stood in water for 9 1/2 hours. Where I stood with the 65 year old lady on my back or in my arms we were not allowed to sit on any desk or tables. After 5 1/2 hours my legs started giving out so some of my friends saw me go under water while trying to keep the old lady up and came and held us up for 4 hours.*<sup>24</sup>

One prisoner from Templeman I reports that when he arrived in Central Lock-Up: “The water looked as if it had sat in an outside pool for months. It smelled as if someone mixed it with 90% diesel gasoline. I swear, the whole while I was in that water, I feared for my life. Imagine someone 5’0 feet moving through say about 5’3 or 5’4 feet water?”<sup>25</sup> Another writes, “[t]he water was literally burning my skin it was so thick with Disel feul.”<sup>26</sup>

By the time they arrived in Central Lock-Up, many of the prisoners had gone days without food, water, or medical attention. Female prisoners from Templeman IV were held alongside male prisoners in Central Lock-Up. One female prisoner reports that when she was in Central Lock-Up, a male inmate grabbed her leg underwater. “I screamed and the deputies started running toward me while the other female inmates said that theirs is a man under water. The deputies started shooting in the water by my legs and the male inmates which was 3 at that time got up and started running and then the deputies start shooting over my head.”<sup>27</sup> Another female prisoner from Templeman describes a similar incident in which “[a] few men went under the funky water grabbing on the women inmates.”<sup>28</sup>

One prisoner from South White Street was incarcerated for failing to meet with his probation officer. He reports that before leaving South White Street, a guard provided the prisoners with plastic bags so that they could leave with their belongings. After walking two blocks through neck-deep water, he reached Central Lock-Up. Once there, he faced “armed guards w/ rifles and machine guns demanding us to remain still at that point, and to drop our belongings (which was everthing we own, including all address and phone numbers to all relatives everywhere.) We dropped our bag as instructed and proceeded to the boat. They hit some us with the muzzel of the guns and shove some in the back.”<sup>29</sup> Another prisoner states that in Central Lock-Up, “prisoners were being shot with beanbags & rubber bullets & they were only trying to get to safety.”<sup>30</sup> “[T]he deputies had shotguns shooting them over our heads at the wall and the ceiling causing sheet rock and debrie to fall on our heads and face and eye. I was scared for my life because things were out of control.”<sup>31</sup>

#### **D. Reports of Deaths Inside OPP**

Sheriff Gusman has consistently stated that there were no deaths at OPP during the storm and the subsequent evacuation.<sup>32</sup> However, several deputies and many prisoners report witnessing deaths at the jail. Speaking to a reporter shortly after the evacuation, Deputy Luis Reyes stated: “There are dead inmates in there still. When the guards were doing their last sweeps there were one or two here and there. We were

not giving them any food or water.”<sup>33</sup> Deputy Deborah Williams recalls being with juveniles during the storm. After making her way from Louisiana to New York to be with her daughter, Deputy Williams recounted: “It was horrible. Two of our kids drowned, and there was nothing we could do to help them. One of them was pregnant. There were bodies floating by, and the soldiers kept telling us to hurry, that it wasn’t safe.”<sup>34</sup>

After the storm passed, Corey Stevenson was moved from his juvenile tier in Old Parish Prison to an open dorm that housed adults. He recalls that the man sleeping in the bunk above him was diabetic, and he died some time after the power went out in the building. “When it was time to move him, I was shaking him hard—harder than normal—and he wouldn’t get up. I put my arms around his back and pulled him off the bed. His feet hit the floor and I was dragging him. A US Marshall pointed a shotgun at me and said what the hell is in your pocket. It was my mail bag. The US Marshall told me to leave the man by the showers, so I did.”<sup>35</sup> Two prisoners housed in the upper tier of Templeman III (D-3) report that an elderly prisoner passed away during the storm.<sup>36</sup>

Reports of deaths have not been limited to prisoners. During Sheriff Gusman’s reelection campaign, his opponent ran a television ad featuring a maintenance worker at the jail claiming that two female deputies died of smoke inhalation following the storm.<sup>37</sup>

One year after the storm, no deaths at OPP have been confirmed. It is certainly conceivable that given the chaos at the jail deputies and employees were mistaken about having seen dead bodies there. When asked about this possibility, however, one prisoner responded, “[h]ow could I forget it?”<sup>38</sup> Bodies are still being found in parts of New Orleans,<sup>39</sup> and FEMA has admitted, “it’s likely that many of the lost will not be found.”<sup>40</sup> The Orleans Parish coroner’s office reported recently that 49 persons found dead in Katrina’s floodwaters remain unidentified.<sup>41</sup> Some of the prisoners for whom fugitive arrest warrants were issued have not been recaptured, and the only evidence of their “escape” from OPP may well be that they did not show up at DOC facilities in the weeks after the storm. Several groups and individuals have generated lists to identify any prisoners who may have died at OPP during the storm or while in transit to state facilities, but those lists will never be complete, because there does not appear to be an entirely accurate list of all of the individuals who were detained in OPP at the time of the storm.



Prisoners  
await rescue  
on a freeway  
overpass



“I was on the overpass for several days alongside the prisoners. Civilians were told not to take photographs, but I took this picture on Wednesday afternoon. At one point, the prisoners were seated all the way up the bridge. The trash in the photos is actually the belongings of the prisoners that some of them were able to take with them from the jail. When they were moved from the bridge on Wednesday morning, they were told to leave all of their belongings behind.”

-Mary Gehman, writer, New Orleans. PHOTOGRAPH: MARY GEHMAN



Sitting on the hot asphalt, prisoners began suffering from dehydration and heat exhaustion. A deputy witnessed “several inmates passing out from heat exhaustion, dehydration. About twenty inmates passed out before water was even considered to be brought to the bridge.”<sup>4</sup> A prisoner from South White Street saw “one gentleman laying under a van for shade, seemed near death. . . . His breathing was real slow, he wasn’t responding. I brung it to a number of deputies attention, even a couple of nurses who was walking by and they refused to give him attention. The guy was like foaming from the side of his mouth.”<sup>5</sup>

Prisoners were assaulted when they attempted to stand to go to the bathroom. One man says that he was “maced several times because I either wanted to stretch my sore & numb limbs or because I need to use the bathroom.”<sup>6</sup> According to one deputy, on the Overpass there were “some instances where pepper spray was used where it could have been avoided. . . . When the inmates were getting pepper sprayed, the only things they were asking for was food or water. They wasn’t getting hostile or whatever. But when they got loud, they got pepper sprayed.”<sup>7</sup>

Prisoners complain that the use of force went beyond pepper spray. Dozens of prisoners recall officers using taser guns on prisoners who were stretching or who asked for help. “Many inmates suffer being maced, shot at with bean-bag gun, tasered and I saw an old man being attacked by police K-9s simply because his limbs became numb & he needed to stretch,” writes one man.<sup>8</sup> Another states that he watched an inmate he knew “get bitten by a dog because he had to use the bathroom and ‘stood up’ when were ‘told’ to stay sitting in the sun on that ‘hot’ concrete. . . . The guard couldn’t get the dog to release [his] leg for about 5 minutes.”<sup>9</sup> One female prisoner states: “Some inmates got mace or sprayed. They brought the dogs out on us. I have never seen anything like this in my 45 years of living.”<sup>10</sup>

Robie Waganfeald was arrested several days before the storm on a charge of public intoxication; he was in New Orleans for the night after returning from a seven-week summer vacation with a childhood friend.<sup>11</sup> In a letter written to his father, Mr. Waganfeald states that he sat in the sun on the Overpass for ten hours with “no water and with National Guardsmen threatening to shoot people. Some got hit with rubber bullets, others with pepper spray. It was the most humiliating, unjustifiable thing I’ve ever seen.”<sup>12</sup>

Another prisoner writes:

*By mid-day many inmates were falling down, apparently from dehydration or sunstroke. Many inmates were pushing and shoving one another to get onboard one of the airboats. At this time I was pushed by a crowd of inmates toward the boats and S.I.D. ordered everyone back. I couldn’t turn back, and S.I.D. began to spray the crowd with pepper spray. I was sprayed heavily in the eyes and on my back. Over the next several hours I was sprayed twice more for no reason whatsoever.*

*More officers arrived to relieve S.I.D. personnel, bringing dogs with them. I saw one man attacked by*

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## V. THE OVERPASS

Interstate 10 lies several blocks away from the main buildings of OPP. Parts of the Interstate were submerged by the time officials began evacuating prisoners from OPP. Therefore, prisoners were taken by boat to the Broad Street Overpass, which rises in an arc above Interstate 10. Boats dropped the prisoners off a short distance from the Interstate 10 on-ramp, and prisoners then waded through chest-deep water until they were able to climb the on-ramp and get to the dry portions of the Overpass.

Thousands of prisoners were eventually transferred to the Overpass, where they remained anywhere from several hours to several days. When buses arrived to transport prisoners out of New Orleans, they stopped on the Interstate below. DOC officers eventually built a scaffold that prisoners were ordered to use to climb down to the buses on the Interstate. Later, evacuees from the prison were driven by boat directly to the Interstate.

When prisoners reached the Overpass, most of them were filled with the hope that their ordeal was now over. One prisoner writes: “[W]hen I made it to the bridge I thought things would get much better but it got worser. I though I was going to die that I was’nt going to make it out there. I was stuck on that bridge for 3 days no water or nothing I past out I was miserable.”<sup>1</sup> Unfortunately, many of the prisoners found that “on the bridge, we were exposed to even worse treatment then when in the prison.”<sup>2</sup>

On the Overpass, prisoners were placed in rows, and were ordered to remain seated back-to-back. One prisoner writes:

*Apon arriving to the broad St. Bridge the guards then were placing us in rows. Each row were back to back and next row were the same. This was going on all through the night. We had to sleep sitting up in a cural like position. All through the night they continuously transporting inmates to the bridge. Placing them into the back to back position all night long. This was the most uncomfortable sitting position I ever sat for at least 10 hours.<sup>3</sup>*

*a dog while heading to the side of the bridge to relieve himself. I saw guards “march” an inmate past me with Taser Wires attached to his back. At no point were we given food or water, and we spent the entire day sitting directly in the sun, at gunpoint.<sup>13</sup>*

A female prisoner states that she “had to urinate behind a truck with a rifle pointed at me.”<sup>14</sup> Another writes, “[w]e were made to sit there, back to back, unless we had to use the bathroom, then we could stand walk a few feet away and urinate right there on the overpass in front of *everyone!*”<sup>15</sup> Another female prisoner recalls that SID and members of the SWAT team:

*made us urinate and make bowl movements in our clothes where we sat. It was inhumane, humiliating and also degrading. I and other females we on our ministrations and had no sanitary napkins to change our old ones. We wore what we had on for 3 days. Some of us had menstrual blood all over us. The S.I.D. and Swat team called us “crackheads”, “whore”, “bitches” and all sorts of other names.<sup>16</sup>*

**Prisoners  
await rescue  
on the  
Broad Street  
Overpass**



PHOTOGRAPH: AP/WIDE WORLD PHOTOS

evacuation order that exempted only inmates of the Orleans Parish Criminal Sheriff's Office.<sup>5</sup>

Before leaving YSC, one 17-year-old boy reports the children were told "to take one sheet with them. We weren't allowed to take deodorant or mail or anything else."<sup>6</sup> A 15-year-old boy, also from YSC, was brought to OPP in a van with eight other boys, "all cuffed and shackled."<sup>7</sup> A 15-year-old girl says she was taken in a van with fifteen girls, two of them pregnant, to OPP from the YSC girls' ward.<sup>8</sup>

Once they arrived at OPP, many of the YSC youths were taken to Templeman V. The boys were taken to the second floor and crowded into cells designed to hold two people. Both an OPP staff member and a number of St. Bernard Parish prisoners report that juveniles were also held in Templeman III,<sup>9</sup> although it is unclear whether these were juveniles who were being held and tried as adults. One of the juveniles from St. Bernard Parish reports that he was first locked in a first-floor "open dorm with about 200 adult inmates."<sup>10</sup> In addition to being the only juveniles in the room, he recalls that he and the other juvenile from St. Bernard Parish were the only two white people in the room; he reports that he was threatened with violence until he was moved to a holding cell with his companion.<sup>11</sup>

There were approximately 16-20 girls who were transferred from YSC, and they were initially brought to a room where there was only a curtain separating them from the adult male inmates.<sup>12</sup> A 13-year-old girl states that at some point the girls were brought to a "20 person dorm" room on the second floor.<sup>13</sup>

## B. Last Meals

*"One boy found some dog snacks."*<sup>14</sup>

Like the adults held in OPP, the juveniles ate their last meals at different times. However, no juvenile interviewed reports eating after Monday, August 29. The children spent between three and five days without receiving food. Three of the boys said deputies at OPP had food during and after the storm. One 17-year-old reports that "[p]eople's nerves were very bad. Guards were leaving . . . [then] coming back with their own food and eating [it] in front of [us] without giving us any."<sup>15</sup> Days after Katrina, a 16-year-old boy said that once he and other boys were evacuated, they still did not receive food, though they could "see guards eating. . . . They had food with them on the rooftops. When [adult] prisoners tried to take the food, the guards threatened to shoot them."<sup>16</sup>

One 16-year-old boy reports that another youth found and ate "dog snacks" during his evacuation by boat from OPP because it had been so long since he last ate.<sup>17</sup> Another boy states: "When we got on the boat [to evacuate OPP], [guard] Mo took us (6-9 kids) to [the Broad Street Bridge]. There was food floating in the water and we tried to catch it and eat it. That's how hungry we were."<sup>18</sup> One youth states: "We went five days without eating. . . . Kids were passing out in their cells. The guards never explained anything to us."<sup>19</sup>

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## VI. JUVENILES AT OPP

To this day, it is still unclear how many children were detained in OPP at the time of the storm. According to the Sheriff's own statistics, over 300 children were transferred to OPP shortly before the storm from the city-run YSC alone.<sup>1</sup> The Juvenile Justice Project of Louisiana (JJPL) estimates that the number was closer to 150.<sup>2</sup> Neither figure includes juveniles at OPP who were being held and tried as adults.

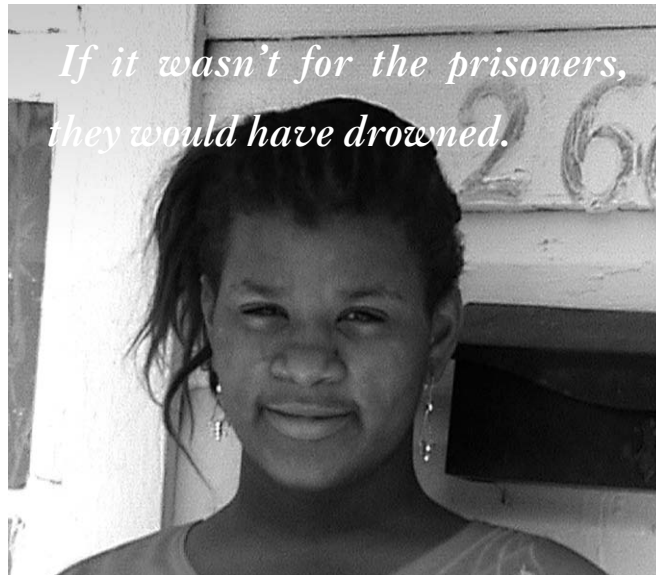
Following the storm, the JJPL interviewed dozens of the boys and girls who were trapped in OPP during and after Katrina. Their experiences, though no different in many ways from that of the adult prisoners at the jail, are particularly troubling in light of their age and vulnerability. For all of the prisoners in OPP during the storm, it is worth asking why they were not evacuated when the threat posed by Katrina became widely known, and DOC offered to assist. For the adult prisoners arrested on minor charges in the two days before the storm, it is also worth asking why those arrests were even made, and whether it would have been prudent for the city to release such prisoners in order to allow them to evacuate the city with their families.

These questions grow more pointed when one considers the fate of the juveniles who were at OPP, many of whom were being held on minor charges, and were separated from their loved ones and left to fear that they had been abandoned to die in the jail. What makes the juveniles' suffering all the more tragic is that in the five days before the storm, now-Chief Judge David Bell of the Orleans Parish Juvenile Court issued orders releasing those pre-trial juveniles who were held in Orleans Parish detention centers, and were not deemed threats to society.<sup>3</sup> Those release orders appear not to have been executed.<sup>4</sup>

### A. The Move to OPP

Some of the children who were at OPP throughout the storm were already being housed at the jail in CYC. Others were brought to the jail on Sunday, August 28, from the city-run YSC, and from the St. Bernard Detention Center. No official from either facility has explained why the juveniles were brought to OPP in the face of New Orleans's mandatory

## ASHLEY & RUBY ANNE GEORGE



### ASHLEY GEORGE

I was thirteen years old when the storm happened. I was in the Youth Study Center (“YSC”), but on Sunday, August 28 they moved me with other boys and girls from YSC to the prison. We were in the jailhouse across from the big boy jail. We were in a big dorm on the second floor with the adult women.

Across the hall from us there were adult men prisoners. Before the storm when we were still able to use the toilets, the men watched us. When the storm started, water broke through the gate and started rising. The day after the storm, water came into the place and I was in water up to my neck for a

couple of days. We got no food, no water. I felt like I was going to die.

The guards didn’t do anything to help us. We weren’t going to get out, but the adult prisoners escaped and got help for us. Military people told us that if we had stayed in there another day we would have drowned. Adults took a mattress and floated some girls out to the boat. I took another boat and went to the bridge, where I got chips and water. Sometimes we had to go to the bathroom on the bridge, and they put a box around us and made us go to the bathroom in front of the adults and

other boys. There were pregnant girls with us also, but they did not get any special attention.

We got on a bus that took us to Jetson. At Jetson they gave us food and water and we took showers. They also gave us teddy bears. I was there for about three or four days, before they brought me to some group home. I got to go with my grandmother about one month later<sup>20</sup>

### RUBY ANN GEORGE

Ashley is my granddaughter. After the storm I was going crazy. I kept calling and calling and

calling and calling. I thought they took them to Baton Rouge before the storm. They ain’t nothing but children. I kept calling all over, but I didn’t find out where she was for about a month. She was in Baton Rouge. They kept giving me different numbers to call and finally she called me on my son’s phone.

It’s horrible. Nobody should have gone through that—adults or children. They should have gotten them out of there. I was mad. They should have taken the children to Baton Rouge in the first place. If it wasn’t for the prisoners, they would have drowned.<sup>21</sup> ■

### C. Heat, Humidity and No Drinking Water:

*“I felt like I was about to die.”*<sup>22</sup>

With few exceptions, the boys report not receiving any drinking water after Monday, August 29. Many of them resorted to drinking the floodwater, which contained urine and feces from backed-up toilets.<sup>23</sup> One 16-year-old boy told JJPL, “[t]he water . . . looked like it had a lot of oil in it. It had rainbows in it and lots of trash.”<sup>24</sup> A 15-year-old boy saw a boy get “maced” by guards when he asked for drinking water while waiting to be evacuated from the Broad Street Overpass.<sup>25</sup> According to one youth: “One kid passed out from dehydration. . . . I started to get really dizzy, like the roadrunner when he gets knocked down, with the birds flying all around his head. I felt like I was about to die.”<sup>26</sup> A 16-year-old boy reports: “I had been locked up before, but not behind real bars. We couldn’t do anything. We had no sheets, no blankets, nothing. It got really hot, people started getting naked and cursing other people out because they were so hot.”<sup>27</sup> A 15-year-old girl similarly recalls that “[i]t was so hot at night we sometimes slept without clothes.”<sup>28</sup> She reports the girls at OPP received two gallons of drinking water per day to share among 15-20 of them. “We got a little every day.”<sup>29</sup>

### D. Flooding

*“I can’t seem to get that smell out of my skin.”*<sup>30</sup>

#### 1. Inside OPP

The children from CYC were held on the first floor of a building where the floodwaters rose to several feet. Boys climbed to the highest bunks in their locked cells to keep out of the rising waters.<sup>31</sup> Many of the juveniles were held in dormitories that did not have enough beds for all of them. Fights broke out when the water started to rise, and space grew more limited. Some of the juveniles report being injured during these fights and complain that they received no medical attention.<sup>32</sup> A few children who were held on the second floor started to panic when they looked outside and saw the water rising. One 16-year-old boy states:

*A few hours after the storm hit, the water started rising. That night the water started coming out of the toilet and the drains. It smelled like straight swamp water. I was crying and thinking about my people because right before the power went out we saw what was happening on the news and saw the Ninth Ward flooding. Kids were really upset because most of them were from the Lower Ninth.*<sup>33</sup>

Most of the children report that their toilets backed up, spilling human waste into the floodwaters and filling the facility with an unbearable stench. A 14-year-old boy describes it as smelling “dirty because of the toilets. You couldn’t use [them] and they smelled.”<sup>34</sup> Another youth says that the smell in his cell was so bad that he covered the toilet with a mattress, but that didn’t help to relieve the stench.<sup>35</sup> According to one 15-

year-old boy: “We had human feces floating around us in the water . . . we was forced to survive in for 3 days. I still have little sores on my skin. I can’t seem to get that smell out of my skin . . . . [M]aybe it’s all in my head but that smell will be with me, and be in my head for a very long time.”<sup>36</sup>

#### 2. Outside OPP *“Tall adults carried little ones.”*<sup>37</sup>

Depending on their age and size, children had to wade, swim or be carried through the toxic floodwaters during their evacuation from OPP. Some of them were taken by boat to the Broad Street Overpass. Others went to the fishponds outside OPP, where they waited with adult prisoners to be taken to the Jetson Center for Youth (JCY). Several children were shackled and handcuffed while trying to walk through floodwaters that came up to the chins of some of the tallest youth. A 15-year-old boy who is 6’2” said that the water was “up to my chin. . . . [The] tall adults carried little ones.”<sup>38</sup> Some juveniles report that only the smaller children were given life jackets. Several children recall being tied together with plastic cuffs, and then being pulled out by a rope and put on boats.<sup>39</sup> One 15-year-old boy states: “It was scary because I can’t swim and they were pulling us by our shirts and I went under the water a few times. I even swallowed a lot of water.”<sup>40</sup>

As for the girls, a 13-year-old states that adult inmates “took a mattress and floated [us] out. [We] were taken by the mattress to a boat.”<sup>41</sup> One 15-year-old girl says: “We walked through the water up to my mouth. I’m 5’7”. We carried [a] twelve year-old through the water. Guards watched ‘trustees’ [adult prisoners] help us into the boats.”<sup>42</sup>

### E. No Medical Care

A 16-year-old boy reports that children who got into fights were placed in separate cells, but they received no treatment for their injuries.<sup>43</sup> One youth was hit in the face with a phone, while another had his jaw broken. Other children were injured after being hit in the face or maced by guards.<sup>44</sup> Two pregnant juveniles received no medical attention,<sup>45</sup> although it is not known if they or their babies suffered any ill-effects as a result.

Many of the juveniles complain that they became covered in bumps and spots from the floodwaters. A 15-year-old boy says that his feet “turned all white, with mildew and sores on them. I was throwing up blood . . . . My feet are still messed up and still itching.”<sup>46</sup> Some of the juveniles also became ill as a result of going under the floodwaters, and others complain that they suffered bad sunburns due to being exposed to the late August sun and heat for long periods.<sup>47</sup>

### F. Youth Are Beaten by Guards

*“We can shoot to kill”*<sup>48</sup>

As conditions at OPP deteriorated, deputies and other security personnel used violence and threats of violence against children in an attempt to maintain order. Some children were injured as a result.<sup>49</sup> While in OPP, one youth was hit in the face multiple times by a guard. He says that guards threat-

ened other children “with guns raised to their heads.”<sup>50</sup>

The violence and threats by guards increased when the children arrived at the Broad Street Overpass. A 14-year-old boy states that once they arrived at the Overpass, children were threatened by armed, uniformed officers he believed were from the NOPD: “They had big guns. . . . They told us that the mayor said ‘We can shoot to kill.’ There was military there, too, but it was mostly NOPD. NOPD beat up an adult prisoner. They busted open his head. . . . You could see the meat.”<sup>51</sup> One 15-year-old girl and one 16-year-old boy both say that on the bus from the Broad Street Overpass to JCY, “one girl got beaten by a guard for fighting with another girl.”<sup>52</sup> The girl was removed and taken to a van. According to the boy, the guard used “closed fists.”<sup>53</sup>

Other youth witnessed adult inmates being beaten. One 17-year-old states:

*One man was maced and beat up really badly. His head was busted. . . . They let the dogs loose on that man. . . . The dogs were biting him all over. They told people they would kill them if they moved. . . . The worst thing I saw was the guards beating that man while everyone was just sitting there. . . . Those people need to go to jail or something.*<sup>54</sup>

There are also reports of youth being maced by guards. One boy writes: “When [we] were shackled it was ten youth shackled together. [Another boy] slipped out his handcuffs so they maced him and since we were all shackled together, the other kids basically got maced too.”<sup>55</sup> Another boy states: “Guards did not really care about us. [One] kid got maced requesting water. Some kids were too weak to act, or do anything for themselves.”<sup>56</sup>

## G. Arriving at JCY

Most of the children report that conditions improved substantially once they arrived at JCY, a facility operated by the Office of Youth Development (“OYD”). Juveniles were fed, allowed to bathe, given clean clothes, and some received medical attention. A 15-year-old boy reports that at JCY “we got food and water. We were treated very nicely.”<sup>57</sup> OYD staff report that upon hearing that the children were being transported to their facility, they immediately began preparing for their arrival by getting clothing and food ready, as well as setting up a place for all the children to sleep.

According to Dr. Heidi Sinclair, a pediatrician who examined children as they arrived at JCY, she encountered

*[o]ne 10 year-old with broken arm, one girl pregnant, one girl with child in foster care. . . . [Children] told stories of chest-high water and floating bodies. . . . A few kids passed out from heat exhaustion. . . . Six employees from YSC . . . were completely traumatized, vowing to never go back to New Orleans.*<sup>58</sup>

Dr. Sinclair recalls that they “kept boys in the infirmary with health problems, then put half in JCY and half in other places; some of the kids broke down crying when they were forced to be moved.”<sup>59</sup> OYD staff also worked tirelessly to help children locate and contact their family members. By way of contrast, “[t]he prison never notified the parents where they were going to take the kids,” according to Lynette Robinson, the mother of one 15-year-old boy who was in OPP during the storm.<sup>60</sup> She continues: “I didn’t know if he was alive or dead. I was afraid he was floating somewhere. He shouldn’t have been afraid he was going to die.”<sup>61</sup>

The entire experience had a profound effect on these children. One 15-year-old states, “it was a horrible experience and I would never want to go through that again and I know this will have a long-term effect on me until I am dead and gone.”<sup>62</sup> Another 15-year-old sums up the entire experience in this way: “We were treated like trash in New Orleans.”<sup>63</sup>

Before Katrina, Ahmad Nelson spent one-and-a-half years away from his daughter after being wrongfully accused of shooting a police officer. Charged with public drunkenness three days before the storm hit New Orleans, Mr. Nelson found himself back in OPP during the storm. Once guards abandoned him and other the others prisoners in Templeman III without food or water, Mr. Nelson found a way to bring himself to safety. Mr. Nelson’s experience inside OPP during and after Katrina began spreading on internet message boards shortly after the storm. He has not seen his daughter since the storm.

PHOTOGRAPH: THOMAS BACON,  
WWW.THOMASBACON.COM



Ahmad Nelson  
and his  
daughter Mimi



## VII. SHERIFF GUSMAN'S DENIALS

*"Crackheads, cowards and criminals."*<sup>1</sup>

According to the National Institute of Corrections (NIC) Guide, it is important that leaders respond properly to criticism following an emergency. When faced with "controversial issues, media criticism, and inmate complaints," the NIC Guide warns leaders not to "make snap judgments and simply exonerate staff out of hand. The leader must see to it that these matters are investigated promptly, thoroughly, and honestly."<sup>2</sup>

Sheriff Gusman responded reflexively and defensively to criticisms by deputies, staff members, and prisoners. When faced with the accounts by his deputies who described a complete loss of order inside the jail, Sheriff Gusman dismissed their claims as "lies" and said "the people making them are disgruntled ex-employees and possibly deserters."<sup>3</sup> Sheriff Gusman's response to reports by prisoners of their experiences during the storm epitomizes a callous disregard for prisoners' welfare that has long been endemic to OPP. The Sheriff denied the truth of their claims, stating: "They're in jail, man. They lie."<sup>4</sup> Sheriff Gusman later told one reporter: "I have 75 accounts from inmates given by lawyers with misleading questions. It's kind of hilarious to read them. . . . None of it was true. But when you put it in the paper it becomes more credible and it frustrates the hell out of me. Don't rely on crackheads, cowards and criminals to say what the story is."<sup>5</sup> The response given by the head of Louisiana's Department of Corrections was hardly better. When asked about the OPP evacuation, Secretary Richard Stalder reportedly quipped, "[s]ome have assured me they will never be late on child support payments again."<sup>6</sup>

Soon after the storm, Sheriff Gusman assured the public that all of the people in OPP had been evacuated safely, and that no prisoners had escaped.<sup>7</sup> Even while he was making these claims, however, his office issued fugitive arrest warrants for fourteen prisoners believed to have escaped from OPP. Sheriff Gusman's claim was ultimately proven false when several of the prisoners who managed to escape the floodwaters were recaptured. One man escapee was George Schaefer III, a St. Bernard Parish prisoner who was being held on murder charges.<sup>8</sup> On November 2, Mississippi authorities arrested Mr. Schaefer after he allegedly committed another murder. One St. Bernard Parish prisoner who

was in the gymnasium with Mr. Schaefer during the storm reports, “a convicted murderer had plotted, and went through with his escape.”<sup>9</sup> That man also reports on several other escape attempts he witnessed: “[T]here was only approx. 3 I know of who actually were successful. 2 were thrown back through the roof, one was beaten & maced while being drug back into the gym, and one had made it as far as the courthouse steps, before being shot with riot bags, and returned to the gym.”<sup>10</sup>

Of course, not all of the prisoners who fled the jail were captured in connection with new arrests. For instance, an arrest warrant was issued for David Fernandez, a 20-year-old who was awaiting trial on drug charges. From an undisclosed location, Mr. Fernandez spoke with a reporter for the New Orleans *Times-Picayune* months after the storm. He explained: “It wasn’t like we wanted to escape. The charges I had wasn’t really about nothing. Why would I want to escape? I escaped for my life.”<sup>11</sup> Another prisoner who managed to escape the jail was Ahmad Nelson, who was arrested three days before the storm. Despite the fact that the story of Mr. Nelson’s escape from the horrible conditions inside OPP began spreading on the internet as early as September 7, 2005,<sup>12</sup> the Sheriff’s office continued to deny that anyone escaped, and only obtained a fugitive arrest warrant for Mr. Nelson in late October 2005. According to one nonprofit law enforcement watchdog group, the Sheriff’s refusal to acknowledge that prisoners escaped from OPP made it seem as though his office was “more concerned with their own public relations issues than public safety.”<sup>13</sup>

The evacuation was the centerpiece of Sheriff Gusman’s recent re-election campaign. The Sheriff continues to maintain that the evacuation was accomplished “without casualty or serious injury,”<sup>14</sup> and that his deputies stood fast and maintained order during and after the storm.<sup>15</sup> A spokesperson for the DOC similarly commented that she had not heard of any OPP deputies abandoning their posts.<sup>16</sup> Sheriff Gusman also claims that no prisoners were left alone for more than one day,<sup>17</sup> and that “the inmates were fed and supplied with water.”<sup>18</sup> This last, astounding claim appears in an article entitled “What Really Happened At Orleans Parish Prison in the Aftermath of Hurricane Katrina.”<sup>19</sup> The Sheriff’s office spokesperson wrote the article, which quotes Sheriff Gusman, but no one else.

