

ENDNOTES

Executive Summary

¹ 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.

² 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.

³ *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.*

⁴ Peter Whoriskey, *In New Orleans, Justice on Trial*, THE WASHINGTON POST, Apr. 15, 2006.

⁵ 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.

⁶ Compiled from Times Wires, *Allegations of Neglect at Jail are "Fiction," Sheriff Says*, ST. PETERSBURG TIMES, Oct. 6, 2005.

⁷ Richard Webster, *Jail Tales: Sheriff Gusman, Prisoners Differ on Storm Evacuation Success*, NEW ORLEANS CITY BUSINESS, Feb. 20, 2006, available at <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=14735>.

⁸ Sample questionnaires returned to the ACLU National Prison Project by OPP evacuees are available in the Appendix.

⁹ 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."

¹⁰ 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").

¹¹ Analysis by the Louisiana Capital Assistance Center of Data Provided by the Orleans Parish Criminal Sheriff's Office, (hereinafter "The LCAC Analysis").

¹² 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.

¹³ The LCAC Analysis.

¹⁴ 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.

¹⁵ 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.

¹⁶ 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/advocacy/winter99/juv/juv.pdf>.

¹⁷ 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.

¹⁸ 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>.

¹⁹ 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>.

²⁰ 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.

²¹ 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

¹ *Hamilton v. Schiro*, 338 F. Supp. 1016, 1016 (E.D. La 1970).

² 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>.

³ Bill Van Sielen, *Photos and Poems from Prison*, PROVIDENCE JOURNAL BULLETIN, Apr. 14, 2005.

⁴ 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>.

⁵ 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/phe-3-20.pdf>.

⁶ 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.

⁷ 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.

⁸ The LCAC Analysis.

⁹ *See Hamilton Plaintiffs v. Williams Plaintiffs*, 147 F.3d 367, 368-69 (5th Cir. 1998).

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

¹¹ *Id.* at 85.

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

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

¹⁴ *Id.*

¹⁵ *Id.* ¹⁶ *The Wall is Strong: Corrections in Louisiana*, 2d Ed. (1991) Ed. By Burk Foster, Wilbert Rideau, and Ron Wikberg, University of Southwestern Louisianian, Lafayette, LA, 86 (originally part of Burk Foster, *Prison Overcrowding: The Louisiana Response*," THE ANGOLITE, Mar./Apr. 1988).

¹⁷ 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.

¹⁸ 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.

¹⁹ The LCAC Analysis.

²⁰ 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.

²¹ *Id.*

²² La.C.Cr.P. Art. 887.

²³ La.C.Cr.P. Art. 884.

²⁴ 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>.

²⁵ *Id.*

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

²⁷ *Id.*

²⁸ *Id.*

²⁹ 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 Piereson, *Tocqueville and Beaumont in America* (New York, 1938), 622.

³⁰ Schiro, 338 F. Supp. at 1016.

³¹ *Id.* at 1019.

³² *Id.* at 1017.

³³ *Id.* at 1018.

³⁴ *Id.*

³⁵ *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 violations included the complete absence of fire alarm systems, insufficient and often inoperable fire extinguishers, and inadequate means of egress by which to evacuate detainees in the case of an emergency. *Id.*

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

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

³⁸ 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/>.

³⁹ *Id.*

⁴⁰ *Id.*

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

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

⁴³ *Id.*

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

⁴⁵ *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)).

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

⁴⁷ 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.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

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

⁵³ *Id.* at ¶ 14.

⁵⁴ *Id.* at ¶ 16.

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

⁵⁶ Tara Young, *Murder Suspect Dies in Prison Ruptured Ulcer Killed Man, Coroner Says*, THE TIMES-PICAYUNE (New Orleans), Oct. 14, 2004.

⁵⁷ 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.

⁵⁸ Bob Ussery, *Prison Inmate Dies in Hospital; Another Fell Fatally Ill in Late February*, THE TIMES-PICAYUNE (New Orleans), Mar. 31, 2005.

⁵⁹ 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.

⁶⁰ 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.

⁶¹ 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.