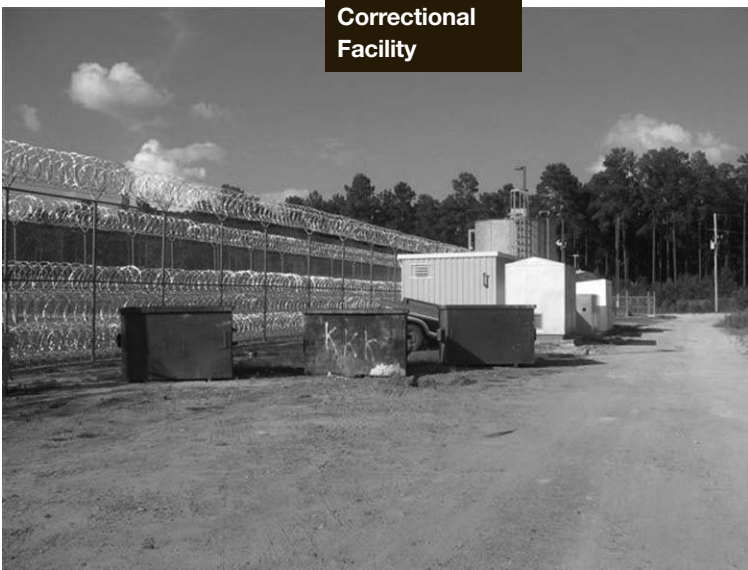
At one point, Sheriff Gusman reportedly said, “jailers served 21,000 meals a day and had enough in storage to feed the entire population during the crisis.”<sup>20</sup> Deputy Chief William Short, who was on duty in HOD during the storm, made the wild claim that “in the House of Detention we had three walk-in coolers full of hot dogs, hamburgers and chicken. . . . We emptied a warehouse full of food and dispensed it throughout the jail. We had cases and cases of water.”<sup>21</sup> After reviewing more than 120 testimonials by prisoners who were in HOD during the storm, and speaking with a half dozen deputies who also were in that building, we found no corroboration for Deputy Chief Short’s account. The most similar accounts came from two deputies in the building. Deputy Ducre reports that on the mezzanine level, Assistant Warden Bonita Pittman had about fifty cases of water and ice in a cooler for herself and her family when the rest of the deputies, their family members, and all of the pris-

oners were already evacuated.<sup>22</sup> Another deputy similarly complains about the conduct of Assistant Warden Pittman during and after the storm:

*She wasn’t worried about whether or not we ate. . . . She was trying to get a personal boat to get her family out of there. They just treated us like dirt. They had Kentwood jugs. . . . [Y]ou know those big jugs of water. Warden had those things stockpiled when no one else had any. She’d only give them to her family. You got to think about the little kids and babies other people had. If she cared, she would have helped the other people out. But she’s calling people in to be at work and then don’t want to help them. People had little kids and new born. . . . [I]t was just terrible.<sup>23</sup>*

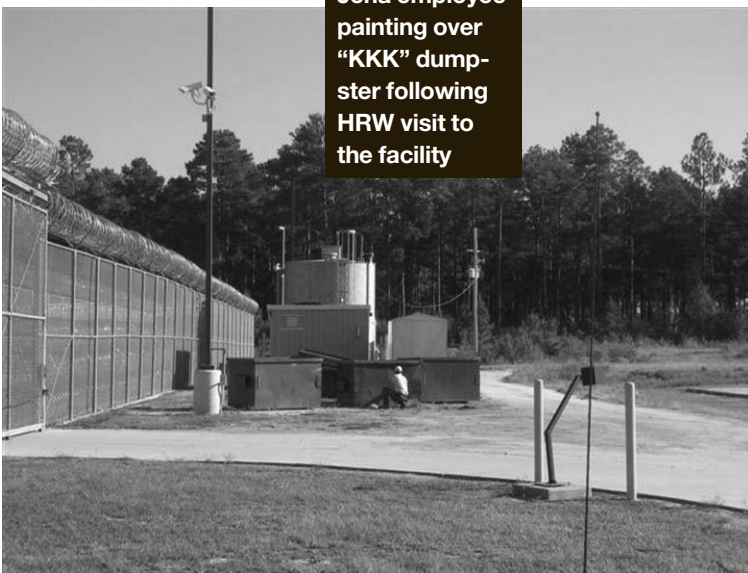


**“KKK” spray-painted on a dumpster outside Jena Correctional Facility**



PHOTOGRAPH © 2005  
HUMAN RIGHTS WATCH

**Jena employee painting over “KKK” dumpster following HRW visit to the facility**



PHOTOGRAPH © 2005  
HUMAN RIGHTS WATCH

## VIII. PROBLEMS AT RECEIVING FACILITIES

From Interstate 10, OPP evacuees were bused to prisons and jails throughout Louisiana. Most female prisoners were sent directly to Louisiana State Penitentiary at Angola, while thousands of men were transported to the Elayn Hunt Correctional Center in St. Gabriel, Louisiana. After spending several harrowing days at Hunt, the men were further dispersed to over three-dozen facilities across the state, and some were sent to the Federal Correctional Institute in Coleman, Florida. At many of these receiving facilities, their abuse and mistreatment continued.

State and local officials cannot be excused for the chaos that the OPP evacuees endured during Hurricane Katrina. However, their failure can be understood, in part, as the product of poor planning in the face of the greatest natural disaster in this country’s history. That many of these evacuees endured continuing abuse and neglect at their receiving facilities is a reflection of the larger crisis in the Louisiana criminal justice system. The racism and violence that these prisoners describe should have no place in any prison. However it is still very much a reality in many facilities throughout the state. In the case of these evacuees, state and local officials not only failed to abide by constitutional and human rights standards, but also failed the test of human compassion.

### A. Elayn Hunt Correctional Center

The Elayn Hunt Correctional Center is located approximately seventy miles northwest of New Orleans, and was not damaged as a result of the storm. On arrival, the OPP evacuees were given food, water, and a blanket, and were placed on fields inside the prison’s grounds. The fields had very limited shelter, so thousands of men remained in the open, even after it began to rain. Although some of the men were transported out of Hunt shortly after their arrival, thousands spent days in Hunt’s muddy fields.

1. Rampant Assaults of Prisoners Abandoned on the Football Field *“The most unsafe conditions that I’ve been exposed to in prison.”*<sup>1</sup>

For the OPP evacuees, conditions at Hunt were nothing short of terrifying. When the first OPP evacuees arrived, they were placed on several small yards. When it began to rain, many of the men were consolidated onto a single field surrounded by a fence. Armed guards watched over the prisoners from towers and from behind the fence. The guards established a gun line along the length of the fence which prisoners were not permitted to cross.

Prisoners were not separated by offense. Pre-trial prisoners arrested on public intoxication charges were held side-by-side with convicted felons. Municipal, state, and federal prisoners were also mixed together on a single field. Prisoners who were previously housed for good reason in protective custody were suddenly placed on the field with no protection at all. Given their sheer numbers, the evacuees found themselves sitting on a powder keg. One man describes his time at Hunt as “the most unsafe conditions that I’ve been exposed to in prison.”<sup>2</sup>

Violence broke out all over the large yard at Hunt. One man writes that on the yard, “people [were] getting stabbed for they food and the guards just let it happen. Guys were constantly fighting and stabbing each other up all day we could not really sleep because we had to watch ourselves all the time.”<sup>3</sup>

Instead of intervening to control the prisoners, Hunt guards remained outside the fence. One man reports that after he was stabbed on his left wrist by another prisoner, “I went for help [and] the guards pointed their guns at me & told me to leave or I would be shot at.”<sup>4</sup> Many prisoners report that they joined groups in order to gain protection. One prisoner “saw one young man . . . get his face ‘cut up’ so bad that the flesh was hanging from his cheek and forehead.”<sup>5</sup> He states that “[y]ou *had* to be within a group in that environment, because if you went to sleep, someone had to be awake to watch your back, it was just that brutal.”<sup>6</sup>

## RONNIE LEE MORGAN, JR.

*I'm standing there in the pouring rain, with blood flowing down my face and neck, while the Hunt guards watched me staggering in visibly enormous pain!*

**D**uring the storm, I was in the House of Detention building, in the 8<sup>th</sup> Floor CLU (Southside). I am a federal inmate in protective custody, and I was being held in a cell without any cellmates. We were locked down on the Saturday before the storm, and stayed locked down for days without food or water. I had a small jar of peanut butter that I had bought through commissary, but that didn't last long. On Monday morning during the storm, the building was shaking. I was never really sleeping, I just passed out a bit because of the heat. At times, deputies came by to talk to us. Through the window I saw fires in Templeman III, and I also saw a guy being dragged off of the razor wire while guards were firing into a hole in a building. On Thursday, DOC guards came on the tier throwing guns in our face. They told us to leave everything there, because it would

be there when we got back. I tried to get my legal paperwork, but a guard pulled his gun on me so I left it there. I lost all of my legal work. I also lost baby pictures of my daughters, and the storm took the pictures that their mom had. My daughters are now 9 and 11 years old, and that whole memory of them as babies is gone now.

I was taken under the Broad Street Overpass where I boarded a bus that took us to Hunt Correctional Center. Before we got off the bus, the Warden got on, and we were telling him that we were federal U.S. Marshal prisoners, and that some of us were under protective custody and needed a special tier. He told us not to tell anyone else,

and we told him to look at the bold white letters on our sweatshirts that read "FEDERAL." The Warden said he didn't care, and he sent us out onto a yard that was filled with what looked like several thousand state inmates.

The guy who had been in the cell next to me said he couldn't go on the yard, because he could see his enemies out there. He was also an inmate in protective custody. He walked onto the yard and got stabbed all over his face. Blood was like a waterfall out of his face. He ran to the guards and they shot at him and then stripped off his clothes. He was a really light-skinned black guy, and his face was bleeding so bad he looked like

a peppermint. They ended up slamming him into the back of a truck like meat. I don't know if he lived or what, but he was pretty bad off.

I wasn't on Hunt yard more than 30 minutes, and I was beaten and stabbed one time in the head and one time in the back of the neck, by several gang members. I had to retreat to the guards, who stood on the other side of the fence and laughed, when I asked them for help! I'm standing there in the pouring rain, with blood flowing down my face and neck, while the Hunt guards watched me staggering in visibly enormous pain! On top of all that, I had to stay awake all night, walking around with clothes that were drenched in both water and blood, with no medical attention at all: zero! I still have scars from where I was stabbed.<sup>7</sup> ■

Many prisoners recount what may be a single incident in which one prisoner was jumped by a group of prisoners and was badly injured. The prisoners' descriptions follow:

*I experienced a guy getting "stabbed" in the face and stumped by a "gang" of young men. The victom then ran to the gate crying out for help. As blood protruded down the mid-section of his face. At the point of his presence he was told to go back into the yard. After fearing for his life he refused to follow the guards instruction to return to the yard. As he cried out for help he was shot with a (plastic bullet) in the abdomen then the guards open the gate, maced him, cuffed him, and placed him face-down on the back flat bed of a pick-up truck. And rode off with him.<sup>8</sup>*

*Me personally was walking into the yard when they had a white inmate trying to walk out the yard with his face and head all bloody, looks to me he had been stabbed several times, while he's trying to come out the yard a officer is yelling at him to get back in the yard, but the man is trying to talk to the officer, so then the officer fires a shot at the man with a shotgun from point blank range.<sup>9</sup>*

*I seen guys getting stabbed. I don't know anyone personally, but I saw fights break out on numerous occasions. You could hear shots in the air, but no guards came down to do anything about it. I heard guards say stuff like "they are a bunch of animals, let them kill themselves. They are from New Orleans." One white guy was bloody, ran for help past the gun line, and was shot in the leg. I am pretty sure he was white or Latino. I saw that he was shot with something that drew blood—I think it was live ammo. . . . After the white guy was shot he was taken out of there and that was the last I saw of him.<sup>10</sup>*

These reports appear to be corroborated by the DOC's technical assistance report, which acknowledges that on one occasion "a warning shot was fired and an attack dog used to get an inmate and extract him from the yard after he had been beaten, and another inmate was shot with rubber bullets when he ran towards the perimeter fence."<sup>11</sup>

Many of the men also witnessed prisoner-on-prisoner rapes in the field at Hunt. One man writes: "Everywhere you looked there were fights, people getting stabbed, people getting raped also. Everybody was mixed together. Murderers, rapists, even a death row inmate were allowed to walk freely among people who were only in jail for traffic tickets or disturbing the peace."<sup>12</sup> One man held on a probation violation writes that conditions at Hunt were chaotic

*for the simple reason that they mixed non violent*

*offenders with violent offenders who were on murder charges, rape, and robbery. Then what made it even worse was while in Orleans Prison if they had a gang fight or a despute between inmates they would separate them. But when we got to Hunt, they put every one on one big yard together. Inmates who had previous run ins with enemys once again had the chance to get revenge or even kell they foe. Yes they had sexual assaults, even brutal and physical assults between inmates. The non violent offenders were either getting beat up on, robbed of valuables, sexual assulted or jumped by violent charged inmates while the superior stood back and did nothing it was to uncontrollable.<sup>13</sup>*

A local newspaper contacted Hunt officials for comment on the reports of violence among OPP evacuees. Reporters were not allowed to speak with the officials, and were instead directed to Cathy Fontenot, a spokesperson for the Department of Corrections who was not at Hunt following the storm.<sup>14</sup> Nevertheless, Ms. Fontenot denied all claims of violence by prisoners at Hunt. Instead, she commented that "[t]he word that comes to me when I think back to that day is docile."<sup>15</sup>

## 2. Lack of Food

*"They were throwing sandwiches in the crowd like they were in New Orleans, at the Mardi Gras!"<sup>16</sup>*

Although OPP evacuees were handed a sandwich when they first arrived at Hunt, food was delivered more haphazardly after the men were placed on the yard. Hunt guards threw bags of sandwiches over the fence into the crowd. Some of the men describe Hunt's efforts as dehumanizing. "[W]e were fed like animal's instead of humans. Hunt's started throwing sandwiches over the fence to us."<sup>17</sup> Another writes, "[t]hey feed us on top of a fork lift throwing food to us like we were animals."<sup>18</sup>

Hungry prisoners fought one another for food. One man writes: "When we was finally given food they took bags with one or two sandwiches and threw them over a barbed wire fence, and you had to fight for it like dogs. If you didn't eat, you just went hungry."<sup>19</sup> One 53-year-old man held on a parole violation reports: "When we first got there sandwiches was issue the first day. After that, everyone had to fight to get a sandwich, they were very disorganize, handling the situation . . . most of us older guys did without food and water while there because guys was fighting, cutting each other, the deputies was just looking and laughing. They were throwing sandwiches in the crowd like they were in New Orleans, at the Mardi Gras!"<sup>20</sup>

Speaking months after the storm, Ms. Fontenot admitted that the prisoners at Hunt were supposed to receive meals in the dining hall, but the kitchen was shut down because it could not handle preparing food for the huge number of evacuees.<sup>21</sup> "We fed those inmates the best that we could," she said. "We could not feed them hot meals like they're used to."<sup>22</sup>

### 3. Lack of Medical Attention

Prisoners at Hunt were not provided with proper medical attention, in part because no medical records or medications from OPP were transferred with them.<sup>23</sup> Many chronically ill prisoners who had already gone days without receiving their medications did not receive them when they arrived at the prison. One man writes that he saw “one old man who was real sick, and they told us to wrap him up in a blanket and set him down by the gate. Where he sat for hours before they finally literally dragged him away.”<sup>24</sup> At least one prisoner suffered a stroke while sitting in the yard.<sup>25</sup>

Other prisoners were denied medical attention for injuries they suffered after being assaulted in the yard. “Thousands of people fighting for food. A lot of people was passing out on the yard fights and stabbing was going all around me and the deputies didn’t come to the yard to stop them or to treat anyone for stabbing.”<sup>26</sup>

Many of the prisoners developed rashes and skin infections as a result of wading through contaminated floodwaters and being exposed to the sun. OPP’s Medical Director, Dr. Inglese, later commented that the floodwater was so toxic that it stripped all of the skin off his chest. “I even treated deputies with trench foot, something people used to get during World War II. The skin was peeling off of their muscles. That’s how bad it was in that water.”<sup>27</sup> One deputy recalls taking a bath in CCC using water from the nearby Kentwood plant, and receiving medication on the Overpass because he had been in the water for so many days.<sup>28</sup> By contrast, OPP evacuees received no antibiotics on the Overpass, and none when they arrived at Hunt. Moreover, at Hunt they were not allowed to shower or change out of the clothes they had been wearing since before the storm hit New Orleans. One man writes that he “had all kind of swores on me from being wet so long. I had sun burn all over my body.”<sup>29</sup>

Paul Kunkel, a special education teacher at an elementary school in Ohio, was arrested days before the storm on public intoxication charges. While in OPP he developed an eye infection that grew worse at Hunt. In a letter to a friend, Mr. Kunkel writes:

*We lived in 90 degree-plus sun with no protection from the elements. One day it poured and the ground was all wet and muddy. We were given one blanket and we were freezing at night. My right eye was still infected and I can no longer see very well because my contacts had to be taken out. Inmates were stealing blankets and convicts were armed with homemade knives. It was like a concentration camp. I [was] very afraid.*<sup>30</sup>

For some, the experience at Hunt was just as bad, if not worse, than the experience inside OPP. One man writes: “I hope in life this will not happen to me again it was like a nightmare. . . . This is going to stick with me all the days of my life . . . I was just on a probation hold waiting to go to court on a change of address.”<sup>31</sup> According to another prisoner, “[w]hen it was all over I felt my life had been put on danger for a second time.”<sup>32</sup>

### B. Bossier Parish Maximum Security Jail

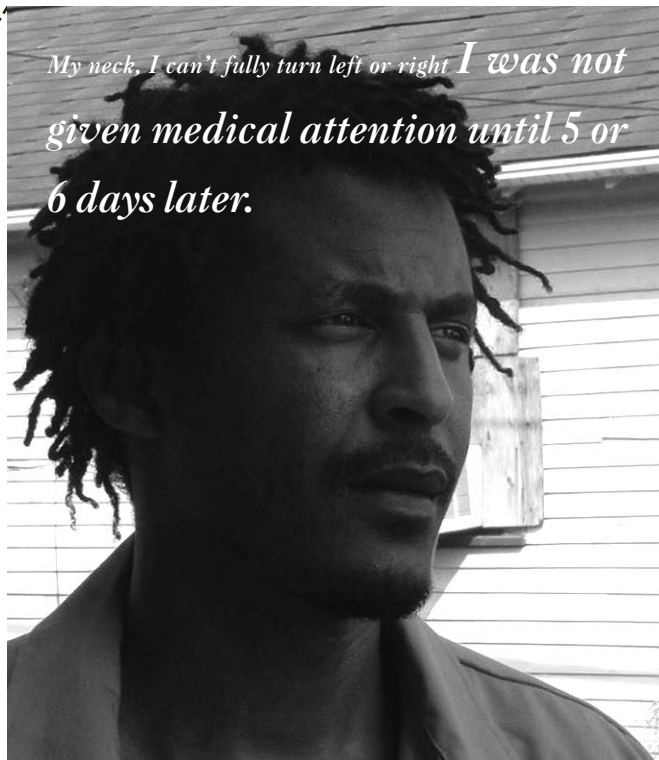
*“I never thought I see anything like this in my life.”*<sup>33</sup>

From the yard at Hunt, some of the men were transported to Bossier Parish Maximum Security Jail (“Bossier”). Although the facility was designed to hold maximum-security prisoners, all of the evacuees transferred there were minimum- to medium-security prisoners.<sup>34</sup> At the time of the storm, Bossier was still two months away from its projected opening, which meant that control systems had not been tested, supplies had not been stocked, and staff had not been hired.<sup>35</sup> In preparation for the 500 OPP evacuees who would be headed to the facility, Bossier officials reportedly procured only 300 mattresses.<sup>36</sup> Because only 40% of the staff who were needed to operate the jail had been hired, Bossier cobbled together a staff from around Louisiana.<sup>37</sup> According to Ken Weaver, Bossier chief deputy of corrections: “We had some people who had never worked in a facility—probation and parole officers. . . . We put them through a quick course on how things operate.”<sup>38</sup>

Dozens of OPP evacuees complain that the officers at Bossier regularly beat and maced prisoners without cause. In many cases, the assaults appear to have been racially motivated. Whereas the pre-Katrina population of Orleans Parish was 66.6% African-American, and 89.3% of the prisoners at OPP were African-American, Bossier City is located in northwest Louisiana, by the Texas and Arkansas borders. Census data shows that only 22.7% of the population in Bossier City is African-American.<sup>39</sup>

One prisoner, who was seventeen years old at the time of the storm, says of Bossier: “We were being maced and having racial remarks told to use by several guards. I was only there for about 2 weeks and I was maced 6 times. They feed us small portions of food, barely enough to live on.”<sup>40</sup>

## TIMOTHY ORDON



*My neck, I can't fully turn left or right I was not given medical attention until 5 or 6 days later.*

**W**hen we arrived here we first went to the Bossier Maximum Security Jail, we opened the place up, it was a new jail that was not due to open until Nov. I think. Anyway from the time we was put into cells things took off from there. . . . [W]hat I meant by things took off from there, is that once they got us into them cells they kept us in them cells, didn't let us out to use the phones or shower. You know we had to walk in chest high water "contaminated water," sit on a bridge with no water, etc. etc. . . . well anyway, we were kept in the cell for about 4 or 5 days before they let us out 1 cell at a time to shower and use the phone. We had to do all this in fifteen minutes. Now during them 4 to 5 days, longer for some, but during them

days we were sprayed with pepper spray and beat up.

I was beat badly my right leg (knee) is still given me problems. I have not receive a full range of motion. My neck, I can't fully turn left or right I was not given medical attention until 5 or 6 days later. Once the beating was over, one Bossier officer got in my ear whispering "lil nigger boy, you know where the F-- you at, we don't play that shit out here, you ain't in New Orleans." . . . [T]hen they started hitting on me some more, they dragged me to the hole by my feet, pull my cloths off and put me in a cold ass cell butt naked then about 30 minutes later they put another dude in the cell with me ass naked and beat up pretty bad also.<sup>41</sup> ■

**One of the men at Bossier was arrested two weeks before the storm on a parole violation. He writes that at Bossier "we was treated bad, cause we was prisoner of Orleans Parish. We wasn't hostile, but they treated us as we was, beating us, if we didn't do anything to they liken. Treating us as if we wasn't human beings. . . . I don't put this on my worst enemy."<sup>42</sup>**

I was in OPP at the time of the storm because of traffic violations. I think one was for a stop sign, and I also had unpaid tickets. I have never gotten into any serious trouble with the law. Back in the middle of July I went to court and the Judge told me I owed \$700. He said if I didn't have the whole \$700 I would go to jail for 60 days. I said I could pay \$100 now and \$100 per month after that, but they sent me to jail.

They brought me to Orleans Parish Prison, where I was on the Receiving Tier for about three weeks. I think they are only supposed to hold you there for 72 hours. Three weeks without a change of clothes or nothing. On the Receiving Tier there are two man cells, but they had four people per cell. People were sleeping everywhere—on the floors and on the tables. I slept on a mat on the day room floor for the first couple of days until I found myself a bed.

Eventually they moved me to Templeman II (Unit F-2). A few days before the storm our phones cut off. Later the power cut off when we were watching TV and hearing about the evacuation. After the power cut out they brought a whole other tier onto our tier, which made it extra crowded. No food, no light. Once the power cut out you couldn't get water or flush the toilet.

I was in the building for maybe two or three days until deputies came and got us. Where I was, people weren't breaking much stuff, but we were talking about how we were going to die, and about how they'd left us. A couple of times when fights were close to happening, people would break it up. If you looked out the windows all you saw was water. Houses under water, cars under water. We saw inmates in other building hanging sheets out the window that were on fire. We saw others on top of

## IVY R. GISCLAIR

*My release date was September 9<sup>th</sup>, which was a few days after I got to Bossier. When that passed, I told one of the guards that my release date had passed and asked if there was anything I could do to get out of here.*

other buildings, but I don't know how they got there. One time I saw guards go onto a roof and throw an inmate into the water to a boat where other guards could get him.

We also saw a group of maybe six inmates on a roof and one of them jumped into the water and swam to a boat filled with guards. When he got there they pulled him into the boat and started kicking and punching him. Later, when they evacuated us to Central Lock-Up, we saw that same inmate standing on the outside of the glass when you walk out of Central Lock-Up. He was handcuffed, leaning against the glass, all beat up. His face was swollen, he was bleeding, and his shirt was off. We were asking him questions and that's how we found out he was the guy we had seen jump into the water. We asked the guards why they beat the guy up, and they were telling us that he was trying to escape. You're going to tell me that man was trying to escape when he swam straight to them? That man was trying to save his life.

The same day I got to the Broad Street Overpass, I got on a bus that took me to Hunt. At Hunt they just threw everyone in the yard to sleep in the grass—in the sun and the rain. When we got there they gave us one sandwich. I stayed there a couple of days; I don't know exactly how long. At Hunt, that is when things really started getting bad, with stabbings and rapings and fights on the yard. I witnessed

a bunch of fights, I couldn't even count. I seen people get stabbed. I almost got into fights numerous times because people cliqued up with each other when they got on the yard. If you went by yourself, people messed with you.

The guards couldn't control it at Hunt. They were only around the outside of the perimeter, so they couldn't see what was going on inside all of those inmates. A few times the guards shot straight into the crowd. I heard people talking about people who got hit, but I never seen anybody. I don't know what they were shooting, but people were saying it was beanbags.

After that I was transferred to Plain Dealing, Louisiana—Bossier MAX. That place wasn't even supposed to be open, so they didn't really have a staff. They had regular police officers and stuff acting as guards. My release date was September 9<sup>th</sup>, which was a few days after I got to Bossier. When that passed, I told one of the guards that my release date had passed and asked if there was anything I could do to get out of here. He blew up on me and started cursing me out. I started cursing him back, and that was when he pepper sprayed me through the food slot in my cell. The pepper spray hit me, but I picked up my blanket and got all the way in the corner, where the pepper spray couldn't hit me anymore. I had never been hit with pepper spray before. I couldn't breathe; I couldn't see.

The guy in the cell with me said he couldn't breathe and wanted to get out of the cell; he was feeling it just from being in the same cell with the pepper spray, and it didn't even hit him.

That guard later came back with a whole crowd of guards, including a big bald-headed white guy who seemed to tell all of the other guards what to do. From outside the cell they told the dude in the cell with me that when they opened the cell, he should come out. I could see that they were pointing a red light from a Taser at me, and when I saw that I knew they were going to come in and beat me up. I got on my knees with my hands on my head to show them I wasn't going to cause any problems. They walked in the cell and the big guy shot me with the Taser. When he stopped shocking me, the other guards all jumped on me and put handcuffs and leg shackles on me. Then they started beating me. Those wires from the Taser were still stuck in me, one in my chest and one in my stomach, so when he told them to get off me he started shocking me again, saying shit like "you like that, you like that!" He did that three times, where he would shock me and then let them beat me up and then start shocking me again.

I blacked out and woke up alone in a cell with no clothes on at all. There was a rack for the bed, but there was no mattress. The only thing in the cell was the rack, a toilet and toilet paper. They were saying things to me like "You New Orleans niggers think you so bad." They also said "you all are animals. I'm gonna put you in the woods with the animals." They called New Orleans "Thug City." I'm American Indian, but my skin's brown, so I guess they thought I was black.

In the isolation room it was freezing cold. You didn't have a mattress or

blanket and it was cold as hell, because you were sleeping on steel. Sometimes I slept on the floor, depending upon what was warmer at the time. They fed you three times a day like everyone else, but no one would talk to me in there. The Bossier inmates or whoever who would bring the food wouldn't answer any questions. When I asked questions the guards would tell me to shut the fuck up and throw my food into the cell so it would fall onto the ground.

I was in that isolation cell for about a week when the guy who shot me with the Taser came and talked to me. He asked me if I had calmed down and if I would act right. I told him I didn't do anything wrong—all I did was ask the guard a question and then he got mad at me and pepper sprayed me. The next day they brought me back to general population and gave me back some clothes.

I was released around September 24, when Hurricane Rita hit. When we first got to Bossier they took our orange OPP jumpsuits and gave us their own clothes. When I was released they took their clothes back and gave me the OPP clothes to go home in. They were releasing me and one other guy, and they drove us to the Lamar Dixon Expo Center in Gonzales, Louisiana. The Center said they couldn't take any more people there, so the guy who was driving us called his boss who said they couldn't bring us back to Bossier.

They left us at a Shell gas station in our OPP jumpsuits, fit to get shot by anyone who thought we had escaped from jail. They put my mom in danger because she had to drive all the way from home through Hurricane Rita to come get me there. I had money in my jail account back at OPP, but I never got any of that and have never heard anything about it.<sup>43</sup> ■

Another man, arrested on public drunkenness charges and held on fines and fees, writes that he suffers from cerebral palsy: “[A]t Bossier they are treating us like slaves locking us down letting us out the cells when they feel like letting us out starving us feeding us like little children, the little food we do eat be cold. They beat an inmate for nothing brutally beat him for nothing. I never thought I see anything like this in my life. I be praying to God to let me make it home safe to my family.”<sup>44</sup>

### c. Ouachita Parish Correctional Center

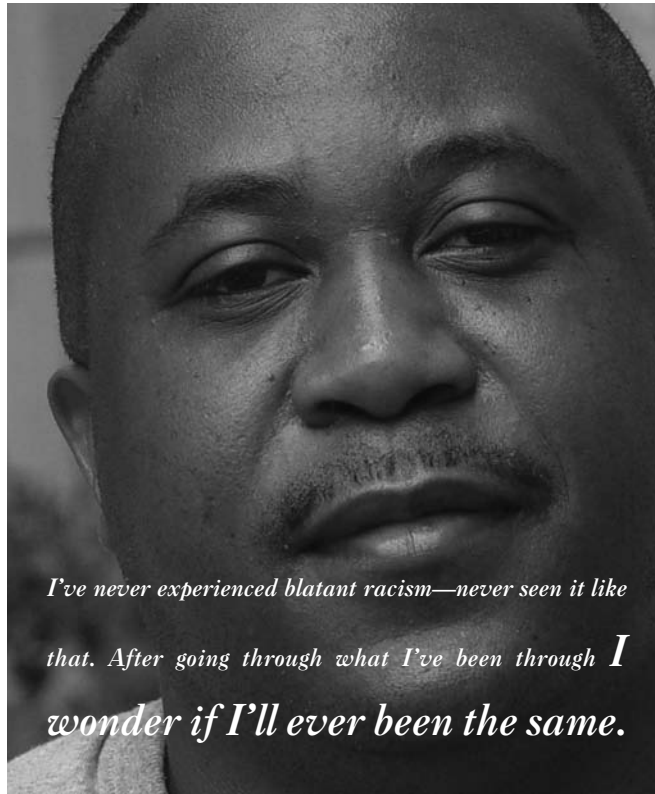
Other prisoners were transferred from Hunt to Ouachita Parish Correctional Center (“Ouachita”). Evacuees at Ouachita express shock at the level of racism displayed by the correctional officers. One prisoner calls Ouachita:

*racist to the ‘T.’ I mean from the slurs, to the hospitality, to the food service, I mean I don’t feel that these people care of our well-being at all. . . . We get tazed, maced and bean bagged on a regular basis, and I know that these deputies hate us because they tell us everyday. They even slide us our food on the floor, the same way you would feed a dog!”<sup>45</sup>*

Another man explains that he was “in total shock” at the treatment he received at Ouachita.<sup>46</sup> “The racism segregation, lack of personal hygiene and outright hatred that I and my fellow inmates receive on a daily basis is only something a prisoner of war experiences. The threat of violence and mistreatment is always over our heads.”<sup>47</sup>



## VINCENT NORMAN



*I've never experienced blatant racism—never seen it like that. After going through what I've been through I wonder if I'll ever been the same.*

On August 24, 2005, I was stopped by the police and arrested on a warrant for failure to appear in court and a \$100 fine. I was supposed to be released at an August 31 hearing, after serving a total of seven days and paying my fine. On the Friday afternoon before the Hurricane, Orleans Parish Prison stopped releasing people from the jail. I got my last full meal on Saturday morning, and phones were cut off that evening. On Saturday night, deputies put all of us in two-man cells. I was in Templeman III (Unit B-2), and there were a total of eight men in my cell. When I asked a guard when they would come back, the guard maced my cell. They had no regard for anyone, they were just concerned with themselves. If you asked a question, just a basic question, like: “when do I get my meds, when do we get to eat,” they would mace the cells.

By Monday there was at least eight feet of water on the bottom tier, but I was in a cell on the upper tier. Some of the inmates were able to open their cells, but my cell door did not open. I witnessed several inmates with various medical conditions suffer from dehydration—we were forced to live off toilet water, and lie in our own waste and bodily fluids. We were drinking out of toilets because that is all we had. The worst part was not knowing if someone would come find

us, not knowing if you would see your family, not knowing if you'd see your friends—it was just not knowing. When the rescuers arrived I was still locked in my cell and they had to pry the bars open. I walked out in chest deep sewer water, and was led to a boat that took me to the Overpass.

From the Overpass I was taken to Hunt's Correctional, where I spent 48 hours on the rec yard in hell. It was like a P.O.W. camp. They had triple murderers mixed in with guys that had never been in prison before—traffic violations, public drunkenness. I witnessed several stabbings and beatings that were neglected by prison personnel; on one occasion after being attacked by inmates, an inmate ran for help and was shot by guards. We were forced to bathe in a water hose and there were no bathrooms to use. I am ashamed to write this, but I hadn't had proper hygiene since Saturday morning, so you can't imagine the ungodly stench. I would not wish this on my worst

enemy. When it was all over I felt my life had been put in danger for a second time.

After leaving Hunt's we were brought to Ouachita Correctional Center, where the horrendous treatment continued. Ouachita was a reminder of the old South—I was exposed to overt racism, called racial slurs, and subjected to physical and mental anguish. I saw segregation and outright inhumane events. We started out getting some hygiene products, but it went downhill and then there was no hygiene at all; they treated us like second-class citizens. The guards cast judgments on us, treating us like we were all the same. They wouldn't talk to the inmates, and if we asked questions we would be maced or beanbagged. One of the Lieutenants once said: “I could treat you like men or I could treat you like what you are.” When I asked, “and what's that?” he just rolled his eyes at us. Ouachita needs investigation. I've never experienced blatant racism—never

seen it like that. After going through what I've been through I wonder if I'll ever been the same. They used to set the food trays on the floor, and we would have to pick it up from there. I asked why they did that, and they said we were like monkeys, and that's what you do with animals at the zoo.

In early November, my sister started helping me get a court date. I found out on December 2 that I had been released, and I was transferred to Hunt for processing and released on December 5 in New Orleans. They had lost my clothing, so until I reached New Orleans I just had scrubs and sandals—it was very cold. I was in jail for almost four months on a \$100 fine that I didn't even know I had to pay.

People need to know what is happening behind closed doors. It's a whole other world. You got people in for being drunk in public to murderers, but once they close the doors they treat everyone like shit, all the same: guilty until proven innocent. It's not just what happened at OPP; there is inadequate representation also. The public defender meets you at 8am, and goes to trial at 10am. They don't know you as a person. They are tryin' to move you through 'cause they got 300 to 400 other cases that week. There is no representation—if you are indigent, you are screwed.<sup>48</sup> ■

One man explains:

*I have been beat, tazed, maced, sprayed with pepper, bean bagged, spit on, almost bitten by a dog several times, cursed out, called niggers, monkeys, animals and other racist slurs. I have been deprived of all my priveledges and some of my rights, put in rubber rooms, stripped naked and sprayed down with pepper. They gave us one of everything in clothes and nothing else, they didn't let us communicate with nobody or each other they cut our hair with unsanitized clippers . . . They slide our food to us on the floor through a slot . . . They think all of us in here are killers and they tell us, since we kill people and think we can get away with it then they can treat us any way they want and get away with it. That nobody gives a damn about us and we all are gonna die here and their gonna bury us out back where their parents use to bury our parents. Now you know their talking about slavery and if that's not discrimination I don't know what that is.*<sup>49</sup>

Another prisoner recalls one occasion when three deputies “beat the piss out of him, using their hands and stomping on him. They then took him out of the dorm. He came back maybe two days later.”<sup>50</sup> That same day, this prisoner reports: “[T]hey did that for maybe 4 or 5 other people. . . . This was not standard prison violence. They said they didn't know what we were all in there for, so they said they would treat us all like we were murderers until they knew. So they treated us like high risk inmates.”<sup>51</sup>

#### D. Jena Correctional Facility

The experience of the Orleans and St. Bernard Parish prisoners in the days and weeks after Hurricane Katrina was hardly unique. In fact, prisoners from neighboring Jefferson Parish also spent days in their facility without food, water, or electricity. Just as DOC was finally called in to evacuate the prisoners trapped in OPP, DOC officers evacuated the Jefferson Parish prisoners beginning on the Tuesday after the storm. They were taken to the Jena Correctional Facility (Jena), where prisoners who had been stranded in Calcasieu Parish Prison in the aftermath of Hurricane Rita joined them. For many of these prisoners, their evacuation to Jena was viewed as the rescue they had been awaiting. In reality, the evacuation to Jena only marked the beginning of a new nightmare.

Jena was formerly a privately-run juvenile correctional facility that was shut down in 2000 following a U.S. Department of Justice investigation that revealed widespread abuses there. Youth at the facility were “being deprived of food, clothing and medical care and were routinely beaten by guards.”<sup>52</sup> The state reopened Jena within a day or two after Katrina to house evacuated prisoners, and staffed the facility with correctional officers from other state prisons, most of

whom came from Louisiana's David Wade Correctional Center. The state requested additional assistance in staffing the facility, and officers from New York City's Rikers Island Correctional Facility—the country's second-largest jail—came to help.<sup>53</sup>

The prisoners, who had already suffered the trauma of the storm itself, and the delay in their evacuation, were wracked with worries and uncertainties about what had become of their homes, their families, and their friends. They were loaded onto buses to Jena for a ride that took several hours, their wrists cuffed tightly together with plastic tie-wraps. Keith Dillon, a prisoner from Jefferson Parish Correctional Center, describes the ties being so tight that prisoners' wrists started to bleed.<sup>54</sup> Scarring was visible on the wrists of over 100 prisoners nearly one month after the transfer, according to one attorney who interviewed the prisoners.<sup>55</sup> Some prisoners were injured when one of the buses en route to Jena got into a serious accident when the bus driver fell asleep; the cuffed prisoners could not brace themselves when the bus hit an electrical pole.<sup>56</sup>

According to prisoners interviewed by private defense attorneys and by attorneys with HRW and LDF, corrections personnel subjected them to egregious physical and verbal abuse almost immediately after they arrived at Jena. Within the first three days, officers pulled nearly all of the prisoners from their beds in the middle of the night and forced them to remain face down on the floor; some men were held in this position for up to eight hours. If the men moved or raised their heads, the officers would hit and kick them. One man who turned his head after falling asleep was kicked in the face by a guard to wake him up, and then told to put his face back down.<sup>57</sup>

During their stay at Jena, prisoners were slapped, punched, beaten, stripped naked, hit with belts, and kicked by corrections officers. When prisoners broke prison rules such as moving when told to be still, or not moving quickly enough, officers often responded by hitting and kicking the men and threatening to whip them. For example, two prisoners who had been in a fight were handcuffed. One of them was taken to an isolation cell. When he arrived at the isolation cell, the officers dropped him to the ground and punched him. As he was lying on the floor, his mouth and nose bleeding, the prisoner was ordered to clean up his own blood. The other prisoner in the fight was handcuffed, punched in the chest and ribs, and slapped in the face.<sup>58</sup> Another man was badly beaten by an officer who kicked him in the head and slammed his face against a wall because he did not get out of bed quickly enough one morning. “This is a living nightmare for me,” he later commented. “I know this isn't legal.”<sup>59</sup>

As another measure of control, on multiple occasions detainees were ordered to kneel and press their noses to the wall, and they were kicked in the head if they moved. They were often kept kneeling for hours at a time.

The detainees, most of whom were African-American, were subjected to degrading treatment and racist slurs by the correctional officers, most of whom were white. One guard told a detainee, “I can't stand none of you motherfuckers from New Orleans.”<sup>60</sup> Another guard grabbed a detainee by the hair (before his head was shaved) and called him a “mop-head motherfucker.”<sup>61</sup> Other terms reportedly used by the

officers included, “niggers,” “boy,” “monkeys,” “bitches” and “pussy-ass motherfuckers.”<sup>62</sup>

At one point in their stay, several prisoners were told to line-up, place their hands behind their heads and press their groins against the buttocks of the prisoners in front of them. An officer taunted them, saying: “Hard dicks to soft ass! I know y’all are getting hard, because I am.”<sup>63</sup>

## KEITH M. DILLON

*I was slammed down to the floor, handcuffed behind my back and a third officer came over and kicked me more than 20 times in my back.*

The abuse started immediately making inmates go to their knees for hours while handcuffed. On or about the third day, a DOC Warden and DOC deputies along with LaSalle Parish Sheriff's deputies came in with dogs, riot gear, etc., beating inmates down, forcing us to the floor face down. I was hit in my back because my hands were at my side, not in front of me. I saw a LaSalle deputy slam a guy from Annex D in Jefferson Parish face down into the floor, knock two of his teeth out, then make him lick up his own blood. I could hear them beating people, people yelling, and if you looked up you got beat. After about 6 hours face down freezing, they started shaving our heads. We were told if one person messes up then the whole dorm pays.

They started beating inmates and verbally abusing us. Making us strip down and stand in line "dick to ass" (as one deputy said) with our elbows straight forward, our hands clasped behind our heads. They would make us go to chow that way and come back, standing for up to three hours at a time. They would feed 80 men in 10-15 minutes, from the time we lined up to the time we got back to the dorm. We heard from the trustee that FEMA sent all kinds of food and drinks, etc. for us, but that the deputies were taking it all for themselves.

Lake Charles inmates came they didn't touch them, while everyday some one got beat, put on their knees for hours, slapped around, just abused period. On some days, one New York DOC official would

have his people dress in full riot gear and march around and down the halls just to freak us out. One person said, "we're going to show you boys how we do it in NY." It was like we were practice dummies for these sickos in this sick ordeal. They were all just evil. It was like you could see it in them. I could feel it.

On 9-27-05 I was in the chow line at Jena. The person in front of me got out of line so I moved up; then he came back and got in front of me. I tried to let it go but this is jail and respect is important, plus this situation had got us all kind of nuts. So I told him, "You're not getting back in front of me. Move. You left the line." He said he's not a punk so I gave him the chance to move. He didn't so I grabbed him and moved him into the door. One of the officers saw what happened and yelled something in the hall. I let the guy go, but the officer grabbed me and then another officer came over and punched me in the side of my head. The other person and I were dragged to the back of the hallway. I was slammed down to the floor, handcuffed behind my back and a third officer came over and kicked me more than 20 times in my back. One of the officers said, "they can see" meaning that the rest of the dorm could see, and then said, "bring him back here." So I was picked up and slammed down again. The officer who kicked me asked what happened over and over, and each time I would look at

him and tell him and he would kick me again in the back, and my face would hit the wall. I could hear them beating the other person also. All of a sudden everything stopped. I was picked up by two of the officers and turned to face them, and one of the officers punched me in my right shoulder. When he saw that it hurt, he punched me again in the same spot, all 400 pounds of him. Then I was dragged off past the dorms to lock down.

When I got to lockdown, there were DOC deputies everywhere. The other guy was further in than I was and they were working him over. I was told by a Lieutenant to turn and face the wall on my knees. I was forced down and then hit in my head. The Major arrived and by this time I'm hurting bad. But I know that if I fall down they'll stomp me to death so I hang on. The Major starts asking me, "What are you doing? Ain't you too old for this shit? How old are you? What did I tell y'all? That if any of you fucked up you would get the shit beat out of you?" I would answer him and each time I did he would hit me on both sides of my head, one side, then the other. On about the fifth blow to my left side, my hearing stopped but I didn't go down. I would look him straight in his blue eyes and answer. He hit me about 12 times. I could see his hands were red. One of the Lieutenants said, "You should have given him more," and hit me three more times to the side of my head.

I was stripped naked and put in a cell, last one on the left. The other person was across from me and a guy whose head they fractured was next to me, I think.

I passed out I guess because the door opened and the Lieutenant and a nurse were there. They asked me what happened and asked to see my hands for open cuts from fighting. I showed them and said there was no fight, no punches thrown between me and the other person. She said then how did this happen? I said looking at the Lieutenant, "I can't really say." He smiled. She said that it had to happen somehow. I said again that I couldn't really say. The next day the nurse came around and I told her I couldn't hear out of my left ear and what kind of medical professional was she to condone this abuse? She said she didn't condone it and I said, "but you're letting it happen."

A while later Rachel Jones and other defense attorneys showed up to talk to us about our criminal cases. I told her just like the other inmates did what was going on—all 80 of us in a 40-man dorm did. I showed her and Christine Lehmann my face and the sides of my head and ears, but after they left the abuse continued. On 10-4-05, NAACP LDF and Human Rights Watch showed up. I talked to them, showed them my head and there were still bruises on my head and my ears. Two days later I was called to leave that hellhole. On the way out, the Major said, "Hey Dillon, I want you to have a good fucking life, whether you can hear me or not."<sup>64</sup> ■

Soon after their arrival, all the men at Jena were forced to have their heads shaved, which is not a standard corrections procedure in Louisiana. Prisoners had no contact with the outside world for the first few weeks they were at the facility. They were unable to use the telephone and only after two weeks were they given writing materials to send letters to their families. In short, they had no way to let their families know where they were or even that they had survived the storm. None of the men were allowed to see their attorneys during their stays in Jena.

In another incident, a prisoner who was with a group of other men asked the warden when they were going to be able to contact their families. The warden responded, “Mother-fucker, do I look like I care?”<sup>65</sup> The warden ordered an officer to “lock this stupid motherfucker up,” and he was placed in isolation.<sup>66</sup>

Prisoners at Jena were also denied adequate medical care. They were unable to get medications, including antidepressant and antipsychotic medications, which they had been prescribed. It took more than two weeks for a doctor to begin visits to the facility and for two nurses to begin reporting from 9 to 5 each day to administer medication.

Detainees repeatedly requested grievance forms to make complaints about their treatment but never received any forms. In one instance, a guard handed a detainee a sheet of toilet paper in response to his request for a form.<sup>67</sup>

It was not long before reports of abuse at the Jena facility began to leak outside of its walls. Four attorneys from a group of 30 volunteer defense lawyers in Louisiana, coordinated by attorney Phyllis Mann, visited the Jena facility and interviewed each and every detainee. Prisoners gave numerous accounts of the abuse they suffered, which were then submitted in the form of affidavits to the state and other interested attorneys.<sup>68</sup>

In response to these allegations, both HRW and LDF made a follow-up visit to the facility to interview prisoners and officials, and they heard the same accounts of horrific abuse. Almost every prisoner whom HRW and LDF interviewed reported that he had been hit or kicked by the prison staff. The men were frightened and some were even crying during the interviews. One said, “I don’t know what they’ll do to me once y’all leave here.”<sup>69</sup> The *New York Times* and the *Los Angeles Times* each ran stories detailing the accounts of abuse emerging from the Jena facility.<sup>70</sup>

Prison officials responded by denying the allegations. During their visit to Jena, lawyers from HRW and LDF interviewed Major Brad Rogers, the state corrections official in charge of day-to-day operations at Jena. Major Rogers said that officers had not used excessive force at the facility and that the staff were all “trained professionals.”<sup>71</sup>

On October 1, LDF contacted Louisiana state legislators and the Superintendent of State Police, Colonel Henry Whitehorn, about the abuse allegations at Jena. One day later, on October 2, HRW called on Richard Stalder, the Secretary of Louisiana’s DOC, to conduct an investigation into the allegations.<sup>72</sup> Shortly thereafter, Secretary Stalder ordered that the facility be shut down and prisoners be dispersed to other facilities throughout the state. Despite the rapid closing of the facility and national media coverage of the alleged abuse, the state has not disclosed whether or not it has opened an inquiry.

## E. Not All Bad

Although the evacuation of thousands of prisoners from southeastern Louisiana placed a strain on many officials at the state’s receiving facilities, not all of them responded to the challenge with abuse and indifference. For instance, hundreds of women from OPP were transported to Angola, an all-male, maximum-security facility that typically holds over 5,000 prisoners. When the first OPP evacuees arrived at Angola, one staff member recalls that they looked as if they had arrived “directly from hell.”<sup>73</sup> Despite the fearful reputation that Angola has earned over the years, many women evacuees praised the treatment they received.<sup>74</sup> In fact, many of the women noted that they were treated better at Angola than they had been treated at OPP prior to the storm.

One woman writes: “At Angola they took very good care of us. They took all our information, clothed & fed us, gave us many personal supplies. (OPP gives NO personal supplies.)”<sup>75</sup> Another woman writes that when she arrived at Angola, she “received food, water, clothing, medication Hepatitis shot to make sure we did [not] get exposed to anything. Also they gave us personal needs and last but not least I was given a bed with sheets & blankets. The people at Angola treated us 100% good if it wasn’t for them rescuing us we would have been dead today.”<sup>76</sup> At Angola, writes another female prisoner: “[T]hey trust us like real women, and really care about how we feel. So we’ve been blessed ever since. Everything we needed, since we came to L.S.P.”<sup>77</sup>

Some of the men also report good treatment at Angola. One disabled prisoner, who spent days in a van on the Overpass, writes that Angola

*treated myself and the other handicap inmate real good. They gave us beds hot meals 3 times a day. Shower every night clean clothes, hair cuts every week if you wanted one, I can’t say anything about Burl Cain and his guards. They was real nice to us. They even went as far as putting us in there new church they built we have a nice big T.V. so we could watch the news’s.*<sup>78</sup>



Tents designed to house 800 prisoners currently under construction



## IX. BUSINESS AS USUAL: THE RETURN OF PRISONERS TO OPP

When Hurricane Katrina swept through New Orleans, many parts of the city and the surrounding region were virtually wiped out. In the year since the storm, the city of New Orleans, the state of Louisiana, and the country have engaged in a sometimes heated debate about how and, indeed, whether to rebuild New Orleans.

In a perverse turn of events, some viewed the creation of a temporary jail facility at a Greyhound Bus Station near downtown as the first step to rebuilding New Orleans. Angola's Warden Burl Cain declared the makeshift jail "a real start to rebuilding this city."<sup>1</sup> But the problems endemic to the local criminal justice system certainly were not solved by the storm, nor did the rebuilding of a jail cure them. After the waters receded, Sheriff Gusman quickly began the process of refilling OPP. When much of the city was still assessing whether it was safe to return to flood-ravaged areas, the Sheriff was moving people back into the jail.

### A. The Sheriff Prematurely Reopens OPP

On October 17, 2005, Sheriff Gusman reopened HOD, one of the oldest of the twelve OPP buildings. Since October, several others buildings have been reopened to warehouse New Orleans's constant flow of arrestees. The Sheriff reopened these buildings without putting into place the most basic safeguards for the health and well-being of the men and women housed there.

Rather than working with the Mayor and City Council of New Orleans to ensure the prison buildings were safe before they were reopened, the Sheriff hastily moved toward repopulating his jail. The Sheriff recently boasted that in his rush to reopen HOD—a building owned by city, not the Sheriff's office—he "just ignored the city. . . . I just couldn't wait for them."<sup>2</sup> In doing so, the Sheriff appears to have circumvented essential procedures that were used throughout the city to repair and clean flood-damaged buildings.

In the one year that has passed since Hurricane Katrina, the City Council has not held a single hearing to discuss problems associated with the evacuation of OPP, the apparent absence of an emergency plan at the reopened jail, and

recurrent complaints about current conditions at the jail—including reports of a recent, apparently preventable prisoner death. The ACLU of Louisiana has twice called upon the City Council to hold hearings on the Sheriff's decision to reopen the prison buildings.<sup>3</sup> In both requests the ACLU

reminded the City Council of its “obligation to do what it can to protect the lives and safety of the prisoners and staff at OPP, and to ensure that institutional failures during Hurricane Katrina are not repeated.”<sup>4</sup>

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## DOING “KATRINA TIME”:

### INDIGENT DEFENDANTS LANGUISH IN JAILS AND PRISONS THROUGHOUT THE STATE

Long before Hurricane Katrina hit the Gulf Coast, the indigent defense system in Louisiana was essentially broken. In 1993, the Louisiana Supreme Court concluded that there was “a general pattern . . . of chronic underfunding of indigent defense programs in most areas of the state.”<sup>5</sup> According to one study issued 11 years after the Louisiana Supreme Court decision, the state's indigent defense system continued to deliver “ineffective, inefficient, poor quality, unethical, conflict-ridden representation to the poor.”<sup>6</sup> Recognizing the problems of a systematically underfunded indigent defense system, the Louisiana Supreme Court acted again in April 2005, ordering that any given prosecution may be halted if appointed counsel is not provided with adequate funds.<sup>7</sup>

Following Hurricane Katrina, the entire criminal defense system in New Orleans ground to a halt.<sup>8</sup> Although public defenders are needed to represent 85% of the individuals arrested in New Orleans, the public defender office was for years funded almost entirely by fees attached to traffic fines.<sup>9</sup> With no revenue in the months after the storm, the office quickly lost 75% of its attorneys, leaving thousands of New Orleans prisoners stranded in facilities across the state without any access to counsel whatsoever.<sup>10</sup> A study by the U.S. Department of Justice (“DOJ”) concluded that due to the collapse of the indigent defense system in New Orleans:

*[p]eople wait in jail with no charges, and trials cannot take place; even defendants who wish to plead guilty must have counsel for a judge to accept the plea. Without indigent defense lawyers, New Orleans today lacks a true adversarial process, the process to ensure that even the poorest arrested person will get a fair deal, that the government cannot simply lock suspects [up] and forget about them.*<sup>11</sup>

Many of the OPP evacuees spent months in prison on minor charges without seeing a lawyer or appearing in court to answer the charges against them—for many of these individuals, by the time their case was brought to the court's attention, they had already served more time in prison than they ever would have received had they been found guilty. Prisoners also remained incarcerated for months after their release dates had passed, notwithstanding the fact that on September 8, 2005, Sheriff Gusman produced a list of OPP prisoners that contained release dates for them. Through painstaking work, a small group of local defense attorneys worked throughout the year to identify these individuals and file motions and petitions on their behalf seeking their release.<sup>12</sup>

From September 2005 until June 2006 there were no criminal trials in New Orleans.<sup>13</sup> Once the court building reopened, a new series of problems emerged. Judges often struggle to get witnesses or jurors to appear for trials, and the number of courtrooms available is inadequate to conduct all necessary hearings.<sup>14</sup> Although OPP was reopened shortly after the storm, the Sheriff quickly filled the jail with new arrestees as well as state and federal prisoners. Because there was no bed space at OPP, evacuees who waited nine or ten months to appear in court were stuck in facilities all around the state, unable to return to Orleans Parish to attend scheduled court hearings. While new arrestees often appear in Magistrate Court without an attorney,<sup>15</sup> it has become commonplace in the Orleans Parish Criminal District Court for incarcerated defendants in DOC custody to be the only people missing from the courtroom. According to Calvin Johnson, Chief Judge of the Criminal District Court, New Orleans has “a limited number of jail spaces, and we can't fill them with people charged with minor offenses such as disturbing the peace, trespassing or spitting on the sidewalk. . . . I'm not exaggerating: There were people in jail for spitting on the sidewalk.”<sup>16</sup>

In an effort to open more bed space at OPP so evacuated parish prisoners do not miss court dates, Chief Judge Johnson issued an order on May 17, 2006, requiring that all persons charged with municipal or traffic offenses be released and issued a citation to appear in court on a later date.<sup>17</sup> The New Orleans Times-Picayune's editorial board calls Johnson's approach “the proper course.”<sup>18</sup>

In March 2006, New Orleans's population only stood at 155,000.<sup>19</sup> By late May, as many as 150 were entering OPP each day.<sup>20</sup> With fewer court dates and almost no public defenders available, the court system is woefully backlogged—approximately 6000 cases have stacked up without any movement, according to the Orleans Parish District Attorney.<sup>21</sup> The rush to reopen damaged OPP buildings, the high number of continuing arrests, and the lack of trials, have combined to create a prison complex that is an overcrowded, unsanitary, and inhumane human warehouse. “For the vast majority of arrested individuals,” according to the DOJ study, “justice is simply unavailable.”<sup>22</sup>



## 1. No Evacuation Plan Can Be Located

Three days before the Sheriff reopened HOD, the ACLU posed a series of questions to him regarding the reopening of the building. One question was whether there was a current evacuation plan for the jail, and whether the plan had been revised since Hurricane Katrina.<sup>23</sup> At a court hearing on October 17, 2005, the day HOD was reopened for business, the ACLU obtained an order requiring the Sheriff to produce “the current evacuation plan pertaining to the Orleans Parish Prison.”<sup>24</sup>

After two weeks, the ACLU wrote to the Sheriff asking that he comply with the court order and produce the plan. The Sheriff’s counsel responded by stating that he would “send . . . the current fire evacuation plan when he can locate the officer who maintains the Procedures manual.”<sup>25</sup> Having received nothing for ten more days, the ACLU filed a motion to hold the Sheriff in contempt of the court’s order. In response, the Sheriff’s counsel wrote to inform the ACLU that

*the fire evacuation plan is in the possession of the Fire Safety Officer for the Sheriff’s Office, Raymond Fitzpatrick (who is a retired district fire chief). Mr. Fitzpatrick has not been seen or heard from since Hurricane Katrina struck New Orleans. In an effort to locate the plan, we intend to break into Mr. Fitzpatrick’s locked filing cabinets at the House of Detention. If it cannot be located there, that means it is instead located in the Community Correctional Center. No one is allowed into the CCC at this time for health reasons.<sup>26</sup>*

With this letter, the Sheriff’s counsel admitted that nearly two months after the Sheriff returned prisoners, staff, and deputies to HOD, there was no Fire Safety Officer assigned to the facility, no accessible fire evacuation plan in place, and there was little expectation that such a plan would be produced in the foreseeable future. Moreover, the Sheriff’s counsel appeared to have made no effort to locate any current evacuation plans aside from the fire evacuation plan. There is no indication whether the patently inadequate two-page Hurricane/Flood Contingency Plan that was purportedly in place at the time of Katrina was revised in any manner.

## 2. Adequate Medical Care Is Not Available for Chronically Ill Prisoners

Prior to the storm, emergency medical services were provided to prisoners by Charity and University hospitals, two public hospitals in New Orleans. However, at the time HOD was reopened, both hospitals remained closed.<sup>27</sup> In light of the damage suffered by many of the prison buildings, and given that many health

care staff and officers had not returned to New Orleans, the ACLU asked the Sheriff to explain how the jail planned to provide prisoners with medical and mental health services.<sup>28</sup>

Those questions were in fact answered several weeks later, when the Sheriff wrote to the New Orleans City Council to propose his new budget. In that letter, the Sheriff admitted that the “limited medical staff and equipment can’t provide all of the services that are needed for dialysis, surgery, and the treatment of AIDS.”<sup>29</sup> In light of the Sheriff’s admission, it should come as no surprise that prisoners complain about current medical care at OPP. Prison officials report that serious medical cases are taken to neighboring hospitals several miles away, but one prisoner explains that “you got to be ready to die” to be taken to the hospital.<sup>30</sup>

One prisoner recently described an incident in which another prisoner who was supposed to be receiving medication:

*threw up major beaucoup blood, purple blood, pieces like the size of extra large jolly ranchers. . . . Everyone thought he would die. We called deputies and asked Ms. Thurman to get him out of here and at first Thurman said medical wasn’t coming. She saw the blood and everything and we convinced her we need to get him out of there. He could barely move. Blood around his feet at least 1/2 inch thick. We had to mop it up when he left.<sup>31</sup>*

Another man who suffers from epilepsy complains that when he informed deputies of his medical condition and asked to be placed on a bottom bunk, he was beaten and moved to another section of the prison.<sup>32</sup>

With the Medical Observation Unit of Templeman I still closed, wheelchair-bound prisoners report they are now held in areas of the jail that are not handicap-accessible. One such prisoner held on the 10<sup>th</sup> floor of HOD filed a grievance with Warden Pittman regarding problems he has had in navigating through the jail. In his grievance he writes:

*Warden Pittman, I’m sending this grievants to you about some serious problems in having, I’m already confined to a wheel chair with one leg. I have been having trouble getting on and off the toilet and when I have to shower I have to try and jump from one chair to another to shower I really can’t help myself is there some where close yall could send me that have handicap rails in the showers and around the toilets where I wouldn’t hurt myself.<sup>33</sup>*

The curt response provided by Warden Bonita Pittman reads simply: “You are on a medical tier what you are requesting does not exist in the jail facilities.”<sup>34</sup>

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## INCOMPETENT DEFENDANTS

By law, a criminal prosecution may not proceed in Louisiana if a court determines that the defendant is not mentally competent to stand trial.<sup>35</sup> The state may attempt to restore an incompetent defendant to competence through jail-based treatment, but that treatment may not exceed 90 days.<sup>36</sup> At that point, if competency has not been restored, the defendant must be transferred to the Feliciana Forensic Facility (“Feliciana”).<sup>37</sup> Even before Hurricane Katrina brought the New Orleans criminal justice system to a halt, mentally incompetent defendants

often languished in local jails for months waiting for a transfer to Feliciana. While in jail they received limited, if any, treatment for their mental health conditions.

Eleven days before Hurricane Katrina hit New Orleans, Tammy Sims was supposed to be released from OPP and transferred to Feliciana.<sup>38</sup> Ms. Sims had been arrested earlier in the month on a charge of public drunkenness, and was being held on a one-year old solicitation charge.<sup>39</sup> At an August 18, 2005 hearing, the trial judge concluded that Ms. Sims, who suffers from schizophrenia, was mentally incompetent to stand trial; he ordered that she be transferred to Feliciana, where she was to receive treatment to restore her to competency.<sup>40</sup> On the day of the storm, Ms. Sims was still in OPP, and only a chance encounter with a Tulane law student long after the storm led to her release 10 months later.<sup>41</sup>

Ms. Sims's experience is not unique, though it is unknown how many incompetent defendants were, and still are, languishing in prisons and jails throughout the state following Katrina. Many of these men and women may not be receiving adequate treatment, nor is there any reason to expect that they will soon be transferred to a hospital or other treatment facility, or that they will appear in court.

### 3. The Reopened Buildings Remain Damaged and in Need of Repair

It is not surprising that the OPP buildings were heavily damaged following the storm. Water from the storm destroyed the mechanical, electrical, and plumbing systems necessary to make many OPP buildings habitable. The water ruined surveillance equipment, shorted out electrical systems that manage the locking devices, and otherwise compromised basic safety systems.<sup>42</sup> Some of the buildings had enormous holes in the exterior walls, through which men, women, and children had escaped the rising floodwaters. Prisoners housed in HOD report that there has been no hot running water since the building was reopened. In his letter to the City Council, Sheriff Gusman admitted that he returned prisoners to two buildings that "still require additional repairs and improvements to be brought to pre-Katrina levels."<sup>43</sup>

One problem the Sheriff appears not to have addressed is possible mold infestation. Following Hurricanes Katrina and Rita, the Centers for Disease Control warned that untreated mold will exacerbate asthma and can have serious health effects, particularly for those who have other chronic conditions.<sup>44</sup> The CDC recommended that public officials develop a comprehensive program to identify and repair mold-infested buildings, which include any building that had been water-logged for more than 48 hours, and to implement a coordinated public health response to track and treat persons who suffer health effects from being exposed to mold.<sup>45</sup> While the rest of New Orleans was becoming expert in mold remediation, Sheriff Gusman said simply that the ground floor of HOD was "kind of mothballed."<sup>46</sup>

In March 2006, several prisoners mailed to the ACLU samples of what they believed to be mold scraped from their cell walls. Once tested, many of the samples were found to contain various types of mold. Although the presence of mold alone is insufficient to declare a health emergency, these samples strongly suggest that additional testing of the air in the buildings and of mold collected from surfaces in the buildings is warranted.

In addition to aggravating asthma, mold can affect the immune system, cause flu-like symptoms and pneumonia, and in some cases can lead to hepatocellular cancer.<sup>47</sup> Some prisoners report suffering from cold and flu-like symptoms such as headaches, nausea, and body aches most days they remain inside the facility. One person reports nausea, fevers and diarrhea for four days,<sup>48</sup> while another states that he had migraines

and severe stomach pain.<sup>49</sup> In March 2006, one prisoner who mailed samples of mold collected from the Templeman V building described his asthma as "increasing in severity."<sup>50</sup> In his letter he names one prisoner who reportedly "contracted pneumonoma and is on 4 types of inhalers from asma attack's (sent to Hospital for x-rays[.])"<sup>51</sup> The Sheriff refused to turn over this prisoner's medical records to the ACLU.