⁶² *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 recommendation denying plaintiffs' motion regarding deficiencies in mental health care delivery system in OPP).

⁶³ *Id.* at ¶ 15.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.* at ¶ 16.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.* at ¶ 17.

⁷⁰ *Id.*

⁷¹ *Id.* at ¶ 18.

⁷² *Id.* at ¶ 19.

⁷³ *Id.*

⁷⁴ *Id.* at ¶ 23.

⁷⁵ *Id.* at ¶ 21.

⁷⁶ *Id.* at ¶ 24.

⁷⁷ *Id.*

⁷⁸ *Id.* at ¶¶ 24-25.

⁷⁹ *Id.* at ¶ 25.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ Complaint, *Bonnette v. Hunter*, No. 05-1201 (E.D. La. Mar. 30, 2005) ¶ 42.

⁸⁴ *Id.* at ¶ 21.

⁸⁵ 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.

⁸⁶ Complaint, *Bonnette v. Hunter*, No. 05-1201 (E.D. La. Mar. 30, 2005) ¶ 37.

⁸⁷ *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.

⁸⁸ Staff Reports, *N.O. Inmate Dies After Hanging; Man Jailed in '03 was in Mental Unit*, THE TIMES-PICAYUNE (New Orleans), Aug. 4, 2005.

⁸⁹ 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/resseg/ch5.html>.

⁹⁰ 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.

⁹¹ Human Rights Watch, *Shielded from Justice: Police Brutality and Accountability in the United States*, available at <http://www.hrw.org/reports98/police/uspo93.htm>.

⁹² See generally, Bruce Eggler, *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.

⁹³ 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>.

⁹⁴ 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."

⁹⁵ 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>.

⁹⁶ *Id.*

⁹⁷ *Id.* at 11.

⁹⁸ The LCAC Analysis.

⁹⁹ *DeShaney v. Winnebago County Dep't of Soc. Servs.*, 489 U.S. 189, 198-200 (1989).

¹⁰⁰ U.S. CONST. amend. VIII.

¹⁰¹ *Farmer v. Brennan*, 511 U.S. 825, 832 (1994); *Youngberg v. Romeo*, 457 U.S. 307, 315-16 (1982).

¹⁰² *Farmer*, 511 U.S. at 833-34.

¹⁰³ *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).

¹⁰⁴ *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).

¹⁰⁵ *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).

¹⁰⁶ *Estelle v. Gamble*, 429 U.S. 97, 103 (1976) (citing *Gregg v. Georgia*, 428 U.S. 153, 173 (1976)).

¹⁰⁷ *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).

¹⁰⁸ *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>.

¹⁰⁹ *Gates*, 376 F.3d at 332 (5th Cir. 2004) (finding mental health needs to be as serious as physical health).

¹¹⁰ 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.unhchr.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.unhchr.ch/html/menu3/b/a_ccpr.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.unhchr.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.unhchr.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.unhchr.ch/html/menu3/b/h_comp36.htm.

¹¹¹ ICCPR Article 10(1).

¹¹² 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.

¹¹³ 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.

¹¹⁴ 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."

¹¹⁵ 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.

¹¹⁶ 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."

¹¹⁷ 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.

¹¹⁸ 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."

¹¹⁹ 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

¹ Transcript of CNN Coverage of Press Conference, Aug. 28, 2005, available at <http://transcripts.cnn.com/TRANSCRIPTS/0508/28/bn.04.html>.

² 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").

³ 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.

⁴ *Id.* at 63 (citing Letter from Kathleen Babineaux Blanco, Governor of LA, to George W. Bush, President of the United States (Aug. 27, 2005)).

⁵ *Id.* (citing Louisiana: Emergency and Related Determinations, 70 Fed. Reg. 53,238 (Aug. 27, 2005, as amended Sept. 7, 2005)).

⁶ *Id.* (citing Letter from Kathleen Babineaux Blanco, Governor of LA, to George W. Bush, President of the United States (Aug. 28, 2005)).

⁷ *Id.* (citing Louisiana: Emergency and Related Determinations, 70 Fed. Reg. 72,458 (Aug. 29, 2005, as amended Dec. 5, 2005)).