### 4. Severe and Sustained Overcrowding

The average floor in the House of Detention contains four tiers (HOD Northside, HOD Southside, CLU Northside, and CLU Southside). Each tier typically holds three ten-person cells, for a total designed capacity of 120. Inside of each 10-person cell are two toilets and five double-stacked bunk beds. Prisoners report that they have been housed with up to 18 people in their cells. According to one man on the 3<sup>rd</sup> Floor of HOD who was interviewed in June 2006, there are 16 men in his cell, 17 men in cell 1 and 14 men in cell 2. delxi The six men who are sleeping on the floor all have mats, but one prisoner sleeping on a bunk had not had a mattress for two weeks.<sup>53</sup> Another prisoner explains that when prisoners are placed in a cell in HOD, "some don't even get mattresses or blankets for a few days."<sup>54</sup> With people sleeping on the floor, "[i]t is so packed upstairs that everyone has to shift themselves and their mattresses for one person to use the toilet."<sup>55</sup> In some cells, prisoners are forced to sleep alongside the toilets because of the lack of space.<sup>56</sup> Several prisoners report that the floors are still filthy and soiled with urine from when the toilets overflowed during the storm.<sup>57</sup>

Most of HOD is not air-conditioned. The building, which is ten stories high and has small windows in the walkways outside each cell, becomes oppressively hot during the summer. Across from most cells there is a small window fan that circulates hot air. For the men who are crammed into a cell at nearly double capacity, the heat affects every aspect of their lives. According to one man, "[i]t is so hot up there with all of those people that it gets hard to breathe. Tensions run high and deputies don't care because they don't have to live up there. It is an animal house up there."<sup>58</sup> Another prisoner, an insulin-dependant diabetic living in a non-air conditioned medical tier, reports that there is "[n]o air at all. Mad hot. The fans work but don't really blow nothing."<sup>59</sup> Prisoners faced the opposite problem in the winter, when they were returned to a building with windows that were broken in the days after Katrina.<sup>60</sup> One prisoner reports that in February it was "too cold to shower."<sup>61</sup>

## THE DEATH OF KERRY ANTHONY WASHINGTON



*Here, family friends and community members attend a vigil outside the prison building where he died.*

**K**erry Anthony Washington, 39 years old, was arrested on April 25, 2006 by the Jefferson Parish Sheriff's Office. According to Mr. Washington's wife, Cheryl, the two of them were engaged in an argument and, although no violence had occurred, Mrs. Washington contacted the local police.<sup>62</sup> Upon their arrival, Jefferson Parish Sheriff's deputies discovered that Mr. Washington had an outstanding Orleans Parish warrant for failing to appear in court to answer a charge of first-offense possession of marijuana. They arrested Mr. Washington and turned him over to the Sheriff's office.

After his arrest, Mr. Washington's wife telephoned or visited the jail every one or two days to determine the status of her husband's case. Unsatisfied with being told that Mr. Washington was being held on a warrant, she visited the clerk's office of the criminal court, where she was told that her husband had a court hearing sched-

uled for May 12. On May 12, Mrs. Washington went to the House of Detention, where her husband's court hearing was supposed to occur. Upon her arrival, she was told that the hearing was not open to the public. In the hopes of catching a glimpse of her husband, Mrs. Washington stayed around for a little while. Eventually she went home. Later that night, Mrs. Washington called Central Lock-Up and was informed that her husband had been released from the jail at 5:30 pm.

After some time had passed without hearing from her husband, Mrs. Washington drove to the jail, thinking that her husband was waiting for her to pick him up. When she found that he was not there, and she confirmed that he had not called her, his mother, or any of their friends, she drove to

several bus terminals around the city in search of him.

On Saturday morning, Mr. Washington's mother—a Hurricane Katrina evacuee now living in Georgia—flew to New Orleans to help locate her son. Melvina Washington went to Central Lock-Up, where she met her daughter-in-law. Both women again were told that Mr. Washington had been released the previous evening.

When Melvina Washington asked to speak with someone else in Central Lock-Up, and Cheryl Washington asked to see documentation of her husband's release, a high-ranking official in the Sheriff's Office informed the two women that Kerry Anthony Washington had died two weeks earlier, on April 29, 2006, just four days after his arrest.

According to the Sheriff's spokesper-

son, Mr. Washington failed to provide emergency contact information, and the addresses they had on file did not produce results. This response does little to explain why Mrs. Washington was not told her husband had died during her daily calls and visits to jail, nor has the Sheriff explained why jail personnel repeatedly misinformed Mrs. Washington about her husband's well-being and his whereabouts.

In May 2006, family members and supporters assembled outside the jail to remember Mr. Washington's life and mourn his death. The crowd shared in prayer and song, and listened to testimonials from Mr. Washington's wife, mother and children about how much he meant to them and how deeply his loss will be felt. The exact circumstances of Mr. Washington's death remain unclear. According to the Orleans Parish coroner, Mr. Washington died "following a scuffle with guards at the prison."<sup>63</sup> ■

Overcrowding is also a problem in the South White Street jail, where most prisoners sleep in open dormitories filled with row upon row of bunk beds. Prisoners estimate that each dorm is equipped to hold approximately 90 prisoners, but they now house in excess of 110 people. One man explains: “The living conditions here are overcrowded. I’m in a 90 man cell with maybe 115 to 120 people. I don’t think it would pass the fire department code.”<sup>64</sup> Another prisoner reports that there are people sleeping on the floor.<sup>65</sup> “Food it’s bad, man. It’s bad in there. Food comes up short every day.”<sup>66</sup>

Rather than look to viable alternatives that would allow New Orleans to maintain a smaller, safer jail, Sheriff Gusman returned to a solution from yesteryear to alleviate his overcrowding problems. Directly across from HOD, construction has begun on a series of eight tents that are intended to house 100 prisoners each.<sup>67</sup> If history is any indication of what is to come, there is no telling how long this “temporary minivillage of barracks-style jails” will remain in use.<sup>68</sup>

## B. The Decision to Reopen Orleans Parish Prison: The Business of Incarceration

It is not difficult to understand why the Sheriff quickly reopened the facility and returned prisoners to his jail. By agreement, the city of New Orleans pays the Sheriff’s office \$22.39 per day for each local prisoner OPP houses.<sup>69</sup> Before the storm, this amounted to roughly \$100,000 per day. The state pays the Sheriff \$24.39 for each state prisoner he houses at the jail, with a \$7.00 premium per day for each state prisoner who requires mental health care.<sup>70</sup> However, he receives nearly twice that amount for housing federal prisoners, including immigration detainees.<sup>71</sup> This may explain why thousands of local prisoners charged with minor offenses languished for months in state facilities without access to counsel, and without any chance of appearing in court, while federal prisoners were among the first to be returned to OPP following the hurricane. These individuals were held in Templeman V, an administrative building that reportedly did not house prisoners before the storm, and was only put into use because the majority of the other buildings were in far worse condition post-Katrina. For 2006, the City of New Orleans projects it will spend over \$50 million to house prisoners, double what it spent just twelve years ago.<sup>72</sup>

Orleans Parish Criminal Sheriffs have consistently discussed the trafficking of prisoners in business terms. After the number of state prisoners housed at OPP dropped between 2000 to 2002, then-Sheriff Foti remarked: “If you were in the stock market, you would call this a slow-growth period.”<sup>73</sup> Noting that the pay from housing federal prisoners was significantly higher than from state or local prisoners, Foti once said he “wish[ed] there were more high-profit prisoners.”<sup>74</sup> Following Sheriff Foti’s departure, Interim Sheriff Bill Hunter explained the “tight budgetary times” for the Sheriff’s office by noting that “fewer inmates translates into less revenue for the jail.”<sup>75</sup> In fact, when the Sheriff’s office requests payment from New Orleans for housing city prisoners, the “Invoice” refers to prisoners as units, and lists a “Unit Price” of \$22.39 per day.<sup>76</sup>

Despite the enormous cost to the city of housing all of

these individuals, the finances of OPP are a mystery to local and state officials. In fact, when the Sheriff presented the City Council with his projected 2006 annual budget of approximately \$75 million, the document was a meager two pages—the same length as the Contingency Plan.<sup>77</sup> The budget failed to breakdown any of the figures, including big-ticket items such as personnel expenditures, which totaled \$39,910,562.<sup>78</sup>

This lack of accountability also allows the Sheriff to have unparalleled control over the city’s largest patronage base. In 2005, the sheriff had roughly 1200 nonunion employees who served at his pleasure, exempt from the civil service protections enjoyed by other city employees.<sup>79</sup> The *Times-Picayune* remarked that the electoral victory of current Sheriff Marlin Gusman marked “his evolution from political appointee to full-fledged politician with his own patronage base.”<sup>80</sup> According to Shana Sassoon, a member of the Orleans Parish Prison Reform Coalition (“OPPRC”), “OPP has long been a shameful centerpiece of New Orleans’ broken criminal justice system with its history of human and civil rights abuses, fatal disease, and institutional violence. It’s no coincidence that OPP has also emerged as a centerpiece of political power in New Orleans.”<sup>81</sup>

The return of prisoners to OPP also provided the Sheriff with the labor force that his office has long used and abused. In 1989, the *Times-Picayune* reported that private citizens and companies could hire prisoners to perform work at minimum wage.<sup>82</sup> From these wages, the sheriff would deduct living expenses, travel expenses, support costs of the prisoners’ dependents, and payment of the prisoners’ debts, with any remaining money going to the prisoner. In mid-July 2006, two OPP prisoners were improperly “loaned” to a contractor in order to perform construction work on the home of a local judge.<sup>83</sup> Recently OPP built an aquaculture facility—run entirely by prison labor—to raise about 600,000 to 700,000 pounds of tilapia per year.<sup>84</sup> Prison laborers are often used as political tools. When running for office in 2003, Marlin Gusman told the League of Women Voters: “I will work with the city administration to reduce the burden on the general fund and provide more prisoner labor to augment city services.”<sup>85</sup> One factor that helped the Sheriff return prisoners to OPP so soon after the storm is his use of prison labor to clean up the facility. Persons charged with municipal offenses following the storm reported that upon pleading guilty, they were ordered to complete 40 hours of community service cleaning up OPP buildings.<sup>86</sup>

If anything, Hurricane Katrina has accelerated the jail’s exploitation of prison laborers who are paid pennies on the dollar. After the hurricane struck, Sheriff Gusman promised to make prisoners available to assist in the recovery. Given the fact that the majority of prisoners had yet to be convicted or were convicted of minor offenses, this use of prisoners amounts to modern slavery—or a throwback to the notoriously racist convict-lease and state-use prison labor systems that proliferated in the South after Reconstruction.

Aerial view of  
prisoners on  
the Overpass



PHOTOGRAPH: AP/WIDE WORLD PHOTO

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## X. CONCLUSION

Until now, the story of the prisoners at Orleans Parish Prison has received short shrift. Like many of the stories that came out of Katrina, theirs is one of survival. With few exceptions, the prisoners held in OPP in the wake of Hurricane Katrina took care of one another. They worked to free fellow prisoners trapped in cells filled with contaminated floodwaters, watched out for the frail and sick, as well as for juveniles too small to stand in the water without help. Without food, water, light, or ventilation for days, the response of the prisoners to chaotic, terrifying conditions was remarkable.

Many of the stories are also about racially motivated animosity on the part of prison officials, while all of the stories are about the blatant disregard for the dignity that was owed to each man, woman, and child trapped in OPP during and after the storm.

The stories in this report are not, however, simply about survival. Rather, they are stories of a criminal justice system that has had serious problems for a very long time. The abuse of prisoners at OPP and the inattention paid to their basic needs existed long before Hurricane Katrina struck the Gulf Coast. Likewise, the damage caused by the storm only revealed how infirm Louisiana's indigent defense system already was.

It is important that these stories are told, so that they are not forgotten. It is also important so that the mistakes chronicled in this report are never repeated. By instituting the recommendations at the beginning of this report, local, state and federal officials can begin the process of bringing justice to the OPP evacuees, while taking steps to ensure real public safety by making OPP a safer, more humane, and more cost-effective jail.

## Executive Summary

- <sup>1</sup> News Staff, *Looters Taking Advantage of Katrina Devastation*, CTV, Aug. 31, 2005, available at [http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20050830\\_hurricane\\_katrina\\_050830?hub=CTVNewsAt11](http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20050830_hurricane_katrina_050830?hub=CTVNewsAt11).
- <sup>2</sup> Jeffrey A. Schwartz and David Webb, *Hurricanes Katrina and Rita and the Louisiana Dept. of Public Safety and Corrections: A Chronicle and Critical Incident Review*, AN NIC TECHNICAL ASSISTANCE REPORT, Technical Assistance No. 06P1035 (May 10, 2006), 19.
- <sup>3</sup> *Id.* For an account of the sensational stories that were reported in the days following the storm, but have since been called into question, see generally Jim Dwyer and Christopher Drew, *Storm and Crisis: Lawlessness; Fear Exceeded Crime's Reality in New Orleans*, THE NEW YORK TIMES, Sept. 29, 2005. The spread of these unsubstantiated rumors “changed troop deployments, delayed medical evacuations, drove police officers to quit, [and] grounded helicopters.” *Id.*
- <sup>4</sup> Peter Whoriskey, *In New Orleans, Justice on Trial*, THE WASHINGTON POST, Apr. 15, 2006.
- <sup>5</sup> In an effort to allow the prisoners’ own voices to come through in this report, we chose not to correct grammatical or spelling errors in the letters and testimonials that we received. The only changes we made to the original language were to obscure obscenities.
- <sup>6</sup> Compiled from Times Wires, *Allegations of Neglect at Jail are “Fiction,” Sheriff Says*, ST. PETERSBURG TIMES, Oct. 6, 2005.
- <sup>7</sup> Richard Webster, *Jail Tales: Sheriff Gusman, Prisoners Differ on Storm Evacuation Success*, NEW ORLEANS CITYBUSINESS, Feb. 20, 2006, available at <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=14735>.
- <sup>8</sup> Sample questionnaires returned to the ACLU National Prison Project by OPP evacuees are available in the Appendix.
- <sup>9</sup> Orleans Parish is unique in that there is both a Civil Sheriff and a Criminal Sheriff. In this report, we will be dealing exclusively with the Orleans Parish Criminal Sheriff’s Office, which is currently led by Sheriff Marlin N. Gusman. For the remainder of the report, this office will simply be referred to as the “Sheriff’s Office,” and Mr. Gusman will be referred to as “Sheriff Gusman.”
- <sup>10</sup> The authors of this report have obtained a copy of the report. Jeffrey A. Schwartz and David Webb, *Hurricanes Katrina and Rita and the Louisiana Dept. of Public Safety and Corrections: A Chronicle and Critical Incident Review*, AN NIC TECHNICAL ASSISTANCE REPORT, Technical Assistance No. 06P1035 (May 10, 2006) (hereinafter “NIC Technical Assistance Report”).
- <sup>11</sup> Analysis by the Louisiana Capital Assistance Center of Data Provided by the Orleans Parish Criminal Sheriff’s Office, (hereinafter “The LCAC Analysis”).
- <sup>12</sup> Louisiana Department of Public Safety & Corrections, Quarterly Statistical Performance Report, Local Facilities Bedspace and Projections, 153, Mar. 25, 2005, available at [http://www.corrections.state.la.us/Statistics/PDF\\_QSPR/C.pdf](http://www.corrections.state.la.us/Statistics/PDF_QSPR/C.pdf).
- <sup>13</sup> The LCAC Analysis.
- <sup>14</sup> Orleans Parish Criminal Sheriff’s Office, Analysis of Daily Cost Per Inmate, 2003-2006, attached to Letter from Sheriff Marlin N. Gusman to Members of the New Orleans City Council, Nov. 10, 2005.
- <sup>15</sup> Staff Reports, *6 Youths Detained on Curfew’s First Night*, THE TIMES-PICAYUNE (New Orleans), June 25, 2006. According to reports, juveniles are now being housed on the third floor of an administrative building staffed by NOPD officers and Sheriff’s deputies. See Leslie Williams, *Grant of Ride Request Brings Curfew Jam*, THE TIMES-PICAYUNE (New Orleans), July 3, 2006.
- <sup>16</sup> Bill Rust, *Juvenile Jailhouse Rocked: Reforming Detention in Chicago, Portland, and Sacramento*, ANNIE E. CASEY FOUNDATION, Fall/Winter 1999, available at <http://www.aecf.org/publications/advocasey/winter99/juv/juv.pdf>.
- <sup>17</sup> David Steinhart, *Planning for Juvenile Detention Reforms: A Structured Approach*, ANNIE E. CASEY FOUNDATION, available at [http://www.aecf.org/initiatives/jdai/pdf/1\\_planning.pdf](http://www.aecf.org/initiatives/jdai/pdf/1_planning.pdf).
- <sup>18</sup> Report Overview, *Unlocking the Future: Detention Reform in the Juvenile Justice System*, COALITION FOR JUVENILE JUSTICE, 3, available at <http://www.juvjustice.org/publications/OverviewofAR03.pdf>.
- <sup>19</sup> Executive Summary, *Juvenile Crime, Juvenile Justice*, COMMISSION ON BEHAVIORAL AND SOCIAL SCIENCES AND EDUCATION, 2001, available at <http://darwin.nap.edu/books/0309068428/html/7.html>.
- <sup>20</sup> Letter from Jamie Fellner, Human Rights Watch, and Theodore Shaw, NAACP Legal Defense and Educational Fund, Inc., to Bradley Schlozman, U.S. Department of Justice Civil Rights Division, Oct. 7, 2005, available at [http://www.naacpldf.org/content/pdf/katrina/Letter\\_to\\_DOJ\\_Requesting\\_Jena\\_Prison\\_Investigation.pdf](http://www.naacpldf.org/content/pdf/katrina/Letter_to_DOJ_Requesting_Jena_Prison_Investigation.pdf).
- <sup>21</sup> Letter from Chanetta Cutlar, Special Litigation Section, Department of Justice, to Jamie Fellner, Human Rights Watch, and Theodore Shaw, NAACP Legal Defense and Educational Fund, Inc., Nov. 1, 2005.

## Section I

- <sup>1</sup> *Hamilton v. Schiro*, 338 F. Supp. 1016, 1016 (E.D. La 1970).
- <sup>2</sup> United States Department of Justice Bureau of Justice Statistics, Bulletin, *Prison and Jail Inmates at Midyear 2004* at 10, April 2005, available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/pjim04.pdf>.
- <sup>3</sup> Bill Van Siclen, *Photos and Poems from Prison*, PROVIDENCE JOURNAL BULLETIN, Apr. 14, 2005.
- <sup>4</sup> Barry Gerharz and Seung Hong, *Down by Law: Orleans Parish Prison before and after Katrina*, DOLLARS & SENSE, March/April 2006, available at <http://www.dollarsandsense.org/archives/2006/0306gerharzhong.html>.
- <sup>5</sup> U.S. Census Bureau, Louisiana: 2000 Population and Housing Unit Costs, *United States Census 2000* (Oct. 2003) available at <http://www.census.gov/prod/cen2000/phc-3-20.pdf>.
- <sup>6</sup> Orleans Parish Criminal Sheriff’s Office, Analysis of Daily Cost Per Inmate, 2003-2006, attached to Letter from Sheriff Marlin N. Gusman to Members of the New Orleans City Council, Nov. 10, 2005.
- <sup>7</sup> For the sake of simplicity, this report refers to all of the individuals being held in OPP as “prisoners.” The use of this term is not meant to suggest that all of the individuals had been convicted of a crime and sentenced to serve time in a prison. On the contrary, as discussed above, most of the people in OPP were either pre-trial detainees, federal immigration detainees, or individuals convicted of minor offenses that would typically result in incarceration at a local jail facility, rather than a prison.
- <sup>8</sup> The LCAC Analysis.
- <sup>9</sup> See *Hamilton Plaintiffs v. Williams Plaintiffs*, 147 F.3d 367, 368-69 (5th Cir. 1998).

<sup>10</sup> *The Wall is Strong: Corrections in Louisiana*, 2d Ed. (1991) Ed. By Burk Foster, Wilbert Rideau, and Ron Wikberg, University of Southwestern Louisiana, Lafayette, LA, 86 (originally part of Burk Foster, *Prison Overcrowding: The Louisiana Response*, THE ANGOLITE, Mar./Apr. 1988).

<sup>11</sup> *Id.* at 85.

<sup>12</sup> *Id.* at 86; see also C.J. Schexnayder, *What Price Incarceration?*, GAMBIT WEEKLY, Nov. 19, 2002.

<sup>13</sup> Susan Finch, *Prison Neighbors Want Tents Out*, THE TIMES-PICAYUNE (New Orleans), Dec. 16, 1992.

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

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

<sup>16</sup> *The Wall is Strong: Corrections in Louisiana*, 2d Ed. (1991) Ed. By Burk Foster, Wilbert Rideau, and Ron Wikberg, University of Southwestern Louisiana, Lafayette, LA, 86 (originally part of Burk Foster, *Prison Overcrowding: The Louisiana Response*, THE ANGOLITE, Mar./Apr. 1988).

<sup>17</sup> Jeffrey A. Schwartz and David Webb, *Hurricanes Katrina and Rita and the Louisiana Dept. of Public Safety and Corrections: A Chronicle and Critical Incident Review*, AN NIC TECHNICAL ASSISTANCE REPORT, Technical Assistance No. 06P1035 (May 10, 2006), 56.

<sup>18</sup> Settlement Agreement, *Hamilton v. Morial*, Mar. 26, 2003. The payment of \$24.39 per day per state prisoner is \$2.00 more than the state pays other local parishes for housing state prisoners. *Id.* For more on the state's payments to local parishes to house state prisoners, see C.J. Schexnayder, *What Price Incarceration?*, GAMBIT WEEKLY, Nov. 19, 2002.

<sup>19</sup> The LCAC Analysis.

<sup>20</sup> The three programs that existed at OPP at the time of the storm were the Francois Alternative Center at New Orleans, the Blue Walters Substance Abuse Treatment Program (Blue Walters South"), and the About Face Boot Camp Program.

<sup>21</sup> *Id.*

<sup>22</sup> La.C.Cr.P. Art. 887.

<sup>23</sup> La.C.Cr.P. Art. 884.

<sup>24</sup> Matt Gnaizda, *Katrina Exposes Orleans Parish Prison's Flaws*, THE EPOCH TIMES, Oct. 16, 2005, available at <http://www.theepochtimes.com/news/5-10-16/33361.html>.

<sup>25</sup> *Id.*

<sup>26</sup> Peter Whoriskey, *In New Orleans, Justice on Trial*, THE WASHINGTON POST, Apr. 15, 2006.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> Long before the present OPP buildings were ever built, the jail in New Orleans was infamous for its deplorable conditions. In 1831, Alexis de Tocqueville condemned the New Orleans jail, stating: "We saw there men thrown in pell-mell with swine, in the midst of excrement and filth. In locking up criminals, no thought is given to making them better but simply to taming their wickedness; they are chained like wild beasts; they are not refined but brutalized." George Wilson Pier-son, *Tocqueville and Beaumont in America* (New York, 1938), 622.

<sup>30</sup> *Schiro*, 338 F. Supp. at 1016.

<sup>31</sup> *Id.* at 1019.

<sup>32</sup> *Id.* at 1017.

<sup>33</sup> *Id.* at 1018.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.* at 1017. The court cited a series of violations that had been identified by the Fire Prevention Division of the New Orleans Fire Department. Those viola-tions included the complete absence of fire alarm systems, insufficient and often inoperable fire extinguishers, and inadequate means of egress by which to evacu-ate detainees in the case of an emergency. *Id.*

<sup>36</sup> Michael Perlstein, *Hearing Set on Mothers in Jail; ACLU Reports Shackles in Labor*, THE TIMES-PICAYUNE (New Orleans), May 4, 1999.

<sup>37</sup> *Lambert v. Morial*, No. 94-2502 (E.D. La.).

<sup>38</sup> Human Rights Watch, *Locked Away: Immigration Detainees in Jails in the United States* (Sept. 1998) Vol. 10, No. 1 (G), available at <http://www.hrw.org/reports98/us-immig/>.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Doe v. Foti*, No. 93-1227 (E.D. La.).

<sup>42</sup> *Hamilton v. Morial*, No. 69-2443 (E.D. La.), Transcript, Record at 41 (May 7, 1993).

<sup>43</sup> *Id.*

<sup>44</sup> Order, *Hamilton v. Morial*, No. 69-2443 (E.D. La. May 17, 1993).

<sup>45</sup> See *Williams v. McKeithen*, CA No. 71-98-B (M.D. La. 1997) (available at *Hamilton Plaintiffs v. Williams Plaintiffs*, 147 F.3d 367 (5th Cir. 1998)).

<sup>46</sup> Fox Butterfield, *Justice Besieged: New Orleans Juvenile Court System is Called Nation's Most Troubled*, THE NEW YORK TIMES, July 22, 1997, A1.

<sup>47</sup> Juvenile Justice Project of Louisiana, *Treated Like Trash: Juvenile Detention in New Orleans Before, During, and After Hurricane Katrina*, May 2006, 6, available at [http://jjpl.org/PDF/treated\\_like\\_trash.pdf](http://jjpl.org/PDF/treated_like_trash.pdf).

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> Complaint, *Jones v. Hunter*, No. 05-2470 (E.D. La. June 17, 2005) ¶ 13.

<sup>53</sup> *Id.* at ¶ 14.

<sup>54</sup> *Id.* at ¶ 16.

<sup>55</sup> WDSU, *Orleans Criminal Sheriff's Deputies Indicted in Inmate's Death*, June 2, 2005, available at <http://www.wdsu.com/news/4562307/detail.html>.

<sup>56</sup> Tara Young, *Murder Suspect Dies in Prison Ruptured Ulcer Killed Man, Coroner Says*, THE TIMES-PICAYUNE (New Orleans), Oct. 14, 2004.

<sup>57</sup> Bob Ussery, *Jail Inmate Died of TB, Tests Show Officials Screen Those in Contact with Him*, THE TIMES-PICAYUNE (New Orleans), Mar. 10, 2005; Gwen Filosa, *Medical Experts Give Jail Clean Bill; Health Care Up to Par, They Say*, THE TIMES-PICAYUNE (New Orleans), May 14, 2005.

<sup>58</sup> Bob Ussery, *Prison Inmate Dies in Hospital; Another Fell Fatally Ill in Late February*, THE TIMES-PICAYUNE (New Orleans), Mar. 31, 2005.

<sup>59</sup> Staff Reports, *Inmate Dies on Dialysis; He Had a History of Medical Ailments*, THE TIMES-PICAYUNE (New Orleans), May 7, 2005; *Inmate's Death in Jail Cell Raises Questions About Prior Complaints*, BATON ROUGE ADVOCATE, Apr. 24, 2005.

<sup>60</sup> Staff Reports, *N.O. Inmate Dies at Charity Hospital*, THE TIMES-PICAYUNE (New Orleans), Jul. 16, 2005; Staff Reports, *Orleans Inmate Dies After Seizure*, THE TIMES-PICAYUNE (New Orleans), June 9, 2005.

<sup>61</sup> The man who appears to have died the day before the storm is Donald Landry. According to the DOC Inmate Locator service, Mr. Landry died at OPP on August 28, 2005. Officials in the Sheriff's Office have similarly confirmed that a prisoner died at the jail the day before the storm.

<sup>62</sup> See generally, Complaint, *Wilson v. Foti*, No. 02-2244 (E.D. La. July 23, 2002); *Hamilton v. Morial*, No. 69-2443 (E.D. La. Dec. 23, 2003) (report and recommen-dation denying plaintiffs' motion regarding deficiencies in mental health care delivery system in OPP).

<sup>63</sup> *Id.* at ¶ 15.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.* at ¶ 16.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* at ¶ 17.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* at ¶ 18.

<sup>72</sup> *Id.* at ¶ 19.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* at ¶ 23.

<sup>75</sup> *Id.* at ¶ 21.

<sup>76</sup> *Id.* at ¶ 24.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.* at ¶¶ 24-25.

<sup>79</sup> *Id.* at ¶ 25.

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> Complaint, *Bonnette v. Hunter*, No. 05-1201 (E.D. La. Mar. 30, 2005) ¶ 42.

<sup>84</sup> *Id.* at ¶ 21.

<sup>85</sup> Susan Finch, *1969 Jail Psychiatric Care Case Closed ACLU Seeks Documents in Recent Suicide*, THE TIMES-PICAYUNE (New Orleans), June 10, 2004; Susan Finch, *Death Renews Prison Dispute ACLU Fights Rulings on Psychiatric Unit*, THE TIMES-PICAYUNE (New Orleans), June 8, 2004.

<sup>86</sup> Complaint, *Bonnette v. Hunter*, No. 05-1201 (E.D. La. Mar. 30, 2005) ¶ 37.

<sup>87</sup> *Id.* at ¶ 38. The belt that was left in the cell is commonly used to secure a prisoner's torso when he is placed in five-point restraints. *Id.* at ¶ 33. Because Mr. Bonnette was placed in four-point restraints, rather than five-point restraints, and he was theoretically supposed to be on suicide watch, there is no reasonable explanation for this object to have been left in the cell.

<sup>88</sup> Staff Reports, *N.O. Inmate Dies After Hanging; Man Jailed in '03 was in Mental Unit*, THE TIMES-PICAYUNE (New Orleans), Aug. 4, 2005.

<sup>89</sup> U.S. Census Bureau, *Housing Patterns - Racial and Ethnic Residential Segregation in the United States: 1980-2000*, ch.5, available at <http://www.census.gov/hhes/www/housing/resseseg/ch5.html>.

<sup>90</sup> Human Rights Watch, *Shielded from Justice: Police Brutality and Accountability in the United States*, available at <http://www.hrw.org/reports98/police/uspo93.htm>; Richard Pennington, *The Thinnest Blue Line*, THE NEW YORK TIMES, Mar. 31, 1996.

<sup>91</sup> Human Rights Watch, *Shielded from Justice: Police Brutality and Accountability in the United States*, available at <http://www.hrw.org/reports98/police/uspo93.htm>.

<sup>92</sup> See generally, Bruce Egger, *Independent Monitor Urged for N.O. Police; Brutality Complaints Revive 2002 Proposal*, THE TIMES-PICAYUNE (New Orleans), Apr. 28, 2006; Stephanie Doster, *Racial Profiling Law Lacks Teeth; Loophole Lets Police Off Hook, Some Say*, THE TIMES-PICAYUNE (New Orleans), Dec. 16, 2001.

<sup>93</sup> Press Release, *ACLU Demands Release of Information on Racial Profiling and Use of Force by New Orleans Police*, AMERICAN CIVIL LIBERTIES UNION, Apr. 6, 2006, available at <http://www.aclu.org/racialjustice/racialprofiling/25030prs20060406.html>.

<sup>94</sup> Human Rights Watch, *Race and Incarceration in the United States: Human Rights Watch Press Backgrounder*, Feb. 22, 2002, tbl.4: "Percentage of Blacks Among Resident Population and Incarcerated Population."

<sup>95</sup> United States Department of Justice Bureau of Justice Statistics, Bulletin, *Prison and Jail Inmates at Midyear 2005* at 10 (May 2006), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/pjim05.pdf>.

<sup>96</sup> *Id.*

<sup>97</sup> *Id.* at 11.

<sup>98</sup> The LCAC Analysis.

<sup>99</sup> *DeShaney v. Winnebago County Dep't of Soc. Servs.*, 489 U.S. 189, 198-200 (1989).

<sup>100</sup> U.S. CONST. amend. VIII.

<sup>101</sup> *Farmer v. Brennan*, 511 U.S. 825, 832 (1994); *Youngberg v. Romeo*, 457 U.S. 307, 315-16 (1982).

<sup>102</sup> *Farmer*, 511 U.S. at 833-34.

<sup>103</sup> *Gates v. Collier*, 501 F.2d 1291 (5th Cir. 1974) (finding the lack of fire equipment in the facility inadequate in the event of a fire). See *Jones v. City and County of San Francisco*, 976 F. Supp. 896, 909-10 (N.D. Cal 1997) (finding it intolerable to house prisoners confined to a cell behind bars with no reasonable means of escape or safety in an area where there was a high risk of an earthquake).

<sup>104</sup> *Ramos v. Lamm*, 639 F.2d 559, 571 (10th Cir. 1980). See also *Phelps v. Kapnolas*, 308 F.3d 180 (2d Cir. 2002) (finding prisoner's allegation that officials knowingly provided him with an inadequate diet constituted a valid claim under the Eighth Amendment).