⁸ The White House Report, at 25.

⁹ *Id.* at 26.

¹⁰ Transcript of CNN Coverage of Press Conference, Aug. 28, 2005, available at: <http://transcripts.cnn.com/TRANSCRIPTS/0508/28/bn.04.html>.

¹¹ *Id.*

¹² *Id.*

¹³ DOUGLAS BRINKLEY, *THE GREAT DELUGE: HURRICANE KATRINA, NEW ORLEANS, AND THE MISSISSIPPI GULF COAST 1* (HarperCollins 2006).

¹⁴ *Id.*

¹⁵ *Id.* at 1-2.

¹⁶ *Id.* at 2-3.

¹⁷ 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/>.

¹⁸ *Id.*

¹⁹ *Id.* at 17.

²⁰ *Id.* at 18.

²¹ *Id.* at EP-50-51.

²² *Id.* at EP-61-63.

²³ *Id.* at EP-72-73.

²⁴ *Id.* at ND-1-4.

²⁵ *Id.* at ND-13-14.

²⁶ *Id.* at ND-16-18.

²⁷ Interview with Glyendale Stevenson, June 6, 2006 (Notes on File with the ACLU National Prison Project); Interview with Glyendale Stevenson, May 24, 2006 (Notes on File with the ACLU National Prison Project).

²⁸ NIC Technical Assistance Report at 15.

²⁹ *Id.* at 12.

³⁰ 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>.

³¹ Michelle Gaseau, *Corrections Emerges Strong Following Katrina*, CORRECTIONS.COM, Sept. 12, 2005.

³² NIC Technical Assistance Report at 13.

³³ Letter from Patricia Nally Bowers, to Katie Schwartzmman, June 29, 2006.

³⁴ 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>.

³⁵ *Id.*

³⁶ Interview with C.N., May 12, 2006 (Notes on File with the ACLU National Prison Project).

³⁷ NIC Technical Assistance Report at 16.

³⁸ 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>.

³⁹ Interview with Anonymous Employee, Oct. 11, 2005 (Notes on File with the ACLU National Prison Project).

⁴⁰ E-Mail from Brady Richard, Former Medical Supply Officer to Katie Schwartzmman, 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).

⁴¹ 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>.

⁴² *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.

⁴³ 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/22359lg120050921.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, unavail-

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>.

⁴⁴ 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>.

⁴⁵ *Id.*

⁴⁶ Interview with R.P., May 12, 2006 (Notes on File with the ACLU National Prison Project).

⁴⁷ Agence France Presse, *Sheriff's Deputy Tells How Prisoners Fell onto Barbed Wire*, Sept. 4, 2005.

⁴⁸ Orleans Parish Criminal Sheriff's Office Hurricane/Flood Contingency Plan (unsigned) (undated) available at <http://www.aclu.org/prison/conditions/22359lg/20050921.html>.

⁴⁹ Rene Lapeyrolerie, *What Really Happened At Orleans Parish Prison in the Aftermath of Hurricane Katrina*, NEW ORLEANS TRIBUNE, Feb./Mar. 2006, 24.

⁵⁰ 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_tporeleans/archives/print082074.html.

⁵¹ 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>.

⁵² Minutes, *City of New Orleans Hazard Mitigation Plan Kick-Off Meeting*, Apr. 9, 2003, available at <http://hazardmitigation.org/meetings.htm>.

⁵³ "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>.

⁵⁴ 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

¹ The LCAC Analysis.

² 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.

³ 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.nsf/media-sources/20050912a>.

⁴ Greater New Orleans Community Data Center, *Orleans Parish: People and Household Characteristics* (based on data from 2000), available at <http://www.gnoccde.org/orleans/people.html>.

⁵ The LCAC Analysis.

⁶ 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.

⁷ Testimonial Provided by Inmate #116, Oct. 14, 2006 (Original on File with the ACLU National Prison Project).

⁸ Testimonial Provided by Inmate #138, Oct. 20, 2005 (Original on File with the ACLU National Prison Project).

⁹ 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.

¹⁰ Testimonial Provided by Inmate #51, Oct. 19, 2005 (Original on File with the ACLU National Prison Project).

¹¹ 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).

¹² Interview with Vincent Norman, Apr. 18, 2006 (Notes on File with the ACLU National Prison Project).

¹³ Testimonial Provided by Inmate #533, Nov. 5, 2005 (Original on File with the ACLU National Prison Project).

¹⁴ Testimonial Provided by Inmate #167, Oct. 13, 2005 (Original on File with the ACLU National Prison Project).

¹⁵ Declaration of Raphael Schwarz, Oct. 4, 2005.

¹⁶ Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

¹⁷ *Id.*

¹⁸ Interview with R.P., May 12, 2006 (Notes on File with the ACLU National Prison Project).

¹⁹ Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

²⁰ Testimonial Provided by Inmate #541, Nov. 6, 2005 (Original on File with the ACLU National Prison Project).

²¹ *Id.*

²² *Id.*

²³ Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

²⁴ *Id.*

²⁵ Interview with R.P., May 12, 2006 (Notes on File with the ACLU National Prison Project).

²⁶ 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>.

²⁷ 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>.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

³¹ Interview with Rhonda Ducre, Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

³² Michael Perlstein, *Prison Became Island of Fear and Frustration*, THE TIMES-PICAYUNE (New Orleans), Sept. 23, 2005.

³³ 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).

³⁴ Interview with R.P., May 12, 2006 (Notes on File with the ACLU National Prison Project).

³⁵ Interview with Rhonda Ducre, Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

³⁶ 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).

³⁷ 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>.

³⁸ Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

³⁹ Interview with R.P., May 12, 2006 (Notes on File with the ACLU National Prison Project).

⁴⁰ Interview with C.N., May 12, 2006 (Notes on File with the ACLU National Prison Project).

⁴¹ 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>.

⁴² 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>.

⁴³ *Id.*

⁴⁴ 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).

⁴⁵ Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).

⁴⁶ Testimonial Provided by Inmate #159, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

⁴⁷ Testimonial Provided by Inmate #119, Oct. 18, 2005 (Original on File with the ACLU National Prison Project).

⁴⁸ Testimonial Provided by Inmate #53, Oct. 28, 2005 (Original on File with the ACLU National Prison Project).

⁴⁹ Testimonial Provided by Inmate #59, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

⁵⁰ Testimonial Provided by Inmate #160, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

⁵¹ Testimonial Provided by Inmate #145, Oct. 24, 2005 (Original on File with the ACLU National Prison Project).

⁵² Testimonial Provided by Inmate #660, Oct. 20, 2005 (Original on File with the ACLU National Prison Project).

⁵³ Interview with Gedra Payne Robinson, Mar. 31, 2006 (Notes on File with the ACLU National Prison Project).

⁵⁴ *Id.*

⁵⁵ Interview with Joyce Gilson, Mar. 23, 2006 (Notes on File with the ACLU National Prison Project).

⁵⁶ Interview with Gedra Payne Robinson, Mar. 31, 2006 (Notes on File with the ACLU National Prison Project).

⁵⁷ Interview with Joyce Gilson, Mar. 23, 2006 (Notes on File with the ACLU National Prison Project).

⁵⁸ Interview with JoAnn Bailey Wilson, Mar. 24, 2006 (Notes on File with the ACLU National Prison Project).

⁵⁹ *Id.*

⁶⁰ Interview with Joyce Gilson, Mar. 23, 2006 (Notes on File with the ACLU National Prison Project).

⁶¹ Interview with Gedra Payne Robinson, Mar. 31, 2006 (Notes on File with the ACLU National Prison Project).

⁶² Interview with William Hardeman, June 23, 2006 (Notes on File with the ACLU National Prison Project).

⁶³ *Id.*

⁶⁴ Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).

⁶⁵ Testimonial Provided by David Williams, Nov. 7, 2005 (Original on File with the ACLU National Prison Project).

⁶⁶ Testimonial Provided by Inmate #167, Oct. 13, 2005 (Original on File with the ACLU National Prison Project).

⁶⁷ 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).