<sup>105</sup> *Helling v. McKinney*, 509 U.S. 25, 32 (1993) (finding that inmates need not show death or serious illness occurred to prove unsafe or life threatening condition in the prison). See *DeSpain v. Uphoff*, 264 F.3d 965, 974 (10th Cir. 2001) (finding that exposure to urine and feces resulting from flooding in the jail was a significant deprivation to raise serious health concerns and general standards of dignity embodied in the Eighth Amendment); *Bradley v. Puckett*, 157 F.3d 1022, 1025 (5th Cir. 1998) (holding that unsanitary conditions depriving the prisoner of basic human needs, exposing him to health risks was a valid claim for which the prisoner sought relief); *Jackson v. Duckworth*, 955 F.2d 21, 22 (7th Cir. 1992) (conditions where a prisoner was "forced to live with 'filth, leaking and inadequate plumbing, roaches, rodents, the constant smell of human waste, poor lighting, inadequate heating, unfit water to drink, dirty and unclean bedding, without toilet paper, rusted out toilets, broken windows, [and] ...drinking water containing small black worms which would eventually turn into small black flies," constituted an Eighth Amendment violation).

<sup>106</sup> *Estelle v. Gamble*, 429 U.S. 97, 103 (1976) (citing *Gregg v. Georgia*, 428 U.S. 153, 173 (1976)).

<sup>107</sup> *Farmer*, 511 U.S. at 833-34 (finding prison officials acting with deliberate indifference if an official exposes a prisoner to substantial risk of sexual assault). See *Ramos*, 639 F.2d at 572 (recognizing that the prison environment can be tense, explosive and potentially dangerous).

<sup>108</sup> *Estelle*, 429 U.S. at 104. In his testimony to a Joint Committee of the Louisiana legislature, DOC Secretary Stalder acknowledged, "Indigent medical care in the State of Louisiana is not required by the United States Constitution; inmate medical care is required." Testimony of Richard Stalder, Secretary, Dep't of Pub. Safety and Corr., Oct. 10, 2005, Joint Comm.—Disaster and Recovery, Part 1, available at <http://house.louisiana.gov/rmarchive/2005/Oct2005.htm>.

<sup>109</sup> *Gates*, 376 F.3d at 332 (5th Cir. 2004) (finding mental health needs to be as serious as physical health).

<sup>110</sup> Some of these instruments are binding, while others are advisory. Binding treaties signed by the U.S. government that the federal government is bound to implement at both the federal and state levels include: The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("CAT"), adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984, entered into force June 26,



1987, available at [http://www.unhcr.ch/html/menu3/b/h\\_cat39.htm](http://www.unhcr.ch/html/menu3/b/h_cat39.htm); the International Covenant on Civil & Political Rights (“ICCPR”), adopted by General Assembly Resolution 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976, available at [http://www.unhcr.ch/html/menu3/b/a\\_cpr.htm](http://www.unhcr.ch/html/menu3/b/a_cpr.htm); and the International Convention on the Elimination of All Forms of Racial Discrimination (“CERD”), adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of December 21, 1965, available at <http://www.ohchr.org/english/law/cerd.htm>.

Many of the non-binding, advisory documents are, despite their advisory nature, widely followed by U.N. member countries. Among the most relevant are the Standard Minimum Rules for the Treatment of Prisoners (“SMRs”), adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, available at [http://www.unhcr.ch/html/menu3/b/h\\_comp34.htm](http://www.unhcr.ch/html/menu3/b/h_comp34.htm); the Basic Principles for the Treatment of Prisoners (“Basic Principles”), adopted and proclaimed by General Assembly resolution 45/111 of 14 December 1990, available at [http://www.unhcr.ch/html/menu3/b/h\\_comp35.htm](http://www.unhcr.ch/html/menu3/b/h_comp35.htm); and The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (“Body of Principles”), adopted by General Assembly resolution 43/173 of 9 December 1988, available at [http://www.unhcr.ch/html/menu3/b/h\\_comp36.htm](http://www.unhcr.ch/html/menu3/b/h_comp36.htm).

<sup>111</sup> ICCPR Article 10(1).

<sup>112</sup> Body of Principles Principle 15: “[C]ommunication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days.” Principle 19: “A detained or imprisoned person shall have the right . . . to communicate with the outside world, subject to reasonable conditions and restrictions as specified by law or lawful regulations.”

SMR 37 also suggests that such contact must be allowed: “Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.” More generally, SMR 57 provides:

Imprisonment and other measures which result in cutting off an offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty. Therefore the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation.

<sup>113</sup> Children have a right to maintain contact with their parents. Under the Convention on the Rights of the Child, adopted November 1989, “States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child’s best interests.” Article 9.

<sup>114</sup> SMR 8(d) clearly mandates “Young prisoners shall be kept separate from adults.” ICCPR Article 10(3) also mandates that “Juvenile offenders [shall] be segregated from adults” and that they “be accorded treatment appropriate to their age and legal status.” (If untried, ICCPR Article 10(2)(b) requires that “[a]ccused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.”) And SMR 85(2) provides that juveniles “shall be kept separate from adults” and reiterates “they shall in principle be detained in separate institutions.” There are also relevant rules specific to children including the advisory Havana Rules adopted in 1990 and formally known as the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. Havana Rule 29 states “In all detention facilities juveniles should be separated from adults, unless they are members of the same family. Under controlled conditions, juveniles may be brought together with carefully selected adults as part of a special programme that has been shown to be beneficial for the juveniles concerned.”

<sup>115</sup> SMR 20(1) and (2). The SMRs were among the first instruments of their kind to be promulgated by the U.N. They reflect generally accepted good principle and practice in the treatment of prisoners and the management of institutions. Although there are still countries where implementation is more aspiration than fact (including the U.S.), it is generally agreed that the SMRs have had a worldwide impact and they continue to be an important influence in the humane and equitable administration of correctional institutions.

<sup>116</sup> SMR 22(1) provides that “every institution” should make available “the services of at least one qualified medical officer,” and SMR 22(2) that if a prisoner requires specialist treatment, that shall be provided too. Medical officers should see patients as soon as they are admitted and then care for them daily. SMRs 24 and 25. Additionally, the Body of Principles requires “a proper medical examination” to be offered “to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment and thereafter medical care and treatment shall be provided whenever necessary . . . free of charge.” And, Principle 9 of the Basic Principles requires that prisoners have “access to the health services available in the country without discrimination on the grounds of their legal status.”

<sup>117</sup> SMR 10 states “All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.” Also applicable is SMR 12, which provides “The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.” And SMR 13: “Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.” Last, SMR 15: “Prisoners shall . . . be provided with water and with such toilet articles as are necessary for health and cleanliness.” Clearly, all these standards were flouted by the prison administration.

<sup>118</sup> CAT Article 16 (“Each State Party shall undertake to prevent . . . acts of cruel, inhuman or degrading treatment or punishment . . . when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”). Also, The Body of Principles provides in Principles 6 and 7 that “No person under any form of detention or imprisonment shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.” “The terms cruel, inhuman or degrading treatment or punishment should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental.” *Id.* It also violates SMR 30(1) which provides “No prisoner shall be punished except in accordance with [relevant administrative rules].” And SMR 30(2): “No prisoner shall be punished unless he has been informed of the offense alleged and given a proper opportunity of presenting his defence. The competent authority shall conduct a thorough examination of the case.” Finally, SMR 31: “Corporal punishment, punishment by placing in a dark cell, and all CID punishments shall be completely prohibited as punishments for disciplinary offences.”

<sup>119</sup> CERD Articles 2 and 5. Article 2(1) provides:

States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end: (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation; (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations; (c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists; (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization; . . .

Also relevant is Article 5 of CAT which provides:

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: . . . (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution; . . . (e) Economic, social and cultural rights, in particular: . . . (iv) The right to public health, medical care, social security and social services; . . .

The ICCPR treaty also applies to these violations. Article 26 states:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour . . .

And both SMR 6(1) and Principle 2 of the Basic Principles state: “There shall be no discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” Likewise, Principle 5 of the Body of Principles provides: “These principles shall be applied to all persons within the territory of any given State, without distinction of any kind, such as race, colour, sex . . . .” This ill-treatment also violates the more general ICCPR Article 10(1): “All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.” Similarly, it violates Principle 1 of the Basic Principles for the Treatment of Prisoners: “All prisoners shall be treated with the respect due to their inherent dignity and value as human beings.”

## Section II

<sup>1</sup> Transcript of CNN Coverage of Press Conference, Aug. 28, 2005, available at <http://transcripts.cnn.com/TRANSCRIPTS/0508/28/bn.04.html>.

<sup>2</sup> For a detailed account of Hurricane Katrina’s progression from a Tropical Depression to a Category 5 Hurricane, see The White House, *The Federal Response to Hurricane Katrina: Lessons Learned*, 21-31, Feb. 2006, available at <http://www.whitehouse.gov/reports/katrina-lessons-learned/index.html> (hereinafter “The White House Report”).

<sup>3</sup> Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *A Failure of Initiative*, 59, Feb. 15, 2006, available at [http://katrina.house.gov/full\\_katrina\\_report.htm](http://katrina.house.gov/full_katrina_report.htm).

<sup>4</sup> *Id.* at 63 (citing Letter from Kathleen Babineaux Blanco, Governor of LA, to George W. Bush, President of the United States (Aug. 27, 2005)).

<sup>5</sup> *Id.* (citing Louisiana: Emergency and Related Determinations, 70 Fed. Reg. 53,238 (Aug. 27, 2005, as amended Sept. 7, 2005)).

<sup>6</sup> *Id.* (citing Letter from Kathleen Babineaux Blanco, Governor of LA, to George W. Bush, President of the United States (Aug. 28, 2005)).

<sup>7</sup> *Id.* (citing Louisiana: Emergency and Related Determinations, 70 Fed. Reg. 72,458 (Aug. 29, 2005, as amended Dec. 5, 2005)).

<sup>8</sup> The White House Report, at 25.

<sup>9</sup> *Id.* at 26.

<sup>10</sup> Transcript of CNN Coverage of Press Conference, Aug. 28, 2005, available at: <http://transcripts.cnn.com/TRANSCRIPTS/0508/28/bn.04.html>.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> DOUGLAS BRINKLEY, *THE GREAT DELUGE: HURRICANE KATRINA, NEW ORLEANS, AND THE MISSISSIPPI GULF COAST I* (HarperCollins 2006).

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

<sup>15</sup> *Id.* at 1-2.

<sup>16</sup> *Id.* at 2-3.

<sup>17</sup> U.S. Department of Justice, National Institute of Corrections, *A Guide to Preparing for and Responding to Prison Emergencies*, June 2005, at 3, available at <http://www.nicic.org/>.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 17.

<sup>20</sup> *Id.* at 18.

<sup>21</sup> *Id.* at EP-50-51.

<sup>22</sup> *Id.* at EP-61-63.

<sup>23</sup> *Id.* at EP-72-73.

<sup>24</sup> *Id.* at ND-1-4.

<sup>25</sup> *Id.* at ND-13-14.

<sup>26</sup> *Id.* at ND-16-18.

<sup>27</sup> Interview with Glyndale Stevenson, June 6, 2006 (Notes on File with the ACLU National Prison Project); Interview with Glyndale Stevenson, May 24, 2006 (Notes on File with the ACLU National Prison Project).

<sup>28</sup> NIC Technical Assistance Report at 15.

<sup>29</sup> *Id.* at 12.

<sup>30</sup> Louisiana Department of Public Safety and Corrections, Corrections Services, *Hurricane Katrina/Hurricane Rita Activity Report*, Mar. 21, 2006, available at <http://www.marlingusman.com/KATRINA1%20RITA%20ACTIVITY%20REPORT.htm>.

<sup>31</sup> Michelle Gaseau, *Corrections Emerges Strong Following Katrina*, CORRECTIONS.COM, Sept. 12, 2005.

<sup>32</sup> NIC Technical Assistance Report at 13.

<sup>33</sup> Letter from Patricia Nally Bowers, to Katie Schwartzmann, June 29, 2006.

<sup>34</sup> Richard Webster, *Caught Off Guard: OPP Deputies Blame Sheriff for Hurricane Crisis*, NEW ORLEANS CITY BUSINESS, Mar. 27, 2006, available at <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=15123>.

<sup>35</sup> *Id.*

<sup>36</sup> Interview with C.N., May 12, 2006 (Notes on File with the ACLU National Prison Project).

<sup>37</sup> NIC Technical Assistance Report at 16.

<sup>38</sup> Jason Brown and Kayla Gagnet, *Prisoners of the Storm*, THE DAILY ADVERTISER, Dec. 18, 2005, available at <http://acadiananow.com/apps/pbcs.dll/article?AID=/20051218/NEWS01/512180326/1002>.

<sup>39</sup> Interview with Anonymous Employee, Oct. 11, 2005 (Notes on File with the ACLU National Prison Project).

<sup>40</sup> E-Mail from Brady Richard, Former Medical Supply Officer to Katie Schwartzmann, ACLU of Louisiana, June 28, 2006 (E-Mail on File with the ACLU National Prison Project); Interview with Brady Richard, Mar. 9, 2006 (Notes on File with the ACLU National Prison Project); Interview with Brady Richard, Oct. 11, 2005 (Notes on File with the ACLU National Prison Project).

<sup>41</sup> Letter from Joe Cook to Various State and Local Officials, Requesting Documents Pursuant to Louisiana State Law, Sept. 22, 2005, available at <http://www.aclu.org/prison/conditions/20190prs20050928.html>. Human Rights Watch similarly made repeated requests to Sheriff Gusman’s office requesting information about the evacuation plan that was purportedly in place during the storm. See, e.g., Letter from Jamie Fellner, Director, U.S. Programs, Human Rights Watch, to Sheriff Marlin N. Gusman, Oct. 8, 2005, available at <http://hrw.org/english/docs/2005/10/08/usdom11907.htm>.

<sup>42</sup> *Cook v. Gusman*, Civil District Court, Parish of Orleans, No. 2005-12477. Prior to filing suit, the ACLU of Louisiana mailed a follow-up letter to Sheriff Gusman, again requesting a response to the Public Records Act request. No response to that letter was ever received.

<sup>43</sup> Notation from Allen Usry on Letter from Joe Cook to Sheriff Marlin Gusman, Requesting Documents Pursuant to Louisiana State Law, Sept. 21, 2005, available at <http://www.aclu.org/prison/conditions/22359lgj20050921.html>. Human Rights Watch received a similar response from the Sheriff’s spokesperson, who informed them that the office of the person who may have had the plan on his computer took in “quite a bit of water” and was, at least temporarily, unavailable.

able. See Letter from Jamie Fellner, Director, U.S. Programs, Human Rights Watch, to Sheriff Marlin N. Gusman, Oct. 8, 2005, available at <http://hrw.org/english/docs/2005/10/08/usdom11907.htm>.

<sup>44</sup> Richard Webster, *Caught Off Guard: OPP Deputies Blame Sheriff for Hurricane Crisis*, NEW ORLEANS CITYBUSINESS, Mar. 27, 2006, available at <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=15123>.

<sup>45</sup> *Id.*

<sup>46</sup> Interview with R.P., May 12, 2006 (Notes on File with the ACLU National Prison Project).

<sup>47</sup> Agence France Presse, *Sheriff's Deputy Tells How Prisoners Fell onto Barbed Wire*, Sept. 4, 2005.

<sup>48</sup> Orleans Parish Criminal Sheriff's Office Hurricane/Flood Contingency Plan (unsigned) (undated) available at <http://www.aclu.org/prison/conditions/223591g120050921.html>.

<sup>49</sup> Rene Lapeyrolerie, *What Really Happened At Orleans Parish Prison in the Aftermath of Hurricane Katrina*, NEW ORLEANS TRIBUNE, Feb./Mar. 2006, 24.

<sup>50</sup> Michael Perlstein, *Prison Became Island of Fear and Frustration*, THE TIMES-PICAYUNE (New Orleans), Sept. 23, 2005, available at [http://www.nola.com/weblogs/print.ssf?/mtlogs/nola\\_tporleans/archives/print082074.html](http://www.nola.com/weblogs/print.ssf?/mtlogs/nola_tporleans/archives/print082074.html).

<sup>51</sup> Richard A. Webster, *N.O. Prison's Future in Question*, NEW ORLEANS CITYBUSINESS, Dec. 19, 2005, available at <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=14229>.

<sup>52</sup> Minutes, *City of New Orleans Hazard Mitigation Plan Kick-Off Meeting*, Apr. 9, 2003, available at <http://hazardmitigation.org/meetings.htm>.

<sup>53</sup> "While the levees in Orleans Parish along Lake Pontchartrain are expected to hold a 14 foot storm surge, there is the possibility of extensive flooding in Orleans Parish from a Category 3 storm due to inflow of water from other parishes . . . . The worst flooding, over eight feet of water, would be in neighborhoods to the west and east of City Park. Almost all of New Orleans between Lake Pontchartrain and Claiborne Avenue would receive four to eight feet of water." GCR and Associates, Inc., "Orleans Parish Mitigation Plan," p. 13, available at <http://hazardmitigation.org/ThePlan.htm>. A map of the endangered areas is available at <http://hazardmitigation.org/graphics/Maps903/map13hurr.jpg>.

<sup>54</sup> Brad Hanson, Emergency Management Supervisor for the Nebraska Department of Correctional Services, agreed to share with the National Prison Project of the ACLU several evacuation/relocation plans and checklists, including one plan pertaining to flood emergencies at the Omaha Correctional Center.

## Section III

<sup>1</sup> The LCAC Analysis.

<sup>2</sup> Although the Sheriff's own figures indicate that 354 people were transferred from YSC, this may not be entirely accurate. The population that was transferred from YSC consisted of male and female juveniles. A review of the Sheriff's records suggests that some of the children are double-counted. According to a report issued by the Juvenile Justice Project of Louisiana, the total number of juvenile detainees at OPP during Katrina was approximately 150.

<sup>3</sup> Gwen Filosa, *Suspect Lost in Court System; Stuck for 10 Months, She Gets Out Today*, THE TIMES-PICAYUNE (New Orleans), June 12, 2006; Henry Weinstein, *Katrina's Aftermath: Justice System Faces a Deluge of Challenges*, LOS ANGELES TIMES, Sept. 11, 2005, available at <http://www.nacdl.org/public.ns/media-sources/20050912a>.

<sup>4</sup> Greater New Orleans Community Data Center, *Orleans Parish: People and Household Characteristics* (based on data from 2000), available at <http://www.gnocdc.org/orleans/people.html>.

<sup>5</sup> The LCAC Analysis.

<sup>6</sup> Juvenile Justice Project of Louisiana, *Treated Like Trash: Juvenile Detention in New Orleans Before, During, and After Hurricane Katrina*, May 2006, 7, available at [http://jjpl.org/PDF/treated\\_like\\_trash.pdf](http://jjpl.org/PDF/treated_like_trash.pdf).

<sup>7</sup> Testimonial Provided by Inmate #116, Oct. 14, 2006 (Original on File with the ACLU National Prison Project).

<sup>8</sup> Testimonial Provided by Inmate #138, Oct. 20, 2005 (Original on File with the ACLU National Prison Project).

<sup>9</sup> Testimonial Provided by Inmate #51, Oct. 19, 2005 (Original on File with the ACLU National Prison Project). The decision to cut off phone access is just one example of how decisions made by prison administrators aggravated conditions during this period. When the phones were cut off, prisoners became increasingly anxious about the safety of their family members. While deputies were preparing to bring their family members into the prison buildings so that they could be with them during the storm, the prisoners were denied any means of communicating with their family members.

<sup>10</sup> Testimonial Provided by Inmate #51, Oct. 19, 2005 (Original on File with the ACLU National Prison Project).

<sup>11</sup> Testimonial Provided by Vincent Norman, Oct. 13, 2005 (Original on File with the ACLU National Prison Project); Interview with Vincent Nelson, Apr. 18, 2006 (Notes on File with the ACLU National Prison Project).

<sup>12</sup> Interview with Vincent Norman, Apr. 18, 2006 (Notes on File with the ACLU National Prison Project).

<sup>13</sup> Testimonial Provided by Inmate #533, Nov. 5, 2005 (Original on File with the ACLU National Prison Project).

<sup>14</sup> Testimonial Provided by Inmate #167, Oct. 13, 2005 (Original on File with the ACLU National Prison Project).

<sup>15</sup> Declaration of Raphael Schwarz, Oct. 4, 2005.

<sup>16</sup> Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

<sup>17</sup> *Id.*

<sup>18</sup> Interview with R.P., May 12, 2006 (Notes on File with the ACLU National Prison Project).

<sup>19</sup> Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

<sup>20</sup> Testimonial Provided by Inmate #541, Nov. 6, 2005 (Original on File with the ACLU National Prison Project).

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

<sup>24</sup> *Id.*

<sup>25</sup> Interview with R.P., May 12, 2006 (Notes on File with the ACLU National Prison Project).

<sup>26</sup> Richard Webster, *Orleans Parish Prison Inmates Say they were Mistreated as Katrina's Floodwaters Rose*, NEW ORLEANS CITYBUSINESS, Jan. 23, 2006, available at <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=14517>.

<sup>27</sup> Matthew Crawford, *Recovery Zone: Orleans Parish Sheriff Shares His Experiences After Katrina*, CORRECTIONALNEWS.COM, May/June 2006, available at <http://correctionalnews.com/ME2/Audiences/dirmod.asp?sid=&nm=&type=Publishing&mod=Publications%3A%3Aarticle&mid=8F3A7027421841978F18BE895F87F791&tier=4&id=3C4639CFDE1443D4B8BF8F1CDF028184>.

<sup>28</sup> *Id.*

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

<sup>30</sup> Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

<sup>31</sup> Interview with Rhonda Ducre, Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

<sup>32</sup> Michael Perlstein, *Prison Became Island of Fear and Frustration*, THE TIMES-PICAYUNE (New Orleans), Sept. 23, 2005.

<sup>33</sup> Interview with Renard Reed, June 22, 2006 (Notes on File with the ACLU National Prison Project); Interview with Renard Reed, June 20, 2006 (Notes on

File with the ACLU National Prison Project).

<sup>34</sup> Interview with R.P., May 12, 2006 (Notes on File with the ACLU National Prison Project).

<sup>35</sup> Interview with Rhonda Ducre, Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

<sup>36</sup> Interview with Renard Reed, June 22, 2006 (Notes on File with the ACLU National Prison Project); Interview with Renard Reed, June 20, 2006 (Notes on File with the ACLU National Prison Project).

<sup>37</sup> Richard Webster, *Caught Off Guard: OPP Deputies Blame Sheriff for Hurricane Crisis*, NEW ORLEANS CITYBUSINESS, Mar. 27, 2006, available at <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=15123>.

<sup>38</sup> Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

<sup>39</sup> Interview with R.P., May 12, 2006 (Notes on File with the ACLU National Prison Project).

<sup>40</sup> Interview with C.N., May 12, 2006 (Notes on File with the ACLU National Prison Project).

<sup>41</sup> Matt Gnaizda, *Katrina Exposes Orleans Parish Prison's Flaws*, *The Epoch Times*, Oct. 16, 2005, available at <http://www.theepochtimes.com/news/5-10-16/33361.html>.

<sup>42</sup> Richard Webster, *Caught Off Guard: OPP Deputies Blame Sheriff for Hurricane Crisis*, NEW ORLEANS CITYBUSINESS, Mar. 27, 2006, available at <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=15123>.

<sup>43</sup> *Id.*

<sup>44</sup> Interview with Rhonda Ducre, May 30, 2006 (Notes on File with the ACLU National Prison Project); Interview with Rhonda Ducre, Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

<sup>45</sup> Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).

<sup>46</sup> Testimonial Provided by Inmate #159, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

<sup>47</sup> Testimonial Provided by Inmate #119, Oct. 18, 2005 (Original on File with the ACLU National Prison Project).

<sup>48</sup> Testimonial Provided by Inmate #53, Oct. 28, 2005 (Original on File with the ACLU National Prison Project).

<sup>49</sup> Testimonial Provided by Inmate #59, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

<sup>50</sup> Testimonial Provided by Inmate #160, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

<sup>51</sup> Testimonial Provided by Inmate #145, Oct. 24, 2005 (Original on File with the ACLU National Prison Project).

<sup>52</sup> Testimonial Provided by Inmate #660, Oct. 20, 2005 (Original on File with the ACLU National Prison Project).

<sup>53</sup> Interview with Gedra Payne Robinson, Mar. 31, 2006 (Notes on File with the ACLU National Prison Project).

<sup>54</sup> *Id.*

<sup>55</sup> Interview with Joyce Gilson, Mar. 23, 2006 (Notes on File with the ACLU National Prison Project).

<sup>56</sup> Interview with Gedra Payne Robinson, Mar. 31, 2006 (Notes on File with the ACLU National Prison Project).

<sup>57</sup> Interview with Joyce Gilson, Mar. 23, 2006 (Notes on File with the ACLU National Prison Project).

<sup>58</sup> Interview with JoAnn Bailey Wilson, Mar. 24, 2006 (Notes on File with the ACLU National Prison Project).

<sup>59</sup> *Id.*

<sup>60</sup> Interview with Joyce Gilson, Mar. 23, 2006 (Notes on File with the ACLU National Prison Project).

<sup>61</sup> Interview with Gedra Payne Robinson, Mar. 31, 2006 (Notes on File with the ACLU National Prison Project).

<sup>62</sup> Interview with William Hardeman, June 23, 2006 (Notes on File with the ACLU National Prison Project).

<sup>63</sup> *Id.*

<sup>64</sup> Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).

<sup>65</sup> Testimonial Provided by David Williams, Nov. 7, 2005 (Original on File with the ACLU National Prison Project).

<sup>66</sup> Testimonial Provided by Inmate #167, Oct. 13, 2005 (Original on File with the ACLU National Prison Project).

<sup>67</sup> Interview with Albert G. Couvillion, June 3, 2006 (Notes on File with the ACLU National Prison Project); Testimonial Provided by Albert G. Couvillion, Oct. 30, 2005 (Original on File with the ACLU National Prison Project).

<sup>68</sup> Testimonial Provided by Inmate #205, Oct. 23, 2005 (Original on File with the ACLU National Prison Project).

<sup>69</sup> Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).

<sup>70</sup> Interview with Rhonda Ducre, Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

<sup>71</sup> Interview with R.P., May 12, 2006 (Notes on File with the ACLU National Prison Project).

<sup>72</sup> Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> Interview with C.N., May 12, 2006 (Notes on File with the ACLU National Prison Project); Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).

<sup>76</sup> Testimonial Provided by Inmate #1203, Apr. 4, 2006 (Original on File with the ACLU National Prison Project).

<sup>77</sup> Testimonial Provided by Inmate #1229, Apr. 23, 2006 (Original on File with the ACLU National Prison Project).

<sup>78</sup> E-Mail from Brady Richard, Former Medical Supply Officer to Katie Schwartzmann, ACLU of Louisiana, June 28, 2006 (E-Mail on File with the ACLU National Prison Project).

<sup>79</sup> Testimonial Provided by Inmate #53, Oct. 28, 2005 (Original on File with the ACLU National Prison Project).

<sup>80</sup> Testimonial Provided by Inmate #229, Oct. 23, 2005 (Original on File with the ACLU National Prison Project).

<sup>81</sup> Testimonial Provided by Inmate #262, Oct. 13, 2005 (Original on File with the ACLU National Prison Project).

<sup>82</sup> Testimonial Provided by Inmate #189, Oct. 24, 2005 (Original on File with the ACLU National Prison Project).

<sup>83</sup> Letter from Keanna Herbert to Eric Balaban, ACLU National Prison Project (Apr. 5, 2006) (Original on File with the ACLU National Prison Project).

<sup>84</sup> Orleans Parish Criminal Sheriff's Office Hurricane/Flood Contingency Plan (unsigned) (undated), available at <http://www.aclu.org/prison/conditions/22359jgl20050921.html>.

<sup>85</sup> Richard A. Webster, *OPP Doc Recounts Heroic Experience*, NEW ORLEANS CITYBUSINESS, Apr. 3, 2006, available at <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=15189>.

<sup>86</sup> El-Sadr W, Neaton J. Episodic CD4-guided use of ART is inferior to continuous therapy: Results of the SMART Study. 13th Conference on Retroviruses and Opportunistic Infections; February 5-8, 2006; Denver, CO. Abstract 106LB; Danel C, Moh R, Sorho S, et al. The CD4-guided strategy arm stopped in a randomized structured treatment interruption trial in West-Africa Adults: ANRS 1269 Trivacan Trial. 13th Conference on Retroviruses and Opportunistic Infections; February 5-8, 2006; Denver, CO. Abstract 105LB

<sup>87</sup> National Commission on Correctional Healthcare, Administrative Management of HIV in Correctional Institutions, Position Statements, October 9, 2005.

<sup>88</sup> Letter from Keanna Herbert to Eric Balaban, ACLU National Prison Project, Nov. 15, 2005 (Original on File with the ACLU National Prison Project).

<sup>89</sup> Letter from Keanna Herbert to Eric Balaban, ACLU National Prison Project, Apr. 5, 2006 (Original on File with the ACLU National Prison Project).