⁶⁸ Testimonial Provided by Inmate #205, Oct. 23, 2005 (Original on File with the ACLU National Prison Project).

⁶⁹ Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).

⁷⁰ Interview with Rhonda Ducre, Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

⁷¹ Interview with R.P., May 12, 2006 (Notes on File with the ACLU National Prison Project).

⁷² Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ 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).

⁷⁶ Testimonial Provided by Inmate #1203, Apr. 4, 2006 (Original on File with the ACLU National Prison Project).

⁷⁷ Testimonial Provided by Inmate #1229, Apr. 23, 2006 (Original on File with the ACLU National Prison Project).

⁷⁸ 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).

⁷⁹ Testimonial Provided by Inmate #53, Oct. 28, 2005 (Original on File with the ACLU National Prison Project).

⁸⁰ Testimonial Provided by Inmate #229, Oct. 23, 2005 (Original on File with the ACLU National Prison Project).

⁸¹ Testimonial Provided by Inmate #262, Oct. 13, 2005 (Original on File with the ACLU National Prison Project).

⁸² Testimonial Provided by Inmate #189, Oct. 24, 2005 (Original on File with the ACLU National Prison Project).

⁸³ Letter from Keanna Herbert to Eric Balaban, ACLU National Prison Project (Apr. 5, 2006) (Original on File with the ACLU National Prison Project).

⁸⁴ Orleans Parish Criminal Sheriff's Office Hurricane/Flood Contingency Plan (unsigned) (undated), available at <http://www.aclu.org/prison/conditions/22359lg/20050921.html>.

⁸⁵ Richard A. Webster, *OPP Doc Recounts Heroic Experience*, NEW ORLEANS CITYBUSINESS, Apr. 3, 2006, available at <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=15189>.

⁸⁶ 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

⁸⁷ National Commission on Correctional Healthcare, Administrative Management of HIV in Correctional Institutions, Position Statements, October 9, 2005.

⁸⁸ Letter from Keanna Herbert to Eric Balaban, ACLU National Prison Project, Nov. 15, 2005 (Original on File with the ACLU National Prison Project).

⁸⁹ Letter from Keanna Herbert to Eric Balaban, ACLU National Prison Project, Apr. 5, 2006 (Original on File with the ACLU National Prison Project).

⁹⁰ Testimonial Provided by Inmate #975, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

⁹¹ Testimonial Provided by Inmate #975, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

⁹² Michelle Gaseau, *Corrections Emerges Strong Following Katrina*, CORRECTIONS.COM, Sept. 12, 2005.

⁹³ Testimonial Provided by Inmate #152, Oct. 20, 2005 (Original on File with the ACLU National Prison Project).

⁹⁴ Testimonial Provided by Inmate #584, Oct. 20, 2005 (Original on File with the ACLU National Prison Project).

⁹⁵ Testimonial Provided by Inmate #584, Oct. 20, 2005 (Original on File with the ACLU National Prison Project).

⁹⁶ Interview with K.P., May 30, 2006 (Notes on File with the ACLU National Prison Project).

⁹⁷ *Id.*

⁹⁸ Testimonial Provided by Inmate #219, Oct. 22, 2005 (Original on File with the ACLU National Prison Project).

⁹⁹ Testimonial Provided by Inmate #20, Oct. 19, 2005 (Original on File with the ACLU National Prison Project).

¹⁰⁰ Testimonial Provided by Inmate #356, Jan. 22, 2006 (Original on File with the ACLU National Prison Project).

¹⁰¹ Testimonial Provided by Inmate #123, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

¹⁰² Testimonial Provided by Inmate #98, Oct. 19, 2005 (Original on File with the ACLU National Prison Project).

¹⁰³ Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

¹⁰⁴ 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).

¹⁰⁵ Testimonial Provided by Inmate #118, Oct. 16, 2005 (Original on File with the ACLU National Prison Project).

¹⁰⁶ Interview with Inmate #141, April 11, 2006 (Notes on File with the ACLU National Prison Project).

¹⁰⁷ 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>.