<sup>90</sup> Testimonial Provided by Inmate #975, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

<sup>91</sup> Testimonial Provided by Inmate #975, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

- <sup>92</sup> Michelle Gaseau, *Corrections Emerges Strong Following Katrina*, CORRECTIONS.COM, Sept. 12, 2005.
- <sup>93</sup> Testimonial Provided by Inmate #152, Oct. 20, 2005 (Original on File with the ACLU National Prison Project).
- <sup>94</sup> Testimonial Provided by Inmate #584, Oct. 20, 2005 (Original on File with the ACLU National Prison Project).
- <sup>95</sup> Testimonial Provided by Inmate #584, Oct. 20, 2005 (Original on File with the ACLU National Prison Project).
- <sup>96</sup> Interview with K.P., May 30, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>97</sup> *Id.*
- <sup>98</sup> Testimonial Provided by Inmate #219, Oct. 22, 2005 (Original on File with the ACLU National Prison Project).
- <sup>99</sup> Testimonial Provided by Inmate #20, Oct. 19, 2005 (Original on File with the ACLU National Prison Project).
- <sup>100</sup> Testimonial Provided by Inmate #356, Jan. 22, 2006 (Original on File with the ACLU National Prison Project).
- <sup>101</sup> Testimonial Provided by Inmate #123, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).
- <sup>102</sup> Testimonial Provided by Inmate #98, Oct. 19, 2005 (Original on File with the ACLU National Prison Project).
- <sup>103</sup> Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>104</sup> Interview with Renard Reed, June 22, 2006 (Notes on File with the ACLU National Prison Project); Interview with Renard Reed, June 20, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>105</sup> Testimonial Provided by Inmate #118, Oct. 16, 2005 (Original on File with the ACLU National Prison Project).
- <sup>106</sup> Interview with Inmate #141, April 11, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>107</sup> Richard A. Webster, *OPP Doc Recounts Heroic Experience*, *New Orleans CityBusiness*, Apr. 3, 2006, available at <http://www.neworleanscitybusiness.com/view-story.cfm?recID=15189>.
- <sup>108</sup> Testimonial Provided by Inmate #38, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).
- <sup>109</sup> Testimonial Provided by Inmate #1070, undated (Original on File with the ACLU National Prison Project).
- <sup>110</sup> Letter from Inmate #1070 to Eric Balaban, ACLU National Prison Project, Feb. 20, 2006 (Original on File with the ACLU National Prison Project).
- <sup>111</sup> Testimonial Provided by Inmate #1108, Mar. 31, 2006 (Original on File with the ACLU National Prison Project).
- <sup>112</sup> Michael Perlstein, *Grave Concern*, THE TIMES-PICAYUNE (New Orleans), Mar. 12, 2006, available at <http://www.nola.com/news/t-pp/frontpage/index.ssf?/base/news-5/1142150950104380.xml>.
- <sup>113</sup> Interview with C. Gary Wainwright, Dec. 21, 2005 (Notes on File with the ACLU National Prison Project).
- <sup>114</sup> *Id.*; see also Michael Perlstein, *Grave Concern*, THE TIMES-PICAYUNE (New Orleans), Mar. 12, 2006, available at <http://www.nola.com/news/t-pp/frontpage/index.ssf?/base/news-5/1142150950104380.xml>.
- <sup>115</sup> *Id.*
- <sup>116</sup> Michael Perlstein, *Grave Concern*, THE TIMES-PICAYUNE (New Orleans), Mar. 12, 2006, available at <http://www.nola.com/news/t-pp/frontpage/index.ssf?/base/news-5/1142150950104380.xml>.
- <sup>117</sup> *Id.*
- <sup>118</sup> Interview with C. Gary Wainwright, Dec. 21, 2005 (Notes on File with the ACLU National Prison Project).
- <sup>119</sup> *Id.*
- <sup>120</sup> *Id.*
- <sup>121</sup> *Id.*
- <sup>122</sup> Michael Perlstein, *Grave Concern*, THE TIMES-PICAYUNE (New Orleans), Mar. 12, 2006, available at <http://www.nola.com/news/t-pp/frontpage/index.ssf?/base/news-5/1142150950104380.xml>.
- <sup>123</sup> *Id.*
- <sup>124</sup> Letter from Inmate #903 to Tom-Tsvi M. Jawetz, ACLU National Prison Project, Apr. 29, 2006 (Original on File with the ACLU National Prison Project).
- <sup>125</sup> Michael Perlstein, *Grave Concern*, THE TIMES-PICAYUNE (New Orleans), Mar. 12, 2006, available at <http://www.nola.com/news/t-pp/frontpage/index.ssf?/base/news-5/1142150950104380.xml>.
- <sup>126</sup> *Id.*
- <sup>127</sup> *Id.*
- <sup>128</sup> *Id.*
- <sup>129</sup> *Id.*
- <sup>130</sup> *Id.*
- <sup>131</sup> Testimonial Provided by Inmate #11, Oct. 19, 2005 (Original on File with the ACLU National Prison Project).
- <sup>132</sup> Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>133</sup> Interview with R.P., May 12, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>134</sup> Interview with Renard Reed, June 22, 2006 (Notes on File with the ACLU National Prison Project); Interview with Renard Reed, June 20, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>135</sup> Testimonial Provided by Inmate #1192, Oct. 21, 2005 (Original on File with the ACLU National Prison Project).
- <sup>136</sup> Testimonial Provided by Inmate #87, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).
- <sup>137</sup> Testimonial Provided by Pearl Cornelia Bland, Sep. 22, 2005 (Original on File with the ACLU National Prison Project). Ms. Bland's account is corroborated by other female prisoners in Conchetta 3-1, one of whom was interviewed several months after the storm. She reports that Ms. Bland was jumped by other female prisoners, and that a deputy closed the door and refused to assist Ms. Bland as she was being assaulted. According to this witness, one deputy said something like "let them fuck that whore up." Interview with Inmate A.K., Oct. 28, 2005 (Notes on File with the ACLU National Prison Project). Another woman states that "[m]ost of the Deputies and the nurse were in the back room, they didn't even come out when fights started to break out. [T]hey had the door open for us to try to get air but when the fights started one of Deputies closed the door and said let them fight." Testimonial Provided by Inmate #342, Oct. 24, 2005 (Original on File with the ACLU National Prison Project).
- <sup>138</sup> Testimonial Provided by Pearl Cornelia Bland, Sep. 22, 2005 (Original on File with the ACLU National Prison Project).
- <sup>139</sup> Letter from Pearl Cornelia Bland, to Elizabeth Alexander, Director, ACLU National Prison Project (June 5, 2006) (Original on File with the ACLU National Prison Project).
- <sup>140</sup> Information about Ms. Bland's incarceration was obtained with the assistance of Katherine Mattes.
- <sup>141</sup> Testimonial Provided by Inmate #78, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).
- <sup>142</sup> Testimonial Provided by Inmate #96, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).
- <sup>143</sup> U.S. Department of Justice-Bureau of Justice Statistics, *Sexual Violence Reported by Correctional Authorities 2004*, July 2005; as cited by Supplementary Report to the Findings of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina From the Office of Cynthia A. McKinney (GA) United States House of Representatives Submitted Monday, February 6, 2006.
- <sup>144</sup> Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>145</sup> Testimonial Provided by Inmate #125, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

- <sup>146</sup> Testimonial Provided by Inmate #23, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).
- <sup>147</sup> Testimonial Provided by Inmate #64, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).
- <sup>148</sup> Michael Perlstein, *Prison Became Island of Fear and Frustration*, THE TIMES-PICAYUNE (New Orleans), Sept. 23, 2005.
- <sup>149</sup> Testimonial Provided by Inmate #189, Oct. 24, 2005 (Original on File with the ACLU National Prison Project).
- <sup>150</sup> Testimonial Provided by Inmate #553, Nov. 5, 2005 (Original on File with the ACLU National Prison Project).
- <sup>151</sup> Testimonial Provided by Inmate #839, Oct. 21, 2005 (Original on File with the ACLU National Prison Project).
- <sup>152</sup> Declaration of Quantonio Williams (undated).
- <sup>153</sup> Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>154</sup> Testimonial Provided by Inmate #790, Oct. 27, 2005 (Original on File with the ACLU National Prison Project).
- <sup>155</sup> Testimonial Provided by Inmate #839, Oct. 21, 2005 (Original on File with the ACLU National Prison Project).
- <sup>156</sup> Interview with Leroy P. Gardner, III, June 7, 2006 (Notes on File with the ACLU National Prison Project); Testimonial Provided by Leroy P. Gardner, III, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).
- <sup>157</sup> Richard Webster, *Caught Off Guard: OPP Deputies Blame Sheriff for Hurricane Crisis*, NEW ORLEANS CITYBUSINESS, Mar. 27, 2006, available at <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=15123>.
- <sup>158</sup> *Id.*
- <sup>159</sup> Testimonial Provided by Inmate #121, Oct. 15, 2005 (Original on File with the ACLU National Prison Project).
- <sup>160</sup> Testimonial Provided by Inmate #231, Oct. 22, 2005 (Original on File with the ACLU National Prison Project).
- <sup>161</sup> Testimonial Provided by Darnell Smith, Oct. 15, 2005 (Original on File with the ACLU National Prison Project).
- <sup>162</sup> Interview with C.N., May 12, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>163</sup> *Id.*
- <sup>164</sup> Testimonial Provided by Inmate #98, Oct. 19, 2005 (Original on File with the ACLU National Prison Project).
- <sup>165</sup> Testimonial Provided by Inmate #123, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).
- <sup>166</sup> Interview with Renard Reed, June 22, 2006 (Notes on File with the ACLU National Prison Project); Interview with Renard Reed, June 20, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>167</sup> Interview with C.N., May 12, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>168</sup> Richard Webster, *Jail Tales: Sheriff Gusman, Prisoners Differ on Storm Evacuation Success*, NEW ORLEANS CITYBUSINESS, Feb. 20, 2006, available at <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=14735>.
- <sup>169</sup> Testimonial Provided by Inmate #44, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).
- <sup>170</sup> Mira Oberman, *Prisoners Fell on Barbed Wire in Deperate [sic] Bid to Find Water*, AGENCE FRANCE PRESSE, Sept. 3, 2005.
- <sup>171</sup> Interview with C.N., May 12, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>172</sup> Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>173</sup> Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>174</sup> Michael Perlstein, *Prison Became Island of Fear and Frustration*, THE TIMES-PICAYUNE (New Orleans), Sept. 23, 2005.
- <sup>175</sup> Testimonial Provided by Inmate #77, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).
- <sup>176</sup> Testimonial Provided by Inmate #162, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).
- <sup>177</sup> Michael Perlstein, *Prison Became Island of Fear and Frustration*, THE TIMES-PICAYUNE (New Orleans), Sept. 23, 2005.
- <sup>178</sup> Richard Webster, *Caught Off-Guard: OPP Deputies Blame Sheriff for Hurricane Crisis*, NEW ORLEANS CITYBUSINESS, Mar. 27, 2006.
- <sup>179</sup> Amnesty International, *United States of America: Excessive and Lethal Force? Amnesty International's Concerns About Deaths and Ill-Treatment Involving Police Use of Tasers*, Nov. 30, 2004, 22-25, available at <http://web.amnesty.org/library/index/engamr511392004>.
- <sup>180</sup> *Id.* at 60-61.
- <sup>181</sup> Amnesty International, *Amnesty International's Continuing Concerns About Taser Use*, Mar. 28, 2006, available at <http://www.amnestyusa.org/countries/usa/document.do?id=ENGAMR510302006>.
- <sup>182</sup> Kevin Johnson, *Justice Department Looks into Deaths of People Subdued By Stun Guns*, USA TODAY, June 13, 2006, available at [http://www.usatoday.com/news/washington/2006-06-13-stun-guns\\_x.htm](http://www.usatoday.com/news/washington/2006-06-13-stun-guns_x.htm).
- <sup>183</sup> Amnesty International, *United States of America: Excessive and Lethal Force? Amnesty International's Concerns About Deaths and Ill-Treatment Involving Police Use of Tasers*, Nov. 30, 2004, 57 n.144, available at <http://web.amnesty.org/library/index/engamr511392004>.
- <sup>184</sup> For example, the Indianapolis Police Department reportedly uses Tasers against blacks and Hispanics "at a far higher rate" than it does against whites. Richard D. Walton and Mark Nichols, *50,000 Volts of Controversy*, THE INDIANAPOLIS STAR, June 23, 2006, available at <http://www.indystar.com/apps/pbcs.dll/article?AID=/20060623/NEWS01/306230005/-1/ZONES04>. The racial disparity was similar for the Marion County Sheriff's Department. *Id.*
- <sup>185</sup> Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>186</sup> *Id.*
- <sup>187</sup> Testimonial Provided by Inmate #64, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).
- <sup>188</sup> Testimonial Provided by Inmate #71, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).
- <sup>189</sup> Testimonial Provided by Inmate #144, Oct. 27, 2005 (Original on File with the ACLU National Prison Project).
- <sup>190</sup> Testimonial Provided by Inmate #92, undated (Original on File with the ACLU National Prison Project).
- <sup>191</sup> Testimonial Provided by Inmate #56, Oct. 24, 2005 (Original on File with the ACLU National Prison Project).
- <sup>192</sup> Interview with Renard Reed, June 22, 2006 (Notes on File with the ACLU National Prison Project); Interview with Renard Reed, June 20, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>193</sup> Testimonial Provided by Inmate #111, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).
- <sup>194</sup> Testimonial Provided by Inmate #55, Oct. 29, 2005 (Original on File with the ACLU National Prison Project).

## Section IV

<sup>1</sup> Testimonial Provided by Inmate #181, Oct. 24, 2005 (Original on File with the ACLU National Prison Project).

<sup>2</sup> NIC Technical Assistance Report at 15.

<sup>3</sup> Rene Lapeyrolerie, *What Really Happened at Orleans Parish Prison in the Aftermath of Hurricane Katrina*, *New Orleans Tribune*, Feb./Mar. 2006, 24. A report issued by the Louisiana Department of Public Safety and Corrections also indicates that Sheriff Gusman called the state for assistance late Monday. See Louisiana Department of Public Safety and Corrections, Corrections Services, *Hurricane Katrina/Hurricane Rita Activity Report*, Mar. 21, 2006, available at <http://www.marlingusman.com/KATRINA1%20RITA%20ACTIVITY%20REPORT.htm>.

<sup>4</sup> Michael Perlstein, *Prison Became Island of Fear and Frustration*, THE TIMES-PICAYUNE (New Orleans), Sept. 23, 2005.

<sup>5</sup> *Id.*, at 3.

<sup>6</sup> NIC Technical Assistance Report at 15.

<sup>7</sup> Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).

<sup>8</sup> Juvenile Justice Project of Louisiana, *Treated Like Trash: Juvenile Detention in New Orleans Before, During, and After Hurricane Katrina*, May 2006, 18, available at [http://jjpl.org/PDF/treated\\_like\\_trash.pdf](http://jjpl.org/PDF/treated_like_trash.pdf).

<sup>9</sup> Interview with R.P., May 12, 2006 (Notes on File with the ACLU National Prison Project).

<sup>10</sup> Interview with Duane Lewis, June 23, 2006 (Notes on File with the ACLU National Prison Project).

<sup>11</sup> Michael Perlstein, *14 Orleans Inmates Escaped After Katrina*, THE TIMES-PICAYUNE (New Orleans), Nov. 18, 2005, available at [http://www.nola.com/weblogs/print.ssf?/mtlogs/nola\\_Times-Picayune/archives/print094805.html](http://www.nola.com/weblogs/print.ssf?/mtlogs/nola_Times-Picayune/archives/print094805.html).

<sup>12</sup> *Id.* St. Bernard Parish Sheriff Jack Stephens later took responsibility for what happened to the St. Bernard Parish prisoners at OPP, including the escape of some of those prisoners. Sheriff Stephens explained: "Obviously, there was some confusion right after the storm, and we were in somebody else's jail, but those are still our inmates and they're still our responsibility." Michael Perlstein, *Inmate Says Jail Escape Was "Survival": Fear of New Charges Keeps Him On the Lam*, THE TIMES-PICAYUNE (New Orleans), Nov. 23, 2005.

<sup>13</sup> Interview with C.N., May 12, 2006 (Notes on File with the ACLU National Prison Project).

<sup>14</sup> Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).

<sup>15</sup> Interview with C.N., May 12, 2006 (Notes on File with the ACLU National Prison Project).

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

<sup>17</sup> Interview with Joyce Gilson, June 4, 2006 (Notes on File with the ACLU National Prison Project).

<sup>18</sup> Interview with Ronnie Lee Morgan, Jr., June 5, 2006 (Notes on File with the ACLU National Prison Project).

<sup>19</sup> Michael Perlstein, *Prison Became Island of Fear and Frustration*, THE TIMES-PICAYUNE, Sept. 23, 2005.

<sup>20</sup> Rene Lapeyrolerie, *What Really Happened At Orleans Parish Prison in the Aftermath of Hurricane Katrina*, NEW ORLEANS TRIBUNE, Feb./Mar. 2006, 24.

<sup>21</sup> Michael Perlstein, *Prison Became Island of Fear and Frustration*, THE TIMES-PICAYUNE (New Orleans), Sept. 23, 2005.

<sup>22</sup> Testimonial Provided by Inmate #241, Oct. 23, 2005 (Original on File with the ACLU National Prison Project).

<sup>23</sup> Interview with JoAnn Bailey Wilson, Mar. 24, 2006 (Notes on File with the ACLU National Prison Project).

<sup>24</sup> Testimonial Provided by Inmate #153, Oct. 22, 2005 (Original on File with the ACLU National Prison Project).

<sup>25</sup> Testimonial Provided by Inmate #596, Oct. 24, 2005 (Original on File with the ACLU National Prison Project).

<sup>26</sup> Testimonial Provided by Inmate #27, Oct. 20, 2005 (Original on File with the ACLU National Prison Project).

<sup>27</sup> Testimonial Provided by Inmate #187, Oct. 23, 2005 (Original on File with the ACLU National Prison Project).

<sup>28</sup> Testimonial Provided by Inmate #227, Oct. 21, 2005 (Original on File with the ACLU National Prison Project).

<sup>29</sup> Testimonial Provided by Inmate #59, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

<sup>30</sup> Testimonial Provided by Inmate #266, Oct. 25, 2005 (Original on File with the ACLU National Prison Project).

<sup>31</sup> Testimonial Provided by Inmate #93, Oct. 20, 2005 (Original on File with the ACLU National Prison Project).

<sup>32</sup> Rene Lapeyrolerie, *What Really Happened At Orleans Parish Prison in the Aftermath of Hurricane Katrina*, NEW ORLEANS TRIBUNE, Feb./Mar. 2006, 24.

<sup>33</sup> Agence France Presse, *Sheriff's Deputy Tells How Prisoners Fell onto Barbed Wire*, Sept. 4, 2005.

<sup>34</sup> Richard Liebson, *New Orleans Jail Rescue Began in White Plains*, THE JOURNAL NEWS (White Plains), Sept. 9, 2005.

<sup>35</sup> Interview with Corey Stevenson, June 7, 2006 (Notes on File with the ACLU National Prison Project).

<sup>36</sup> Testimonial Provided by Inmate #98, Oct. 19, 2005 (Original on File with the ACLU National Prison Project); Testimonial Provided by Inmate #524, Oct. 16, 2005 (Original on File with the ACLU National Prison Project).

<sup>37</sup> Michael Perlstein and Gordon Russell, *Orleans Criminal Sheriff's Race Gets Nasty*, THE TIMES-PICAYUNE (New Orleans), Apt. 18, 2006.

<sup>38</sup> Interview with Inmate #524, July 7, 2006 (Notes on File with the ACLU National Prison Project).

<sup>39</sup> Associated Press, *Katrina Victim Found in New Orleans House*, May 28, 2006.

<sup>40</sup> Press Release, *Roster of Missing Loved Ones Now Fewer Than 300*, FEMA, May 18, 2006, available at <http://www.fema.gov/news/newsrelease.fema?id=26341>.

<sup>41</sup> Chicago Tribune, *49 Katrina Bodies Remain Unidentified*, July 6, 2006, available at 2006 WLNR 11643743.

## Section V

<sup>1</sup> Testimonial Provided by Inmate #24, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

<sup>2</sup> Testimonial Provided by Inmate #251, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

<sup>3</sup> Testimonial Provided by Inmate #160, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

<sup>4</sup> Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).

<sup>5</sup> Interview with Inmate #285, Mar. 31, 2006 (Notes on File with the ACLU National Prison Project).

<sup>6</sup> Testimonial Provided by Inmate #11, Oct. 19, 2005 (Original on File with the ACLU National Prison Project).

<sup>7</sup> Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).

<sup>8</sup> Testimonial Provided by Inmate #56, Oct. 24, 2005 (Original on File with the ACLU National Prison Project).

<sup>9</sup> Testimonial Provided by Inmate #111, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

<sup>10</sup> Testimonial Provided by Inmate #227, Oct. 21, 2005 (Original on File with the ACLU National Prison Project).

<sup>11</sup> George J. Tanber, *Arrested on Misdemeanors, Left to Die in Flooded Jail*, THE TOLEDO BLADE, Sept. 23, 2005.

<sup>12</sup> *Id.*

<sup>13</sup> Testimonial Provided by Inmate #305, Oct. 20, 2005 (Original on File with the ACLU National Prison Project).

<sup>14</sup> Testimonial Provided by Inmate #711, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

<sup>15</sup> Testimonial Provided by Inmate #145, Oct. 24, 2005 (Original on File with the ACLU National Prison Project).

<sup>16</sup> Testimonial Provided by Inmate #302, Oct. 19, 2005 (Original on File with the ACLU National Prison Project).

## Section VI

<sup>1</sup> The LCAC Analysis. As noted above, the Sheriff's figures appear to double-count some children, and thus do not appear to be entirely accurate.

<sup>2</sup> Juvenile Justice Project of Louisiana, *Treated Like Trash: Juvenile Detention in New Orleans Before, During, and After Hurricane Katrina*, May 2006, Foreword, available at [http://jjpl.org/PDF/treated\\_like\\_trash.pdf](http://jjpl.org/PDF/treated_like_trash.pdf).

<sup>3</sup> Editorial, *Housing Juveniles with Prisoners is Criminal*, NEW ORLEANS CITYBUSINESS, May 8, 2006.

<sup>4</sup> *Id.*

<sup>5</sup> Transcript of CNN Coverage of Press Conference, Aug. 28, 2005, *available at*: <http://transcripts.cnn.com/TRANSCRIPTS/0508/28/bn.04.html>.

<sup>6</sup> Juvenile Justice Project of Louisiana, *Treated Like Trash: Juvenile Detention in New Orleans Before, During, and After Hurricane Katrina*, May 2006, 13, *available at* [http://jjpl.org/PDF/treated\\_like\\_trash.pdf](http://jjpl.org/PDF/treated_like_trash.pdf).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

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

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

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

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

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> Interview with Ashley George, June 20, 2006 (Notes on File with the ACLU National Prison Project); Interview with Ashley George, Mar. 1, 2006 (Notes on File with the ACLU National Prison Project).

<sup>21</sup> Interview with Ruby Ann George, June 20, 2006 (Notes on File with the ACLU National Prison Project).

<sup>22</sup> Juvenile Justice Project of Louisiana, *Treated Like Trash: Juvenile Detention in New Orleans Before, During, and After Hurricane Katrina*, May 2006, 15, *available at* [http://jjpl.org/PDF/treated\\_like\\_trash.pdf](http://jjpl.org/PDF/treated_like_trash.pdf).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 15-16.

<sup>28</sup> *Id.* at 16.

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

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

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.* at 17.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

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

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* at 18.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.* at 19.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Id.* at 19-20.

<sup>59</sup> *Id.* at 20.

<sup>60</sup> Richard A. Webster, *Juveniles Claim They Were Treated Like “Trash” at OPP*, NEW ORLEANS CITYBUSINESS, May 10, 2006.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

## Section VII

<sup>1</sup> Richard Webster, *Jail Tales: Sheriff Gusman, Prisoners Differ on Storm Evacuation Success*, *New Orleans CityBusiness*, Feb. 20, 2006, *available at* <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=14735>.

<sup>2</sup> U.S. Department of Justice, National Institute of Corrections, *A Guide to Preparing for and Responding to Prison Emergencies*, June 2005, at 211, *available at* <http://www.nicic.org/>.

<sup>3</sup> Richard Webster, *Caught Off Guard: OPP Deputies Blame Sheriff for Hurricane Crisis*, *NEW ORLEANS CITYBUSINESS*, Mar. 27, 2006, *available at*



<http://www.neworleanscitybusiness.com/viewStory.cfm?recID=15123>.

<sup>4</sup> Compiled from Times Wires, *Allegations of Neglect at Jail are "Fiction," Sheriff Says*, ST. PETERSBURG TIMES, Oct. 6, 2005.

<sup>5</sup> Richard Webster, *Jail Tales: Sheriff Gusman, Prisoners Differ on Storm Evacuation Success*, NEW ORLEANS CITYBUSINESS, Feb. 20, 2006, available at <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=14735>.

<sup>6</sup> Staff Reports, *Breaking News from The Times-Picayune and Nola.com Hurricane Katrina - the Aftermath*, THE TIMES-PICAYUNE (New Orleans), Sept. 3, 2005.

<sup>7</sup> Michael Perlstein, *14 Escaped Prison in Katrina Chaos: Gusman Initially Claims All Accounted For*, THE TIMES-PICAYUNE (New Orleans), Nov. 19, 2005, available at <http://www.nola.com/frontpage/t-p/index.ssf?/base/news-4/113238584235800.xml>

<sup>8</sup> *Id.*

<sup>9</sup> Testimonial Provided by Leroy P. Gardner, III, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

<sup>10</sup> *Id.*

<sup>11</sup> Michael Perlstein, *Inmate Says Jail Escape Was "Survival": Fear of New Charges Keeps Him On the Lam*, THE TIMES-PICAYUNE (New Orleans), Nov. 23, 2005.

<sup>12</sup> See, e.g., [PRISONACT] Fwd: LEFT IN ORLEANS PARISH PRISON—2 Articles about Hurricane Katrina and OPP, available at <http://www.prisonactivist.org/pipermail/prisonact-list/2005-September/010203.html>.

<sup>13</sup> Michael Perlstein, *Inmate Says Jail Escape Was "Survival": Fear of New Charges Keeps Him On the Lam*, THE TIMES-PICAYUNE (New Orleans), Nov. 23, 2005.

<sup>14</sup> Rene Lapeyrolerie, *What Really Happened At Orleans Parish Prison in the Aftermath of Hurricane Katrina*, NEW ORLEANS TRIBUNE, Feb./Mar. 2006, 24.

<sup>15</sup> Radio Spot 2, <http://www.marlingusman.com/index.html> (last visited Apr. 20, 2006).

<sup>16</sup> Jason Brown and Kayla Gagnet, *Prisoners of the Storm*, THE DAILY ADVERTISER, Dec. 18, 2005, available at

<http://acadiananow.com/apps/pbcs.dll/article?AID=/20051218/NEWS01/512180326/1002>.

<sup>17</sup> Richard Webster, *Jail Tales: Sheriff Gusman, Prisoners Differ on Storm Evacuation Success*, NEW ORLEANS CITYBUSINESS, Feb. 20, 2006, available at

<http://www.neworleanscitybusiness.com/viewStory.cfm?recID=14735>.

<sup>18</sup> Rene Lapeyrolerie, *What Really Happened At Orleans Parish Prison in the Aftermath of Hurricane Katrina*, NEW ORLEANS TRIBUNE, Feb./Mar. 2006, 24.

<sup>19</sup> *Id.*

<sup>20</sup> Richard Webster, *Jail Tales: Sheriff Gusman, Prisoners Differ on Storm Evacuation Success*, NEW ORLEANS CITYBUSINESS, Feb. 20, 2006, available at

<http://www.neworleanscitybusiness.com/viewStory.cfm?recID=14735>.

<sup>21</sup> *Id.*

<sup>22</sup> Interview with Rhonda Ducre, Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

<sup>23</sup> The statement of Rachel I. Jones is available in the Appendix.

## Section VIII

<sup>1</sup> Testimonial Provided by Inmate #251, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

<sup>2</sup> Testimonial Provided by Inmate #251, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

<sup>3</sup> Testimonial Provided by Inmate #112, Oct. 16, 2005 (Original on File with the ACLU National Prison Project).

<sup>4</sup> Testimonial Provided by Inmate #230, Oct. 18, 2005 (Original on File with the ACLU National Prison Project).

<sup>5</sup> Testimonial Provided by Inmate #111, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

<sup>6</sup> *Id.*

<sup>7</sup> Interview with Ronnie Lee Morgan, Jr., June 5, 2006 (Notes on File with the ACLU National Prison Project); Interview with Ronnie Lee Morgan, Jr., May 15, 2006 (Notes on File with the ACLU National Prison Project); Letter from Inmate Ronnie Lee Morgan, Jr. to Whom It May Concern (Nov. 10, 2005) (Original on File with the ACLU National Prison Project).

<sup>8</sup> Testimonial Provided by Inmate #120, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

<sup>9</sup> Testimonial Provided by Inmate #118, Oct. 16, 2005 (Original on File with the ACLU National Prison Project).

<sup>10</sup> Interview with R.C., Apr. 26, 2006 (Notes on File with the ACLU National Prison Project).

<sup>11</sup> NIC Technical Assistance Report at 23.

<sup>12</sup> Testimonial Provided by Inmate #64, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

<sup>13</sup> Testimonial Provided by Inmate #561, Nov. 9, 2005 (Original on File with the ACLU National Prison Project).

<sup>14</sup> Jason Brown and Kayla Gagnet, *Prisoners of the Storm*, THE DAILY ADVERTISER, Dec. 18, 2005, available at

<http://acadiananow.com/apps/pbcs.dll/article?AID=/20051218/NEWS01/512180326/1002>.

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

<sup>16</sup> Testimonial Provided by Inmate #113, Oct. 16, 2005 (Original on File with the ACLU National Prison Project).

<sup>17</sup> Testimonial Provided by Inmate #168, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

<sup>18</sup> Testimonial Provided by Inmate #621, Oct. 18, 2005 (Original on File with the ACLU National Prison Project).

<sup>19</sup> Testimonial Provided by Inmate #121, Oct. 15, 2005 (Original on File with the ACLU National Prison Project).

<sup>20</sup> Testimonial Provided by Inmate #113, Oct. 16, 2005 (Original on File with the ACLU National Prison Project).

<sup>21</sup> Jason Brown and Kayla Gagnet, *Prisoners of the Storm*, THE DAILY ADVERTISER, Dec. 18, 2005, available at

<http://acadiananow.com/apps/pbcs.dll/article?AID=/20051218/NEWS01/512180326/1002>.

<sup>22</sup> *Id.*

<sup>24</sup> Testimonial Provided by Inmate #121, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

<sup>25</sup> NIC Technical Assistance Report at 23.

<sup>26</sup> Testimonial Provided by Inmate #361, Oct. 26, 2005 (Original on File with the ACLU National Prison Project).

<sup>27</sup> Richard A. Webster, *OPP Doc Recounts Heroic Experience*, NEW ORLEANS CITYBUSINESS, Apr. 3, 2006, available at

<http://www.neworleanscitybusiness.com/viewStory.cfm?recID=15189>.

<sup>28</sup> Interview with C.N., May 12, 2006 (Notes on File with the ACLU National Prison Project).

<sup>29</sup> Testimonial Provided by Inmate #95, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

<sup>30</sup> George J. Tanber, *Arrested on Misdemeanors, Left to Die in Flooded Jail*, THE TOLEDO BLADE, Sept. 23, 2005.

<sup>31</sup> Testimonial Provided by Inmate #102, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

<sup>32</sup> Testimonial Provided by Inmate #263, Oct. 13, 2005 (Original on File with the ACLU National Prison Project).

<sup>33</sup> Testimonial Provided by Inmate #574, Nov. 6, 2005 (Original on File with the ACLU National Prison Project).

<sup>34</sup> Don Walker, *Inmate Evacuees Arrive in Area: All of the Prisoners are in the Minimum- to Maximum-Security Category*, THE SHREVEPORT TIMES, Sept. 2, 2005,

available at <http://www.shreveporttimes.com/apps/pbcs.dll/article?AID=/20050902/NEWS01/509020357/1002/NEWS>.

<sup>35</sup> Matthew Crawford, *Facility of the Month: Bossier Parish Maximum Security Jail*, CORRECTIONALNEWS.COM, May/June 2006, available at <http://correctionalnews.com/ME2/Audiences/dirmod.asp?sid=&nm=&type=Publishing&mod=Publications%3A%3AArticle&mid=8F3A7027421841978F18BE895F87F791&tier>

=4&id=1D049DF8798C4158B10087CB4992EA27.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> U.S. Census Bureau, *Census 2000 Demographic Profile Highlights*, available at

[http://factfinder.census.gov/servlet/SAFFacts?\\_event=&geo\\_id=16000US2208920&\\_geoContext=01000US%7C04000US22%7C16000US2208920&\\_street=&\\_county=bossier+city&\\_cityTown=bossier+city&\\_state=&\\_zip=&\\_lang=en&\\_sse=on&ActiveGeoDiv=&\\_useEV=&\\_pctxt=fph&pgsl=160&\\_submenuId=population\\_0&ds\\_name=null&\\_ci\\_nbr=null&qr\\_name=null&reg=null%3Anull&\\_keyword=&\\_industry=](http://factfinder.census.gov/servlet/SAFFacts?_event=&geo_id=16000US2208920&_geoContext=01000US%7C04000US22%7C16000US2208920&_street=&_county=bossier+city&_cityTown=bossier+city&_state=&_zip=&_lang=en&_sse=on&ActiveGeoDiv=&_useEV=&_pctxt=fph&pgsl=160&_submenuId=population_0&ds_name=null&_ci_nbr=null&qr_name=null&reg=null%3Anull&_keyword=&_industry=).

<sup>40</sup> Testimonial Provided by Inmate #83, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

<sup>41</sup> Testimonial Provided by Timothy Ordon, Nov. 7, 2005 (Original on File with the ACLU National Prison Project); Letter from Timothy Ordon to Tom M. Jawetz, ACLU National Prison Project (May 10, 2006) (Original on File with the ACLU National Prison Project).

<sup>42</sup> Testimonial Provided by Inmate #555, Nov. 5, 2005 (Original on File with the ACLU National Prison Project).

<sup>43</sup> Interview with Ivy R. Gisclair, June 14, 2006 (Notes on File with the ACLU National Prison Project).

<sup>44</sup> Testimonial Provided by Inmate #574, Nov. 6, 2005 (Original on File with the ACLU National Prison Project).

<sup>45</sup> Testimonial Provided by Inmate #50, Oct. 30, 2005 (Original on File with the ACLU National Prison Project).

<sup>46</sup> Testimonial Provided by Inmate #114, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

<sup>47</sup> *Id.*

<sup>48</sup> Interview with Vincent Norman, July 10, 2006 (Notes on File with the ACLU National Prison Project); Interview with Vincent Norman, July 7, 2006 (Notes on File with the ACLU National Prison Project); Testimonial Provided by Vincent Norman, Oct. 13, 2005 (Original on File with the ACLU National Prison Project).

<sup>49</sup> Testimonial Provided by Inmate #103, Oct. 11, 2005 (Original on File with the ACLU National Prison Project).

<sup>50</sup> Interview with Inmate #13, May 16, 2006 (Notes from Conversation on File with the ACLU National Prison Project).

<sup>51</sup> *Id.*

<sup>52</sup> Fox Butterfield, *Settling Suit, Louisiana Abandons Private Youth Prisons*, THE NEW YORK TIMES, Sept. 8, 2000; Vicki Ferstel, *Last Juveniles to Leave Jena*, BATON ROUGE ADVOCATE, May 16, 2000.

<sup>53</sup> David Rohde and Christopher Drew, *Storm and Crisis: The Inmates; Prisoners Evacuated After Hurricane Allege Abuse*, THE NEW YORK TIMES, Oct. 2, 2005.