¹⁰⁸ Testimonial Provided by Inmate #38, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

¹⁰⁹ Testimonial Provided by Inmate #1070, undated (Original on File with the ACLU National Prison Project).

¹¹⁰ Letter from Inmate #1070 to Eric Balaban, ACLU National Prison Project, Feb. 20, 2006 (Original on File with the ACLU National Prison Project).

¹¹¹ Testimonial Provided by Inmate #1108, Mar. 31, 2006 (Original on File with the ACLU National Prison Project).

¹¹² Michael Perlstein, *Grave Concern*, THE TIMES-PICAYUNE (New Orleans), Mar. 12, 2006, available at <http://www.nola.com/news/t-p/frontpage/index.ssf?/base/news-5/1142150950104380.xml>.

¹¹³ Interview with C. Gary Wainwright, Dec. 21, 2005 (Notes on File with the ACLU National Prison Project).

¹¹⁴ *Id.*; see also Michael Perlstein, *Grave Concern*, THE TIMES-PICAYUNE (New Orleans), Mar. 12, 2006, available at <http://www.nola.com/news/t-p/frontpage/index.ssf?/base/news-5/1142150950104380.xml>.

¹¹⁵ *Id.*

¹¹⁶ Michael Perlstein, *Grave Concern*, THE TIMES-PICAYUNE (New Orleans), Mar. 12, 2006, available at <http://www.nola.com/news/t-p/frontpage/index.ssf?/base/news-5/1142150950104380.xml>.

¹¹⁷ *Id.*

¹¹⁸ Interview with C. Gary Wainwright, Dec. 21, 2005 (Notes on File with the ACLU National Prison Project).

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² Michael Perlstein, *Grave Concern*, THE TIMES-PICAYUNE (New Orleans), Mar. 12, 2006, available at <http://www.nola.com/news/t-p/frontpage/index.ssf?/base/news-5/1142150950104380.xml>.

¹²³ *Id.*

¹²⁴ 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).

¹²⁵ Michael Perlstein, *Grave Concern*, THE TIMES-PICAYUNE (New Orleans), Mar. 12, 2006, available at <http://www.nola.com/news/t-p/frontpage/index.ssf?/base/news-5/1142150950104380.xml>.

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ *Id.*

¹³¹ Testimonial Provided by Inmate #11, Oct. 19, 2005 (Original on File with the ACLU National Prison Project).

¹³² Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

¹³³ Interview with R.P., May 12, 2006 (Notes on File with the ACLU National Prison Project).

¹³⁴ 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).

¹³⁵ Testimonial Provided by Inmate #1192, Oct. 21, 2005 (Original on File with the ACLU National Prison Project).

¹³⁶ Testimonial Provided by Inmate #87, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

¹³⁷ 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).

¹³⁸ Testimonial Provided by Pearl Cornelia Bland, Sep. 22, 2005 (Original on File with the ACLU National Prison Project).

¹³⁹ 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).

¹⁴⁰ Information about Ms. Bland's incarceration was obtained with the assistance of Katherine Mattes.

¹⁴¹ Testimonial Provided by Inmate #78, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

¹⁴² Testimonial Provided by Inmate #96, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

¹⁴³ 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.

¹⁴⁴ Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

¹⁴⁵ Testimonial Provided by Inmate #125, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

¹⁴⁶ Testimonial Provided by Inmate #23, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

¹⁴⁷ Testimonial Provided by Inmate #64, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

¹⁴⁸ Michael Perlstein, *Prison Became Island of Fear and Frustration*, THE TIMES-PICAYUNE (New Orleans), Sept. 23, 2005.

¹⁴⁹ Testimonial Provided by Inmate #189, Oct. 24, 2005 (Original on File with the ACLU National Prison Project).

¹⁵⁰ Testimonial Provided by Inmate #553, Nov. 5, 2005 (Original on File with the ACLU National Prison Project).

¹⁵¹ Testimonial Provided by Inmate #839, Oct. 21, 2005 (Original on File with the ACLU National Prison Project).

¹⁵² Declaration of Quantonio Williams (undated).

¹⁵³ Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).

¹⁵⁴ Testimonial Provided by Inmate #790, Oct. 27, 2005 (Original on File with the ACLU National Prison Project).