<sup>54</sup> Statement of Keith M. Dillon, May 28, 2006 (Copy on File with the ACLU National Prison Project).

<sup>55</sup> Statement of Rachel I. Jones, Sept. 30, 2005, at 4.

<sup>56</sup> *Id.* at 4-5.

<sup>57</sup> Press Release, *Louisiana: Detainee Abuse Requires Federal Probe*, NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC. AND HUMAN RIGHTS WATCH, Oct. 5, 2005, available at <http://www.naacpldf.org/content.aspx?article=696>.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> Statement of Rachel I. Jones, Sept. 30, 2005, at 8; Press Release, *Louisiana: Detainee Abuse Requires Federal Probe*, NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC. AND HUMAN RIGHTS WATCH, Oct. 5, 2005, available at <http://www.naacpldf.org/content.aspx?article=696>.

<sup>63</sup> Press Release, *Louisiana: Detainee Abuse Requires Federal Probe*, NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC. AND HUMAN RIGHTS WATCH, Oct. 5, 2005, available at <http://www.naacpldf.org/content.aspx?article=696>.

<sup>64</sup> Statement of Keith M. Dillon, May 28, 2006 (Copy on File with the ACLU National Prison Project).

<sup>65</sup> Press Release, *Louisiana: Detainee Abuse Requires Federal Probe*, NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC. AND HUMAN RIGHTS WATCH, Oct. 5, 2005, available at <http://www.naacpldf.org/content.aspx?article=696>.

<sup>66</sup> *Id.*

<sup>67</sup> Interview by Vanita Gupta, LDF Attorney, with prisoners at the Jena Facility, Louisiana, October 4, 2005.

<sup>68</sup> David Rohde and Christopher Drew, *Prisoners Evacuated After Hurricanes Allege Abuse*, THE NEW YORK TIMES, Oct. 2, 2005. The Statement of Rachel I. Jones, has been attached to the Appendix at \_\_\_\_\_. The names of the prisoners with whom she spoke have been removed for their protection.

<sup>69</sup> Press Release, *Louisiana: Detainee Abuse Requires Federal Probe*, NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC. AND HUMAN RIGHTS WATCH, Oct. 5, 2005, available at <http://www.naacpldf.org/content.aspx?article=696>.

<sup>70</sup> David Rohde and Christopher Drew, *Prisoners Evacuated After Hurricanes Allege Abuse*, THE NEW YORK TIMES, Oct. 2, 2005; Henry Weinstein, *A Shattered Gulf Coast; Evacuated Inmates at One Prison Allege Abuse by Guards*, THE LOS ANGELES TIMES, Oct. 2, 2005.

<sup>71</sup> Press Release, *Louisiana: Detainee Abuse Requires Federal Probe*, NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC. AND HUMAN RIGHTS WATCH, Oct. 5, 2005, available at <http://www.naacpldf.org/content.aspx?article=696>.

<sup>72</sup> Letter from Jamie Fellner, Human Rights Watch, to Secretary Richard L. Stalder, Louisiana Department of Public Safety and Corrections, Oct. 2, 2005, available at <http://hrw.org/english/docs/2005/10/03/usdom11821.htm>.

<sup>73</sup> NIC Technical Assistance Report at 30.

<sup>74</sup> The women who were held at Angola were generally far more pleased than the women who were held at the Louisiana Correctional Institute for Women (“LCIW”). According to the DOC technical assistance report, female evacuees who were still at LCIW at the end of January 2006 “complained about being kept on 23 hour lock-down for months, . . . long delays in getting medication, no distribution of clothes given to the resident population, sleeping on the floor for the first three months and a continuing lack of access to phones and a continuing prohibition against family visiting.” NIC Technical Assistance Report at 28. These complaints were, in large part, confirmed by LCIW staff, who subsequently decided—over five months after the storm—to permit evacuees to visit with family members and use the telephones. *Id.* at 28-29.

<sup>75</sup> Testimonial Provided by Inmate #374, undated (Original on File with the ACLU National Prison Project).

<sup>76</sup> Testimonial Provided by Inmate #573, Oct. 26, 2005 (Original on File with the ACLU National Prison Project).

<sup>77</sup> Testimonial Provided by Inmate #581, Oct. 19, 2005 (Original on File with the ACLU National Prison Project).

<sup>78</sup> Testimonial Provided by Inmate #1226, May 8, 2006 (Original on File with the ACLU National Prison Project).

## Section IX

<sup>1</sup> Alex Berenson, *With Jails Flooded, Bus Station Fills the Void*, THE NEW YORK TIMES, Sept. 7, 2005.

<sup>2</sup> Matthew Crawford, *Recovery Zone: Orleans Parish Sheriff Shares His Experiences After Katrina*, CORRECTIONALNEWS.COM, May/June 2006, available at <http://correctionalnews.com/ME2/Audiences/dirmod.asp?sid=&nm=&type=Publishing&mod=Publications%3A%3A.Article&mid=8F3A7027421841978F18BE>

895F87F791&tier=4&id=3C4639CFDE1443D4B8BF8F1CDF028184.

<sup>3</sup> Press Release, *ACLU Urges New Orleans City Council to Review Conditions at Prison*, AMERICAN CIVIL LIBERTIES UNION, Dec. 8, 2005, available at <http://www.aclu.org/prison/gen/22370prs20051208.html>; Press Release, *ACLU Calls on New Orleans City Council to Hold Hearing on Plans to Re-Open Prison*, AMERICAN CIVIL LIBERTIES UNION, Oct. 21, 2005, available at <http://www.aclu.org/prison/conditions/21168lg120051021.html>.

<sup>4</sup> Letter from Joe Cook, ACLU of Louisiana, to Council Member Oliver Thomas, Dec. 8, 2005, available at <http://www.aclu.org/prison/conditions/22369lg120051208.html>.

<sup>5</sup> *State v. Peart*, 621 So.2d 780 (La. 1993).

<sup>6</sup> National Legal Aid & Defender Association, *In Defense of Public Access to Justice: An Assessment of Trial-Level Indigent Defense Services in Louisiana 40 Years After Gideon* (Mar. 2004), 56, available at <http://www.nacdl.org/public.nsf/DefenseUpdates/Avoyelles>.

<sup>7</sup> *State v. Citizen*, 898 So. 2d 325, 339 (La. 2005).

<sup>8</sup> Cf. *Who Pays the Price for Orleans Parish's Broken Indigent Defense System? A Summary of Investigative Findings*, Safe Streets/Strong Communities, March 2006, available at <http://www.lajusticecoalition.org/doc/SSSC-Orleans-Parish-Study.pdf>.

<sup>9</sup> Associated Press, *Justice in New Orleans Still Recovering From Katrina*, June 24, 2006, available at <http://www.cnn.com/2006/LAW/06/22/nola.justice.ap/index.html>.

<sup>10</sup> *Id.*

<sup>11</sup> Nicholas L. Chiarkis, D. Alan Henry, and Randolph N. Stone, *An Assessment of the Immediate and Longer-Term Needs of the New Orleans Public Defender System*, Apr. 10, 2006, 9, available at <http://www.lajusticecoalition.org/doc/DOJ-Orleans-Parish-Study.pdf>.

<sup>12</sup> See Henry Weinstein, *Evacuated Prisoners Are Captive to Legal Limbo*, LOS ANGELES TIMES, Oct. 16, 2005.

<sup>13</sup> Associated Press, *New Orleans Holds First Trial Since Katrina*, June 6, 2006, available at <http://www.foxnews.com/story/0,2933,198328,00.html>. See also Gwen Filosa, *Inmates Ordered Freed at Prison; Nonviolent Suspects Clog Orleans Jail*, THE TIMES-PICAYUNE (New Orleans), May 25, 2006, available at <http://www.nola.com/frontpage/t-p/index.ssf?/base/news-5/114855328172910.xml>.

<sup>14</sup> Andrew Cohen, *The Battle of New Orleans*, CBS NEWS, May 25, 2006, available at <http://www.cbsnews.com/stories/2006/05/25/opinion/courtwatch/main1654070.shtml>.

<sup>15</sup> See generally Students of the Domestic Disaster Practicum, Northwestern University School of Law: A Class Aimed At Exploring and Addressing the Social and Legal Consequences of Hurricane Katrina, *Access Denied: Pre-Katrina Practices in Post-Katrina Magistrate and Municipal Courts*, Apr. 2006, available at <http://www.lajusticecoalition.org/doc/NU-Orleans-Parish-Study.pdf>.

<sup>16</sup> Gwen Filosa, *Inmates Ordered Freed at Prison; Nonviolent Suspects Clog Orleans Jail*, THE TIMES-PICAYUNE (New Orleans), May 25, 2006, available at <http://www.nola.com/frontpage/t-p/index.ssf?/base/news-5/114855328172910.xml>.

<sup>17</sup> The Chief Judge's order reads:

IT IS THE ORDER OF THIS COURT, that the Criminal Sheriff for the Parish of Orleans, release any and all inmates currently housed in Orleans Parish Prison who are charged with municipal and/or traffic violations. This order excludes persons charged with crimes against persons, including but not limited to domestic violence, battery and DWI. This order excludes inmates who have been sentenced.

IT IS FURTHER ORDERED that those persons eligible for release be released 72 hours **AFTER** receipt of this Order.

IT IS FURTHER ORDERED that the Criminal Sheriff serve any released defendant with a notice to appear in the appropriate court on the defendant's next scheduled appearance date.

IT IS FURTHER ORDERED that the Criminal Sheriff not detain persons charged with municipal and/or traffic offenses unless the charge is a violation as set out in the exclusion above.

This Order is to remain in effect until further order of this Court.

Thus done and said in New Orleans, Louisiana this 17th day of May, 2006 /s/ Calvin Johnson, Chief Judge

<sup>18</sup> Editorial, *The Criminal Justice Mess*, THE TIMES-PICAYUNE (New Orleans), May 29, 2006.

<sup>19</sup> News Release, *Rand Study Estimates New Orleans Population to Climb to About 272,000 in 2008*, RAND CORPORATION, Mar. 15, 2006, available at <http://www.rand.org/news/press.06/03.15.html>.

<sup>20</sup> Gwen Filosa, *Inmates Ordered Freed at Prison; Nonviolent Suspects Clog Orleans Jail*, THE TIMES-PICAYUNE (New Orleans), May 25, 2006, available at <http://www.nola.com/frontpage/t-p/index.ssf?/base/news-5/114855328172910.xml>.

<sup>21</sup> NewsHour with Jim Lehrer, *News Orleans Struggles to Rebuild Justice System after Hurricane Katrina*, PBS, May 25, 2006, available at [http://www.pbs.org/newshour/bb/law/jan-june06/neworleans\\_05-25.html](http://www.pbs.org/newshour/bb/law/jan-june06/neworleans_05-25.html).

<sup>22</sup> Nicholas L. Chiarkis, D. Alan Henry, and Randolph N. Stone, *An Assessment of the Immediate and Longer-Term Needs of the New Orleans Public Defender System*, Apr. 10, 2006, 9, available at <http://www.lajusticecoalition.org/doc/DOJ-Orleans-Parish-Study.pdf>.

<sup>23</sup> Letter from Eric Balaban, ACLU National Prison Project, to John Weeks and Allen Usry, Oct. 14, 2005.

<sup>24</sup> Minute Entry, *Hamilton v. Morial*, No. 69-cv-2443, Chasez, M.J. Oct. 19, 2005.

<sup>25</sup> Facsimile from John Weeks, to Eric Balaban, ACLU National Prison Project, Nov. 7, 2005.

<sup>26</sup> Letter from John F. Weeks, II, Usry, Weeks & Matthews, to Eric Balaban, ACLU National Prison Project, Nov. 30, 2005 available at <http://www.aclu.org/prison/conditions/22358lg120051130.html>. See also Richard A. Webster, *N.O. Prison's Future in Question*, NEW ORLEANS CITYBUSINESS, Dec. 19, 2005, available at <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=14229>.

<sup>27</sup> Richard A. Webster, *N.O. Prison's Future in Question*, NEW ORLEANS CITYBUSINESS, Dec. 19, 2005, available at <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=14229>.

<sup>28</sup> Letter from Eric Balaban, ACLU National Prison Project, to John Weeks and Allen Usry, Oct. 14, 2005.

<sup>29</sup> Letter from Marlin N. Gusman, Orleans Parish Criminal Sheriff, to Members of the New Orleans City Council, Nov. 10, 2005, available at <http://www.aclu.org/prison/conditions/22357lg120051110.html>.

<sup>30</sup> Interview with Anonymous Prisoner, Mar. 28, 2006 (Notes on File with Critical Resistance).

<sup>31</sup> Interview with Inmate #1284, June 5, 2006 (Notes on File with the ACLU National Prison Project).

<sup>32</sup> Interview with M.M., Mar. 28, 2006 (Notes on File with Safe Streets).

<sup>33</sup> Orleans Parish Criminal Sheriff's Office, Inmate's Grievance Form (Form ARP-1), J.R., Apr. 27, 2006.

<sup>34</sup> Orleans Parish Criminal Sheriff's Office, Step One Response Form (Form ARP-2A), J.R., May 2, 2006.

<sup>35</sup> La.C.Cr.P. Art. 648(A).

<sup>36</sup> La.C.Cr.P. Art. 648(A)(2)(a)

<sup>37</sup> *Id.*

<sup>38</sup> Gwen Filosa, *Suspect Lost in Court System; Stuck for 10 Months, She Gets Out Today*, THE TIMES-PICAYUNE (New Orleans), June 12, 2006, available at <http://www.nacdl.org/public.nsf/defenseupdates/louisiana088>.

<sup>39</sup> *Id.*

- <sup>40</sup> *Id.*
- <sup>41</sup> *Id.*
- <sup>42</sup> See generally Letter from Marlin N. Gusman, Orleans Parish Criminal Sheriff, to Members of the New Orleans City Council, Nov. 10, 2005, available at <http://www.aclu.org/prison/conditions/223571gl20051110.html>
- <sup>43</sup> *Id.*
- <sup>44</sup> See generally, Centers for Disease Control and Prevention, The CDC Mold Work Group, *Mold: Prevention Strategies and Possible Health Effects in the Aftermath of Hurricanes Katrina and Rita*, Oct. 2005, available at [http://www.bt.cdc.gov/disasters/mold/report/pdf/2005\\_moldreport.pdf](http://www.bt.cdc.gov/disasters/mold/report/pdf/2005_moldreport.pdf).
- <sup>45</sup> *Id.*
- <sup>46</sup> Matthew Crawford, *Recovery Zone: Orleans Parish Sheriff Shares His Experiences After Katrina*, CORRECTIONALNEWS.COM, May/June 2006, available at <http://correctionalnews.com/ME2/Audiences/dirmod.asp?sid=&nm=&type=Publishing&mod=Publications%3A%3AArticle&mid=8F3A7027421841978F18BE895F87F791&tier=4&id=3C4639CFDE1443D4B8BF8F1CDF028184>.
- <sup>47</sup> See generally, Centers for Disease Control and Prevention, The CDC Mold Work Group, *Mold: Prevention Strategies and Possible Health Effects in the Aftermath of Hurricanes Katrina and Rita*, Oct. 2005, available at [http://www.bt.cdc.gov/disasters/mold/report/pdf/2005\\_moldreport.pdf](http://www.bt.cdc.gov/disasters/mold/report/pdf/2005_moldreport.pdf).
- <sup>48</sup> Exit Interview with A.P., Mar. 29, 2006 (Notes on File with Safe Streets).
- <sup>49</sup> Exit Interview with C.B., Mar. 28, 2006 (Notes on File with Safe Streets).
- <sup>50</sup> Letter from M.C. to Elizabeth Alexander, ACLU National Prison Project, Mar. 21, 2006 (Original on File with the ACLU National Prison Project).
- <sup>51</sup> *Id.*
- <sup>52</sup> Interview with Inmate #870, June 5, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>53</sup> *Id.*
- <sup>54</sup> Interview with Inmate #1261, June 5, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>55</sup> *Id.*
- <sup>56</sup> Interview with J.M., June 5, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>57</sup> Exit Interview with F.S., Mar. 28, 2006 (Notes on File with Safe Streets); Exit Interview with N.H., Mar. 28, 2006 (Notes on File with Safe Streets).
- <sup>58</sup> Interview with Inmate #1261, June 5, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>59</sup> Interview with Inmate #421, June 5, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>60</sup> Interview with C.S., Mar. 29, 2006 (Notes on File with Safe Streets).
- <sup>61</sup> Interview with Inmate #399, June 5, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>62</sup> Bob Ussery, *Inmate's Death Shocks Mom, Wife; 2 Weeks Pass Before They Learn He is Dead*, THE TIMES-PICAYUNE (New Orleans), May 14, 2006, available at <http://www.nola.com/news/t-p/metro/index.ssf?/base/news-14/11475915953030.xml&coll=1>.
- <sup>63</sup> *Id.*
- <sup>64</sup> Interview with T.H., June 7, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>65</sup> Interview with T.M., June 7, 2006 (Notes on File with the ACLU National Prison Project).
- <sup>66</sup> *Id.*
- <sup>67</sup> Gwen Filosa, *Judge Blasts Financing for Indigent Defense; Hearing Ordered to Discuss How Much N.O. Gets*, THE TIMES-PICAYUNE (New Orleans), June 24, 2006, available at <http://www.nola.com/crime/t-p/index.ssf?/base/news-6/1151131497226690.xml&coll=1>.
- <sup>68</sup> *Id.*; see also Susan Finch, *Prison Neighbors Want Tents Out*, THE TIMES-PICAYUNE (New Orleans), Dec. 16, 1992.
- <sup>69</sup> Settlement Agreement, *Hamilton v. Morial*, Mar. 26, 2003.
- <sup>70</sup> NIC Technical Assistance Report at 56.
- <sup>71</sup> C.J. Schexnayder, *What Price Incarceration?*, GAMBIT WEEKLY, Nov. 19, 2002.
- <sup>72</sup> Barry Gerharz and Seung Hong, *Down by Law: Orleans Parish Prison Before and After Katrina*, DOLLARS & SENSE, Mar./Apr. 2006, available at <http://www.dollarsandsense.org/archives/2006/0306gerharzhong.html>.
- <sup>73</sup> C.J. Schexnayder, *What Price Incarceration?*, GAMBIT WEEKLY, Nov. 19, 2002.
- <sup>74</sup> Christopher Cooper, *Foti's Wish Comes True: Prison Space for 7,140*, THE TIMES-PICAYUNE (New Orleans), Oct. 20, 1993 A1.
- <sup>75</sup> Susan Finch, *Orleans Sheriff Fires 73 to Even Budget; he Cites Revenue Drop from Fewer Prisoners*, THE TIMES-PICAYUNE (New Orleans), Apr. 15, 2004.
- <sup>76</sup> Sheriff's Ninth Motion for Jail Funding Judgment with Incorporated Memorandum, *Hamilton v. Morial*, Nov. 1, 2005 Ex. B.
- <sup>77</sup> Letter from Marlin N. Gusman, Orleans Parish Criminal Sheriff, to Members of the New Orleans City Council, Nov. 10, 2005, available at <http://www.aclu.org/prison/conditions/223571gl20051110.html>.
- <sup>78</sup> *Id.*
- <sup>79</sup> Barry Gerharz and Seung Hong, *Down by Law: Orleans Parish Prison Before and After Katrina*, DOLLARS & SENSE, Mar./Apr. 2006, available at <http://www.dollarsandsense.org/archives/2006/0306gerharzhong.html>.
- <sup>80</sup> James Varney, *Gusman Beats Riley in Criminal Sheriff Race; Heated Battle Grew Bitter Toward End*, THE TIMES-PICAYUNE (New Orleans), Nov. 3, 2004.
- <sup>81</sup> Barry Gerharz and Seung Hong, *Down by Law: Orleans Parish Prison Before and After Katrina*, DOLLARS & SENSE, Mar./Apr. 2006, available at <http://www.dollarsandsense.org/archives/2006/0306gerharzhong.html>.
- <sup>82</sup> Keith Woods and Susan Finch, *Citizens Often Hire Inmates*, THE TIMES-PICAYUNE (New Orleans), Jan. 25, 1989.
- <sup>83</sup> Leslie Williams, *Inmates in Training Program Do Work on Judge's Home*, THE TIMES-PICAYUNE (New Orleans), July 12, 2006.
- <sup>84</sup> Dale Curry, *Tilapia Serving Time; The Catch is More than Criminals at Orleans Parish Prison*, THE TIMES-PICAYUNE (New Orleans), May 24, 2001.
- <sup>85</sup> Barry Gerharz and Seung Hong, *Down by Law: Orleans Parish Prison Before and After Katrina*, DOLLARS & SENSE, Mar./Apr. 2006, available at <http://www.dollarsandsense.org/archives/2006/0306gerharzhong.html>.
- <sup>86</sup> See Affidavit of Katie Schwartzmann, Oct. 12, 2005.

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## APPENDIX

PAGE	DOCUMENT
110-117	Sampling of redacted questionnaires completed by OPP evacuees and returned to the ACLU National Prison Project
118-122	Jeffrey A. Schwartz and David Webb, Hurricanes Katrina and Rita and the Louisiana Dept. of Public Safety and Corrections: A Chronicle and Critical Incident Review, An NIC Technical Assistance Report, Technical Assistance No. 06P1035 (May 10, 2006) Executive Summary
123-124	Notation from Allen Usry on Letter from Joe Cook to Sheriff Marlin Gusman, Requesting Documents Pursuant to Louisiana State Law (Sept. 21, 2005)
125-126	Orleans Parish Criminal Sheriff's Office Hurricane/Flood Contingency Plan (unsigned) (undated)
127-136	Statement of Rachel I. Jones (Sept. 30, 2005)
137	Letter from John F. Weeks, II, Usry, Weeks & Matthews, to Eric Balaban, ACLU National Prison Project (Nov. 30, 2005)
138-141	Letter from Patricia Nally Bowers to Katie Schwartzmann, Denying Public Records Act Request for NIC Report and Contraflow Plan (June 29, 2006)

**OPP PRISONERS QUESTIONNAIRE**

Name: \_\_\_\_\_  
 DOB: 09.17.62  
 charges: dirty URINE (state... commitment)  
 attorney/office: \_\_\_\_\_  
 DOC no.: \_\_\_\_\_  
 Current Institution: LSP Angola State Penitentiary

1. How long were you in OPP before the hurricane? From 8.16.05

2. Where were you housed:
- Templeman I      unit \_\_\_\_\_
  - Templeman II     unit \_\_\_\_\_
  - Templeman III    unit \_\_\_\_\_
  - Rendon            unit ~~3-2~~
  - Conchetta         unit 3-2
  - Community Corr. Ctr unit \_\_\_\_\_
  - Old Parish Prison unit \_\_\_\_\_
  - HOD                unit \_\_\_\_\_
  - South White Street unit \_\_\_\_\_

3. What happened to you at the jail during the hurricane (Did your unit or cell fill with water? Did the deputies stay on their posts? Were you moved? When were you moved? Were you left in a locked cell? Did prisoners open cells? Did deputies assault/mace any prisoners? When did your building lose power? Did you have food and water? Did you have any medications you needed? Did prisoners escape? How did they escape? Were escaping prisoners shot at? Did you see any dead bodies at the jail?)

INMATE #54

OUR unit 3-2 did not fill with water because we were located on the third floor of Conchetta. However, we were housed double occupancy of the unit because they also housed inmates from St. Bernard parish with us. The deputies stayed on their posts, but they treated us with no respect whatsoever. On Friday, Aug 26, 05 they turned off the telephones, before the storm hit, so I hadn't had contact with my family and fiancé for almost 3 weeks. There was no inclement weather until Monday, Aug. 29, about 1:30 A.M. No power outages were reported before then. They lied and said the power was knocked out by the storm, when there was no storm yet.

We were not moved from our location until after the storm had passed, when Angola officials finally came and rescued us on Sept. 1, 2005. I was not in a locked cell, it was an ~~an~~ overcrowded, airless open dormitory. I witnessed no physical assaults on inmates, but the verbal and emotional abuse that was heaped on inmates was intolerable. We were called bitches, whores, etc and several inmates fainted because of the oppressive heat, including myself. My fellow inmates were the ones who put cool towels on my face and the water used to wet the towels was contaminated. The facilities' generator lost power ~~Sund~~ Monday, Aug. 29 about 1:30 a.m. Conchetta is a building with only windows way up high about a foot in length. We would climb on the top bunk to look at the rising floodwaters and told "Get down, bitches" by the deputies. Also, the stench from the toilets was unbearable. There were 5 toilets on 3-2, each filled to the rim with human excrement. We were made to breathe this air for a total of 3 days. We went a total of 2 1/2 days with no food or water. There was said to be no food for us on Monday Aug. 29, the day of the storm. Inmates were given breakfast (fruit and grits) no milk or water - no lunch or dinner. Tuesday morning Aug. 30, inmates were given one slice of bread and 1/3 of an 8 ounce cup of water. We were served nothing for lunch and we received 1 sandwich (soggy bread) sent by boat at about 5:00 p.m. that evening Wednesday, Aug. 31, nothing at all. No breakfast, lunch or dinner. No beverages. I personally drank contaminated water out of the water dripping from a faucet that each toilet has attached to it. I personally did not receive medication, but I witnessed about 12 fellow inmates being denied their medication. I personally witnessed no escapes ~~a~~ (but heard rumors) and I witnessed no dead bodies.

4. When/How were you evacuated out of OPP. (Were you found in a locked cell? Found after escaping? Did you turn yourself in after escaping? Did you walk out of the jail building? Did you swim or wade out in standing water? Were you escorted out by deputies? Were you taken to an overpass? How long did you stay on the overpass? Did you receive food and water? Did you receive any medications you needed?)

We were evacuated in fishing boats by Angola personnel, and I was brought to the Broad Street overpass. There I received 1 cup of water because they had ran out of supplies. We left conchetta from the front second story stairwell and got into the boats. I did NOT RECEIVE ANY medication.



5. Describe the evacuation (Where were you taken? How long did you stay there? Describe conditions where you were taken (shelter, food and water, medications, assaults/disturbances)).

We were taken to Angola State Penitentiary by bus. It was really nice when we first got here. They gave us food, medication, water and personal hygiene supplies. I witnessed no assaults. I am still being housed here, and my release date (PED) is 11-27-05 according to my RAP sheet. No detainees.

**OPP PRISONERS QUESTIONNAIRE**

Name: \_\_\_\_\_

DOB: 5-5-70

charges: Unauthorized use of moveable

attorney/office: \_\_\_\_\_

DOC no.: \_\_\_\_\_

Current Institution: LA. State Pen. Hospice Chapel R&BTC

1. How long were you in OPP before the hurricane? 36 days

2. Where were you housed:

Templeman I	unit	<u>M.O.U. B-1</u>
Templeman II	unit	_____
Templeman III	unit	_____
Rendon	unit	_____
Conchetta	unit	_____
Community Corr. Ctr	unit	_____
Old Parish Prison	unit	_____
HOD	unit	_____
South White Street	unit	_____

INMATE #55

3. What happened to you at the jail during the hurricane (Did your unit or cell fill with water? Did the deputies stay on their posts? Were you moved? When were you moved? Were you left in a locked cell? Did prisoners open cells? Did deputies assault/mace any prisoners? When did your building lose power? Did you have food and water? Did you have any medications you needed? Did prisoners escape? How did they escape? Were escaping prisoners shot at? Did you see any dead bodies at the jail?)

BECAUSE I SUFFER WITH PERMANENT FOOT DROP I WAS LOCATED ON THE FIRST FLOOR B-1 MEDICAL OBSERVATION UNIT, WHICH IS FOR GUYS IN A WHEEL CHAIR. YES OUR DORM DID FILL WITH WAIST HIGH SEWERAGE WATER AND EVERYTHING THAT COMES OUT OF IT. MAJORITY OF THE DEPUTIES THAT WORK FOR O.P.P. ARE FEMALES 18 TO MID 20'S YES THEY LEFT THEIR POST. ALTHOUGH WE WERE TOLD ON THE THURSDAY BEFORE THE STORM THAT WE WERE GOING TO BE MOVED, WE WEREN'T MOVED UNTIL MONDAY NIGHT AFTER THE STORM PASSED. CHIEF RUDY TOLD US 1200 AM SINCE

I WAS IN A open Dorm with 20 other guys, yes we reported the toilets backing up about 7:30 AM Monday morning of the storm. Yes we were left in the locked Dorm until Monday night. I personally was maced by a member of the Special Investigation Division (S.I.D.) a unit with the O.P.P. Sheriff's office. The mace was sprayed on a group of inmates several times that were seated on the Broad Overpass! We were not given any food or water etc. Our building lost power Sunday before storm. Prisoners were being shot at. From the Broad Overpass we could see prisoners breaking out windows on the 2nd & 3rd floors, waving blankets yelling for help. I personally saw 6 prisoners jump to the water below from the floors mentioned. After the shooting stopped there was a prisoner with a big hole in his left upper back bleeding very bad being dragged up the Broad Overpass where we were seated.

4. When/How were you evacuated out of OPP. (Were you found in a locked cell? Found after escaping? Did you turn yourself in after escaping? Did you walk out of the jail building? Did you swim or wade out in standing water? Were you escorted out by deputies? Were you taken to an overpass? How long did you stay on the overpass? Did you receive food and water? Did you receive any medications you needed?)

On the <sup>Floor</sup> second of the building where I was housed there's a gym that maybe 30 guys could sleep comfortably. Myself along with the rest of the prisoners from the first floor M.O.U. up to 400 were placed in the gym which was flooded dark and hot Monday night.

I'm 6'0 ft tall. Tuesday morning we ~~were~~ <sup>were</sup> brought ~~down~~ downstairs to the first floor where the water was up to my chest. We were escorted by high ranking officers with the O.P.P. Sheriff's Office with shotguns "5 of them" through the building. Once outside Chief Rudy of the O.P.P. ~~Sheriff's~~ Sheriff's office along with men in boats, I don't know who they were, put us in the boats and took us to the Broad Overpass where I stayed for maybe 7 hrs. with ~~no~~ food water etc.

5. Describe the evacuation (Where were you taken? How long did you stay there? Describe conditions where you were taken (shelter, food and water, medications, assaults/disturbances)).

The evacuation was a total mess. Once it was time to get on the bus to be transferred we ~~was~~ were flexcuffed very tight. Once on the bus we rode maybe 100 yds to Earhart st. Earhart st connects to the Broad Overpass. Earhart st was waist high with water, we got off the <sup>Bus</sup> first that we boarded on the Broad Overpass

to get on another bus that was on Earhart st. I informed the Department of Corrections officers that was evacuating us of my medical conditions only to be told shut. We had to walk through the water on Earhart st where I had to be carried by other inmates who were also flexcuffed.

We were transferred to Clayton B. Hunt  
Correctional Facility where we were given  
Water A spoiled sandwich A blanket ~~blanket~~  
And placed under a tent I was there for  
A week. In the rain

6. Where are you housed now (incl. unit) La. State Penitentiary  
Hospice Chapel REBTE

7. Please provide contact information for a relative/loved one, and your permanent  
address/phone number

~~\_\_\_\_\_~~  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Hurricanes Katrina and Rita and the Louisiana Dept. of Public Safety and Corrections:

A Chronicle and Critical Incident Review

An NIC Technical Assistance Report  
Technical Assistance No. 06P1035

Jeffrey A. Schwartz  
David Webb

May 10, 2006

# **Hurricanes Katrina and Rita and the Louisiana Dept. of Public Safety and Corrections: A Chronicle and Critical Incident Review**

NIC Technical Assistance Report (TA No. 06P1035); May 6, 2006

Jeffrey A. Schwartz and David Webb

## **Executive Summary**

The morning of August 29, 2005, Hurricane Katrina made landfall on Louisiana's Gulf Coast, with catastrophic results. One month later, on September 24, 2005, Hurricane Rita came ashore in southwestern Louisiana, with several small communities almost totally destroyed and extensive damage throughout that part of the state and in southeaster Texas. One of Louisiana's state prisons received substantial direct damage from Katrina and several probation and parole offices in the New Orleans area were shut down with flooding and severe damage, or were totally destroyed.

The flooding and widespread destruction of New Orleans, all of St. Bernard Parish, along with parts of Jefferson Parish, St. Tammany Parish and Plaquemines Parish ultimately caused the LA DPSC to engage in activities unprecedented in the history of American corrections. The evening of August 29, 2006, some 14 hours after Katrina struck, LA DPSC received calls from the Jefferson Parish Prison (JPP) asking the department to evacuate over 1100 prisoners from its jail, and then, a few minutes later, from the Orleans Parish Prison (OPP), asking LA DPSC to evacuate over 6500 prisoners from their facilities.

While the evacuation of JPP was accomplished in 24 hours, the OPP complex was in five to eight feet of flood waters and buses and vans could not drive there. Instead, the 6500 prisoners had to be evacuated in small boats, two to six individuals at a time, to a nearby freeway overpass. From there, evacuees climbed a department erected scaffolding to the freeway and were loaded into vehicles and transported to the Louisiana State Penitentiary (LSP) or to the Elayn Hunt Correctional Institute (EHCI). At one point on the overpass, some three thousand prisoners were being guarded by approximately 30 Probation and Parole (P&P) officers, and the situation was complicated by angry and emotional New Orleans residents wanting the Department to transport them to safety rather than taking the parish prison evacuees. That evacuation was completed in three days and, ultimately, LA DPS&C evacuated over 10,000 prisoners and new arrestees with no loss of life, serious injuries or escapes.

With no operating jails in the greater New Orleans area, LA DPS&C was tasked with locating, developing and operating a makeshift jail so that law enforcement agencies would have a place to take arrestees. LA DPS&C Secretary Richard Stalder and Orleans Parish Sheriff Marlin Gusman chose a Greyhound station adjoining a railroad station and "Camp Amtrak" was launched as the makeshift and temporary New Orleans jail. It operated for over a month and more than 1200 arrestees were booked there, and many temporarily housed there, without serious incident.

Sending evacuees and arrestees to multiple locations proved impractical and EHCI was designated as the sole processing center for male evacuees (and the Louisiana Correctional Institute for Women, LCIW, served that purpose for female evacuees and arrestees.) EHCI grew from a normal population of 2,100 to over 5,000, with 3,000 evacuees and arrestees on their main yard under gun coverage for a few days. Identification of the evacuees was difficult and often impossible, as they were transported with no records of any sort. Eventually, convoys transported evacuees from EHCI to other state prisons and the population was reduced to a level that could be maintained inside the living units, with many individuals sleeping on floors.

Probation and Parole staff were assigned to ride on fire trucks in the New Orleans area in order to provide security for the fire fighters, who had been fired upon on numerous occasions. P&P staff also accompanied police officers in areas where there were not enough available police, and in at least one area P&P staff provided the sole working law enforcement services. The flood damage to homes, the evacuation of the city and the loss of communication with immediate family members had a very dramatic effect on the P&P staff. In the days after the flood, everyone worked with staff who could not locate parents or spouses or children. Large numbers of P&P staff were unaccounted for and no one knew whether they had evacuated, or were sick or injured or worse. It took three weeks for the Department to locate all of the missing P&P staff.

Washington Correctional Institute (WCI) was the only prison in Louisiana to take a direct hit from Katrina. At WCI, some interior fences were down. One perimeter fence had a section broken. All communications were down as was water and power. Some HVAC systems were blown off building roofs. That produced very dangerous gas leaks, and WCI staff had to find the appropriate utility shut-offs and cut off the natural gas even before the storm had passed. Some of the prison buildings had serious roof damage. Trees were down everywhere and the road into the prison was impassable because of fallen trees. Approximately twelve WCI employees lost their houses entirely. Approximately fifty percent of the staff, or about 150 employees, had significant damage to their houses. In the immediate aftermath of the storm, WCI sent crews out to clear the major roads in the parish. Warden James Miller offered to move the FEMA distribution center from the town of Varner to the prison and the offer was quickly accepted. Water, MREs and ice, among other supplies, were distributed as the prison set up a drive through system. Between the prison's perimeter security and the presence of numbers of uniform staff, there were no problems with theft, assault or the like. The prison also served as the Red Cross distribution center for debit cards for residents entitled to financial assistance.

The Department accepted a number of other missions, all unusual but all related directly to public safety, and all were successfully accomplished.

Many states and some individual counties and individual correctional facilities sent supplies to Louisiana. In addition, cash donations were received from a wide range of correctional sources, with most earmarked for assistance to staff members in need in Louisiana. Over one half million dollars was donated. There were several states and the



Federal Bureau of Prisons (FBOP) which, in addition to sending supplies and monetary contributions to Louisiana, also sent correctional staff. These included the Kentucky Department of Corrections, both the New York State of DOC and the New York City Department of Corrections, and the Pennsylvania Department of Corrections. Most states sent correctional officers, but Pennsylvania also sent specially trained mental health staff and maintenance staff, and the Arkansas Department of Corrections sent nursing staff. While hurricane Katrina produced the largest natural disaster in the history of the country, the national response from the American corrections community was also without parallel.

LA DPS&C faced challenges unprecedented in the history of American corrections. The staff of LA DPS&C exhibited the highest standards of professionalism, commitment, courage and dedication to their communities. The extent to which staff members within LA DPS&C were and are themselves victims of the hurricanes may never be fully recognized or appreciated. That is particularly true for Probation and Parole staff. The Department's leadership must also be accorded very high marks. Leadership in the Department was clear, strong and focused.

The staff of LA DPS&C were able to accomplish what they did largely because of their experience, ability, judgment and values. However, the Department's planning and preparations for emergency situations was not strong and is not one of the major factors accounting for the Department's success. In most cases, staff ignored existing emergency plans and preparations (which were generally not practical, user friendly, comprehensive or current.)

Communications was almost universally regarded as the most dysfunctional aspect of the Department's response. Phone service was down in most areas for weeks. Cell phone service was almost eliminated because of the number of transmission and repeater towers that were destroyed. With power outages and phone outages, internet services were also out. The Department had anticipated that much of the problem and had purchased expensive satellite phones that were supposed to be the answer to that situation. In the actual event, the satellite phones worked only infrequently.

Over the course of the disaster, the Department's working relationships with FEMA were frustrating and generally not helpful. That was certainly not true in all cases and there were specific issues that went well and a number of FEMA staff who were excellent to work with.

The Department does not have a comprehensive emergency system. Some parts of such a system are in place but other parts are missing and there are elements of emergency preparation that do not complement one another. That general assessment holds true whether one looks at Departmental level emergency readiness or one looks at individual institutions. The Department does not use any emergency organizational structure nor any emergency command structure, relying instead on the organizational structure and chain of command that operate on a day-to-day basis. Prior to the hurricanes, LA DPS&C had not provided enough training on emergency preparedness to its staff, and the training that

had been provided was too superficial and not particularly effective. However, emergency services for staff and staff families were accorded high priority by LA DPS&C management and the area is one of many strengths exhibited by the Department. The assistance sent to LA DPS&C by other correctional agencies was not a token show of support, it was a massive and it was critically important, from emergency generators, to drinking water, to nursing staff, to cots and blankets, to correctional officers, to money for staff that had lost their homes. The American correctional community has never before been mobilized to this extent or in this manner. In this regard, the Louisiana experience provides a model for the future.

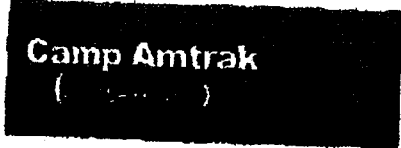
Nov-16-05 09:48A shapiro & shapiro  
NOV. 15. 2005 3:45PM USRY&WEEKS

NOV. 2005

P.04

1001 Loyola Drive  
New Orleans, LA 70113

PH: 504-528-1812  
FAX: 504-586-1456



# Fax

(C) (504) 281-7441

To: Joe Cook From: Allen Usry

Fax: (925) 761-3326 Pages: 2

Phone: \_\_\_\_\_ Date: 9/26/05

Re: \_\_\_\_\_ CC: \_\_\_\_\_

- Urgent   
  For Review   
  Please Comment   
  Please Reply   
  Please Recycle

• Comments:

Nov-16-05 09:48A shapiro & shapiro

NOV. 15. 2005 3:45PM FAX USKY&WEEKS

SHERIFFS\_PENSION

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P.O. BOX 5103  
BATON ROUGE, LA 70821-5103  
P: 225.741.3323  
C: 815.580.0120

JOE COOK  
EXECUTIVE DIRECTOR

KATIE SCHWARTZMANN  
STAFF ATTORNEY

\*EFFECTIVE 9/24/2005

VIA FIRST-CLASS MAIL

September 21, 2005

Sheriff Marlin N. Gusman  
Louisiana Sheriffs' Pension  
and Relief Fund Office  
1225 Nicholson Dr.  
Baton Rouge, LA 70802

Dear Sheriff Gusman:

Pursuant to the Louisiana public records act, La. Rev. Stat. § 44:111, and Louisiana Constitution Art. 12, § 3, I request that you produce copies of the following documents:

*There were  
no deaths!*

1. All documents pertaining to any deaths that have occurred on the premises of the Orleans Parish Prison (OPP) since August 26, 2005.

*There were  
no dead  
bodies.*

2. All documents pertaining to the collection of dead bodies from the premises of the OPP, and the disposition of those bodies, since August 26, 2005.

*All documents re evacuation plans  
were under review  
can't find any now.*

3. All documents pertaining to any evacuation plans that were in effect at the OPP as of August 26, 2005.

If you choose to deny this request in whole or in part, please provide a written explanation for that denial, including reference to the specific statutory exemptions upon which you rely. Also, please provide all segregable portions of otherwise exempt material.

*Allen  
Usry*

Because disclosure of these documents is in the public interest, I request that any fees for copying and postage be waived. If this request for a waiver is denied, please advise me if fees for complying with this request are expected to exceed \$100.00.

As required by state law, please respond to this request within three business days.

Thank you very much.

Very truly yours,

*Joe Cook*  
Joe Cook

cc: Allen Usry

**ORLEANS PARISH CRIMINAL SHERIFF'S OFFICE  
HURRICANE/FLOOD CONTINGENCY PLAN**

**Policy:**

It is the policy of the Orleans Parish Criminal Sheriff's Office to maintain a written evacuation plan for use in the event of a hurricane/flood. The following procedures shall be followed in order to maintain the safety and security of inmates and departmental personnel:

**Purpose:**

To ensure that prompt and proper actions are taken to resolve hurricane emergencies.

**Procedure:**

**Entry of a hurricane into the Gulf of Mexico:**

All essential personnel shall be notified by the OPCSO Communications Division to hold themselves in readiness for possible service. The Purchasing, Maintenance and Foodservice divisions shall conduct a survey to ensure that an adequate supply of essential materials is on hand.

**72 hours before the anticipated arrival of the hurricane in the New Orleans Area:**

The Sheriff shall hold a meeting of all essential personnel to discuss emergency preparedness measures.

All generators shall be fuelled and tested for proper operation.

All departmental vehicles and watercraft shall be fully fuelled.

All emergency supplies such as flashlights, extra bedding and emergency rations shall be distributed to the buildings.

**48 hours before the expected arrival of the hurricane:**

The Sheriff shall hold a meeting to ensure that adequate measures are being taken to protect the inmates, staff and departmental property.

All essential security personnel off days shall be cancelled.

Nov-16-05 09:48A shapiro & shapiro  
NOV. 15. 2005 3:46PM USKY&WEERS

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**24 hours before the expected arrival of the hurricane:**

The Sheriff shall call a meeting of essential security personnel to discuss emergency evacuation procedures that could be required.

At this time, the Sheriff shall order the evacuation of all single story security buildings.

The Sheriff shall also ensure that there is a 96-hour supply of essential materials, including food and water, in each building.

The Sheriff shall meet with building wardens to discuss the following possibilities:

1. power outages
2. loss of communications
3. vertical evacuation in case of flooding
4. provision of medical services to inmates
5. manipulation of manpower to meet changing requirements
6. possible provision of services to the outside community
7. coordination with other city and state agencies

In the event that disruption of utilities caused by hurricane damage or rising flood waters cause an inmate housing area to be rendered unfit for habitation for a period exceeding 12 hours the Sheriff shall declare an emergency evacuation of the affected building(s) either by evacuating inmates and security personnel to unaffected OPCSO building(s) or by coordinating an evacuation to another location. Such evacuation would be coordinated by the Sheriff with the La. DOC, the La. Sheriffs' Association, or any other available agency.

State of Louisiana

Parish of Rapides

Statement of Rachel I. Jones

My name is Rachel I. Jones. I am an attorney licensed to practice law in the State of Louisiana (Bar no. 29726) and the State of New York. My temporary business address is: 809 Henderson St., Houston, TX. My office number is 813-260-6313. My cell phone number is 347-528-5396.

Several weeks after being evacuated from my office in new Orleans, I came to Alexandria, Louisiana to help volunteer attorneys interview all of the inmates who had been evacuated during Hurricane Katrina. During the week of September 25 - 30, 2005, I visited four Department of Corrections (DOC) facilities: Dixon correctional Center, David Wade Correctional Center, Hoyle Rehabilitation Center and Jena Correctional Facility, which I visited on two separate days. The first visit to Jena, with attorney David Park, took place on Tuesday, September 27, 2005 and the second visit took place on Thursday, September 29, 2005, with attorneys David Park, Christine Lehmann, and Neal Walker. The purpose of the visits was to identify all of the prisoners currently housed in Jena, interview them, document pertinent information about their court cases and obtain information about relatives with the goal of connecting inmates with loved ones also displaced by Hurricane Katrina.

The vast majority of inmates evacuated from the Jefferson Parish Correctional Center to Jena are pre-trial detainees. Dozens are being held on municipal charges, such as public intoxication, attachments for failure to pay court fees and minor traffic

violations. Many are also being held on misdemeanor charges, past pre-determined release dates or on charges that have never been accepted by the district attorney.

When David Park and I arrived at Jena on September 27, 2007, we were met by Major Rogers, an employee of the Louisiana DOC, who is supervising the evacuee-inmates at Jena. The facility at Jena is inactive, but is operated by Wackenhut Corrections Corp., a private corporation, and has been closed since 2000. Prior to its closing, the facility operated as Jena Juvenile Justice Center, which was shut down after a state takeover prompted by a federal Department of Justice (DOJ) report detailing chronic neglect and abuse of the children housed there.

I later met Warden Thompson, a Wackenhut employee who told me he normally works off-site. He explained that the DOC is using the facility for evacuees and that he is primarily in charge of the physical plant, things like grounds and plumbing. There is no permanent administration charged with supervising inmates. I found that there was no grievance procedure in place, nor does there even appear to be a working kitchen. The inmates are not permitted to grieve any of the actions of the officers, thus barring them from bringing civil actions in state or federal court due to a procedural failure to exhaust currently non-existent administrative remedies. The current staff is a mish-mash of corrections officers from other DOC facilities and volunteers from out of state corrections departments.

The detainees are currently under the supervision of Major Rogers. When we arrived, Major Rogers provided me with a list of the inmates currently in the facility. The inmates included 330 from Jefferson Parish and a recently received 118 Hurricane Rita evacuees from Lake Charles. Several inmates who I interviewed did not appear on the



list and several of the inmates whose names appeared on the list were not in the facility. When I asked Major Rogers about those inmates, he could not provide me with their whereabouts.

David Park and I were led into one of the “pods” where inmates are being housed in the Falcon Building. The prison guards appeared to be a combination of Louisiana DOC employees, wearing baseball hats inscribed David Wade Correctional Center, or volunteers from the New York City Department of Corrections. A corrections officer from New York City later told me that she and the other volunteers were spending two week stints at Jena and then returning to New York.

Each building in Jena contains four pods, which look something like highschool gyms. There were bunk beds along the sides of the room, and approximately 25 foam mattresses on the floor. In the rear are toilets behind a short wall and exposed showers. The inmates were grouped to approximately 60 per pod.

We gave a brief introduction of who we were and why we were there and explained that we would be conducting individual interviews with everyone in the prison. To make things faster, we handed out the blank questionnaires and had the inmates fill out the top portion with their names, birth dates and social security numbers. They were provided with pens by the guards.

Mr. Park and I set up at two separate tables to begin individual interviews. Three corrections officers sat in chairs approximately 10 feet behind me, facing us, another three guards were outside the pod staring through the window, and others patrolled the room.

I personally interviewed 102 inmates on September 27, 2005. During my first interview, I filled out the questionnaire. When I got to the question about unmet medical needs, the inmate I was speaking with (Inmate X<sup>1</sup>) whispered, “I can’t talk. They’re all staring at me and listening to every word I say.” We traded seats so that his back was to the guards and he told me that he was scared that he would be retaliated against after I left, but that he had been writing a detailed chronology of the abuse he had witnessed and experienced at Jena. He told me that he had ridden on a bus to Jena from Jefferson Parish on August 30<sup>th</sup>. All of the inmates had been “hog tied” or “zip tied” with their wrists bound by plastic restraints, with the back of their hands inverted. He showed me the scars on his wrists from being bound tightly for the 8 hour bus ride. During the entire time I was at Jena, I did not see a single prisoner who did not still have visible scarring on his wrist, even though the bus ride occurred nearly a month earlier. Many inmates complained that they thought they had nerve damage. Some said they had never regained feeling in their hands, which were still numb from the restraints.

During the transport to Jena, a driver of one of the buses, T. Tate (license 168596) fell asleep at the wheel and hit a utility pole. The inmates know this because the other officer on the bus shouted “Wake up!” before the accident. Sparks flew out of the bus. The bus backed out by a highschool with a sign reading “Home of the Trojans.” The inmates were restrained and couldn’t brace themselves when the bus crashed. Several complained that they had been thrown eight feet into the metal gate. They complained of whiplash, busted knee caps, and strained backs and shoulders. One inmate broke his tooth on the gate. None of the prisoners have received medical care for their injuries.

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<sup>1</sup>There is more about this particular inmate from the second day of visiting.

When I asked Inmate X if he had any medical needs, he informed me that he had a concussion from having his head slammed into a cinder block wall by a guard. He told me that he had seen several inmates brought into the hallway, had their heads slammed against the wall and dragged up and down the hallway. He said the hall was covered in blood. He repeated several times that he was scared for his life.

Throughout the day, I heard dozens of harrowing accounts of brutal individual beatings and attacks, corroborating this initial account. Many inmates questioned me about whether or not they had any civil rights under “martial law.” I soon learned that when they arrived, Major Rogers informed them that Gov. Kathleen Blanco and Secretary of Corrections Richard Stalder had declared “martial law,” thereby granting the staff authority to do whatever they wanted with impunity.

The accounts of abuse were remarkably consistent in detail. Several inmates told me about one inmate who had been kicked in the teeth and his mouth had filled with blood. They told me to go see him, because then I would see what was really going on. When I asked where the inmate was, they said he had been taken out of the pod. This inmate was later located in administrative isolation and interviewed by David Park during the second visit to Jena.

One inmate told me that he and another inmate were “horseplaying” when the guards dragged the two into the hall. They were put on their knees in the hallway with their faces against the wall. This inmate said that Deputy Bullock beat him upside his head and kneed him in the back. There were four deputies total, but he couldn’t see who they were because he was forced to keep his head against the wall. He is now suffering from migraine headaches and says that he thinks he needs reconstructive surgery on his

eardrums. Since that incident, the guards have been threatening to send him to David Wade Correctional Center and put him in the hole.

Another inmate reported that the guards broke his jaw. Several inmates showed me scars from busted eyebrows.

Another inmate with a swollen face and visible bruising said that he had been punched in the face by Major Rogers. He was dragged into the hall by Deputy Edwards, handcuffed behind his back, thrown to his knees, thrown in to the wall, and hit in the back of the head.

Another inmate explained that he had been beat in the face by Major Rogers, Sgt. Hatzoglou and Sgt. Pietch. He had visible purple bruising inside his ear and complained that he couldn't hear out of one ear. He was put in the hallway, stripped naked and forced to stand on his knees while guards took turns hitting him with open hands. As he walked away from the interview with me, two guards were staring at him and laughing.

Another inmate told me that he was in line to go to the cafeteria when he let someone in front of him. Sgt. Burlog accused him of disrespect and slammed his head into the wall. He could not hear for one and a half days. The guards put him on Benadryl.

Another inmate told me that he had talked to Major Rogers about needing certain medications. Major Rogers brought him outside and punched him in the face and hit him in the back of the head. This inmate told his mother what happened and she contacted the ACLU and the FBI.

Another inmate told me that Warden Deville and Warden Thompson were beating people and dragging them across the floor.

Another inmate told me that one day when he was in the shower covered in soap, Deputy Wesson dragged him out of the shower. He made him stand naked in front of the entire dorm room, taunting “is that cum coming out of your ass?” Deputy Wesson also told him that he would have to suck the Deputy’s “dick” when he got out of the hole.

One inmate told me that he had seen guards place a bag over another inmate’s head.

This is not nearly an exhaustive list of the abuses about which I was informed. The stories of abuse was constant during the entire day, as were expressions of terror of the guards. During the time I was interviewing inmates at other facilities, I did not hear anything even closely approximating the extreme level of abuse and sadism I heard at Jena. The inmates I spoke to repeatedly expressed that they were “terrified” and “scared for their lives” inside Jena. The inmates stopped talking and cowered when the guards approached. Two of them had tears running from their eyes while they described their current conditions.

During the interviews, the inmates were constantly looking over their shoulders to see who was listening. Several inmates expressed that they were afraid they would disappear inside Jena. Several told me that they had done “DOC time” and that this was like nothing they had ever experienced. Several inmates approached me with standard question, like “When are we going back?” and as I answered, they slipped desperate notes into my hand. One read “Please help me!”

I was told that individuals had been beaten from the moment they arrived at Jena. Several days after they arrived, a fight broke out in one of the pods. Later, every pod was visited by guards in “riot gear,” wearing helmets and carrying guns and batons. All of the

inmates were forced to strip, lie face down on the ground and ordered not to move for approximately five hours. One inmate described that guards sat on his back and beat him while he lay prone. Inmates informed me that, during this time, they were punched and kicked, and guards stomped on their backs. One inmate was kicked in the teeth. At around 3 a.m., all of the inmates were forced to have their heads shaved. One inmate was told if he refused to have his deadlocks shaved, he would “get his teeth kicked on.”

Another inmate told me that since that night, the guards would periodically put on helmets and walk up and down in the pods, slamming batons in their hands. The inmates described this as “mental torture.”

The inmates complained that they were being verbally abused, cursed at and belittled. Inmates told me that they were constantly being called “niggers,” “coons,” “nutra-rats,” “bitches,” “hos,” “black asses,” “boy,” and “lower than animals.” One inmate said “you can’t believe this is 2005.” Inmates reported that guards had told them “they should have let all them niggers die in the water.”

When they arrived the inmates were not allowed to use the phone until two weeks before this visit. Some had been arrested the day before Hurricane Katrina and their families did not have any idea that they had been arrested. They were not permitted to use the phone to find out the fates of their loved ones. When some were finally able to get through to family, they learned that their families were sure that they had died.

One inmate who had been able to speak with his sister about the treatment in Jena found himself unable to get through the next day because his sister’s number had been somehow blocked. He received a message saying “that number is not billable.” Several

other inmates who complained to relative or their lawyers about the treatment were getting the same message when they attempted to use the phone.

Since they have been at Jena, there has been no disciplinary or grievance procedure. When inmates attempted to write Administrative Remedy Procedure (ARP) request, the guards found them and ripped them up in their faces.

During the second day of visiting on September 29, 2005, the stories of abuse continued. However, while I was interviewing, I received several lengthy accounts that were surreptitiously passed to me, detailing the abuse. One inmate gave me his small Bible, in which he had written a short chronology of the abuse at Jena.

After we finished with the regular dorms, Neal Walker and I were taken to interview the five inmates on lockdown. Among these inmates were several who we had heard from other inmates were severely beaten. We were escorted by one correctional officer from Wade and one from New York City. We were asked if we wanted to speak to the inmates through a small slot, like a mail slot, in the door or speak to the inmates outside of the cell. We requested to speak to them outside of the cell. In the first lockdown cell, there were two inmates. The officer from Wade grabbed a handful of metal shackles. He ordered the inmates on their knees at the back of the cell and shackled the first inmate to be interviewed. The inmate waked out of his cell. He was clad only in thin cotton boxer shorts and immediately apologized to me to be standing in front of me without any clothing. An officer stood three feet in from of me while I interviewed him. He was shaking and had visible bruising.

At the next cell, I requested to speak to the inmate through the slot to avoid the humiliation and shackles of the first interview. Inmate X, the prisoner who told me that

he had been documenting the abuse in writing, was in that cell. He was visibly beaten. He was also shaking and cowering in the cell. He whispered to me through the slot that after I had left on Tuesday, the guards found the reports he had been writing, beat him and brought him to an isolated part of the facility where inmates are put in 24 hour lockdown. They told him “we’re going to teach you who you’re fucking with.”. He begged me to help him, saying that they were going to kill him, that he was going to “disappear.” He repeatedly mouthed “help me” to me. I couldn’t speak to him because a guard stood over my shoulder monitoring our conversation. I took his information and said that I would try to help him see a judge. When I walked away, the guard from Wade whispered something I could not hear through the slot to Inmate X.

I approached the officer from New York City and asked him privately if he would keep an eye on Inmate X. He asked me “Is it bad?” and I replied that it was bad. I asked him if he would be willing to talk to me about what had been going on when he got back to New York. He said he had an earful and that he would talk to me only if it was off the record. He explained to me how to get in touch with him and I took down his information.

I can provide, upon request, my contemporaneous notes made on September 27.2005 and September 29.2005.

SIGNED this 30<sup>th</sup> day of September, 2005.

/s/

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RACHEL I. JONES



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November 30, 2005

Via Facsimile - (202) 393-4931


Eric Balaban, Esq.  
National Prison Project  
915 15<sup>th</sup> Street, N.W.  
Seventh Floor  
Washington, D.C. 20005-2112

Re: Hamilton v. Morial  
UW&M File No.: 89-497

Dear Eric:

Your letter of November 17, 2005 forwarding the Motion for Contempt was not delivered by the post office until November 29, 2005. For your information, the fire evacuation plan is in the possession of the Fire Safety Officer for the Sheriff's Office, Raymond Fitzpatrick (who is a retired district fire chief). Mr. Fitzpatrick has not been seen or heard from since Hurricane Katrina struck New Orleans. In an effort to locate the plan, we intend to break into Mr. Fitzpatrick's locked filing cabinets at the House of Detention. If it cannot be located there, that means it is instead located in the Community Correctional Center. No one is allowed into the CCC at this time for health reasons.

Very truly yours,

  
John F. Weeks, II

JFWII/gw  
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June 29, 2006

Ms. Katie Schwartzmann  
American Civil Liberties Union of Louisiana  
P.O. Box 56157  
New Orleans, Louisiana 70157  
Fax: (504) 522-0618

**Re: Public records request  
of the ACLU of Louisiana  
signed by Katie Schwartzman  
and directed to Richard  
Stalder**

Dear Katie:

Secretary Stalder has asked me to respond on his behalf to your public records request to him. First, please allow me to take this opportunity to thank you for your courtesies in extending the statutory timeframe for response to a public record request.

You have framed your request as follows:

**I. PUBLIC RECORDS REQUEST OF THE ACLU**

"Pursuant to the Louisiana public records act, La. Rev. Stat. § 44:1 et. seq., and Louisiana Constitution Art. 12, §3, I request that you produce copies of the following documents:

1. All documents pertaining to plans for evacuating jails and prisons from southeast Louisiana. This request pertains to any and all plans in existence prior to, at the time of, and subsequent to Hurricane Katrina. This request includes, but is not limited to:

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- a. All documents in your possession discussion the relationship between the Department of Public Safety and Corrections (hereinafter DOC) and the contraflow evacuation plan for Louisiana; and
  - b. The corrections contraflow plan, and all documents pertaining to a corrections contraflow plan.
2. All reports produced by, on behalf of, at the request of, or submitted to DOC or its personnel, regarding<sup>1</sup> the evacuation of Orleans Parish Prison following Hurricane Katrina. This request includes, but is not limited to, all 'after action' reports.

If you choose to deny this request in whole or in part, please provide a written explanation for that denial, including reference to the specific statutory exemptions upon which you rely. Also, please provide all segregable portions of otherwise exempt material.

Because disclosure of these documents is in the public interest, I request that any fees for copying and postage be waived. If this request for a waiver is denied, please advise me if fees for complying with this request are expected to exceed \$100.00."

## II. RESPONSE ON BEHALF OF SECRETARY STALDER

1. The Department has no plans for the evacuation of jails, *i.e.* local facilities run by entities other than DOC, in southeast Louisiana and if it had such plans it would refuse to provide them under the public records act as to do so would be an egregious breach of security concerns in that they would provide virtual planning aids for escapes and therefore would be exempt from production under the public record law under R.S. 44:3.

The Department does have plans for the evacuation of its own prisons located in southeast Louisiana but refuses to turn over those plans as to do so would be a breach of security as detailed above and is therefore protected under R.S. 44:3.

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<sup>1</sup> Originally the phrase "*inter alia*" followed the word "*regarding*". You have kindly agreed to drop that phrase from the request though as it leads to the obviously undesired result that DOC is asked to turn over every single report on any topic in its possession. DOC thanks you for your courtesies in this regard.

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The Department participates in planning with various state agencies in regard to contraflow evacuation which is modified from year to year in an attempt to improve it. All documents in the Department's possession in this regard are also exempt from production as to provide them would constitute an egregious breach of security concerning the mass movement of prisoners under emergency conditions thereby as described above in regard to plans for evacuation of jails and prisons providing virtual planning aids for escapes thereby exempting the production of any such documents under R. S. 44:3.

2. This request for every report the Department has regarding the evacuation of Orleans Parish Prison following Hurricane Katrina is burdensome and harassing during a time of extreme additional stress and work requirements on the Department. In addition, the same security considerations of R.S. 44:3 discussed above in all aspects of number 1) above also apply to this request. Virtually every section of the Department has numerous reports on the issues in question, some of which are still coming in weekly, if not daily. There is simply not the manpower available in a Department which is already stretched to the limits to organize the reports which the ACLU seeks.

Additionally, as to this "public records request" as a whole, the Secretary considers DOC exempt from this public records request for the following reasons:

First, since you have advised me, Katie, that you have are seeking the information in order to deal with potential prisoner clients complaining about certain elements of their treatment, it appears that you are standing in the shoes of prisoners and therefore DOC is exempted from providing any information which it might otherwise have to under the public records law pursuant to the exemptions provided under R.S. 15:1176.

Second and independently, it appears to me that all information gathered by DOC in the discharge of its official duties is subject to exemption from the public records law under R.S. 15:574.12.

Third and independently and only if all the other grounds listed above were to fail, you would still have to deal with the strictures of R.S. 44:33.1. Under that statute the definition of person for public records purposes has been modified so that a prisoner is not included until after is appellate remedies are exhausted. Thus, until his appellate remedies are exhausted, the only records he can received from DOC are those pertinent to his appellate efforts as defined by 44:33.1. Thus, many of your potential clients would not be eligible to receive any records under the public records doctrine.

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As the Department is advising that as to all documents you request it either has no documents you request or claims exemption from the public records law, the issue of the cost of copying is moot. I can tell you that in the event that some copying were ordered, the Department would not provide it for free. If copying were to be ordered down the road, we can get into the issue of actual costs.

Lastly and unfortunately, the Department regards this as but an inappropriate attempt by the ACLU of Louisiana, an affiliate of the national ACLU, to once again seek the same information which has been sought through discovery and which has been denied or in effect denied by delay in the class action suit *Hamilton v. Morial*, USDC, EDLA #69-2443 wherein the National Prison Project, *i.e.* the litigation ("Foundation") arm of the national ACLU is counsel for the 6000 member prisoner plaintiff class. The ACLU's own web site, [www.aclu.org](http://www.aclu.org), makes this abundantly clear. I can provide an example in this regard if you so desire.

Along these same lines, this "public records request" appears to be an inappropriate attempt by the ACLU of Louisiana to exercise oversight in regard to Secretary Stalder, his staff, and the Louisiana Department of Public Safety & Corrections overall. However, it is the view of the Department that the oversight exercised by the national ACLU through the *Hamilton* litigation, and most particularly the federal court and judges themselves in that litigation, the U.S. Justice Department, the Louisiana Inspector General, *etc., etc. etc.* is already more than sufficient and yet another entity is *certainly* not needed and would do no more than complicate already needlessly complex matters.

After you have had a chance to digest this, if you have any questions, please don't hesitate to call. Otherwise, I look forward to working with you on this and the law student visitation issue. With best regards, I am,

Sincerely yours,

  
Patricia Nalley Bowers