¹⁵⁵ Testimonial Provided by Inmate #839, Oct. 21, 2005 (Original on File with the ACLU National Prison Project).

¹⁵⁶ 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).

¹⁵⁷ 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>.

¹⁵⁸ *Id.*

¹⁵⁹ Testimonial Provided by Inmate #121, Oct. 15, 2005 (Original on File with the ACLU National Prison Project).

¹⁶⁰ Testimonial Provided by Inmate #231, Oct. 22, 2005 (Original on File with the ACLU National Prison Project).

¹⁶¹ Testimonial Provided by Darnell Smith, Oct. 15, 2005 (Original on File with the ACLU National Prison Project).

¹⁶² Interview with C.N., May 12, 2006 (Notes on File with the ACLU National Prison Project).

¹⁶³ *Id.*

¹⁶⁴ Testimonial Provided by Inmate #98, Oct. 19, 2005 (Original on File with the ACLU National Prison Project).

¹⁶⁵ Testimonial Provided by Inmate #123, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

¹⁶⁶ 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).

¹⁶⁷ Interview with C.N., May 12, 2006 (Notes on File with the ACLU National Prison Project).

¹⁶⁸ 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>.

¹⁶⁹ Testimonial Provided by Inmate #44, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

¹⁷⁰ Mira Oberman, *Prisoners Fell on Barbed Wire in Desperate [sic] Bid to Find Water*, AGENCE FRANCE PRESSE, Sept. 3, 2005.

¹⁷¹ Interview with C.N., May 12, 2006 (Notes on File with the ACLU National Prison Project).

¹⁷² Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).

¹⁷³ Interview with C.F., Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

¹⁷⁴ Michael Perlstein, *Prison Became Island of Fear and Frustration*, THE TIMES-PICAYUNE (New Orleans), Sept. 23, 2005.

¹⁷⁵ Testimonial Provided by Inmate #77, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

¹⁷⁶ Testimonial Provided by Inmate #162, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

¹⁷⁷ Michael Perlstein, *Prison Became Island of Fear and Frustration*, THE TIMES-PICAYUNE (New Orleans), Sept. 23, 2005.

¹⁷⁸ Richard Webster, *Caught Off-Guard: OPP Deputies Blame Sheriff for Hurricane Crisis*, NEW ORLEANS CITYBUSINESS, Mar. 27, 2006.

¹⁷⁹ 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>.

¹⁸⁰ *Id.* at 60-61.

¹⁸¹ 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>.

¹⁸² 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.

¹⁸³ 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>.

¹⁸⁴ 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.*

¹⁸⁵ Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).

¹⁸⁶ *Id.*

¹⁸⁷ Testimonial Provided by Inmate #64, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

¹⁸⁸ Testimonial Provided by Inmate #71, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

¹⁸⁹ Testimonial Provided by Inmate #144, Oct. 27, 2005 (Original on File with the ACLU National Prison Project).

¹⁹⁰ Testimonial Provided by Inmate #92, undated (Original on File with the ACLU National Prison Project).

¹⁹¹ Testimonial Provided by Inmate #56, Oct. 24, 2005 (Original on File with the ACLU National Prison Project).

¹⁹² 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).

¹⁹³ Testimonial Provided by Inmate #111, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

¹⁹⁴ Testimonial Provided by Inmate #55, Oct. 29, 2005 (Original on File with the ACLU National Prison Project).

Section IV

¹ Testimonial Provided by Inmate #181, Oct. 24, 2005 (Original on File with the ACLU National Prison Project).

² NIC Technical Assistance Report at 15.

³ 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>.

⁴ Michael Perlstein, *Prison Became Island of Fear and Frustration*, THE TIMES-PICAYUNE (New Orleans), Sept. 23, 2005.

⁵ *Id.* at 3.

⁶ NIC Technical Assistance Report at 15.

⁷ Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).

⁸ 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.

⁹ Interview with R.P., May 12, 2006 (Notes on File with the ACLU National Prison Project).

¹⁰ Interview with Duane Lewis, June 23, 2006 (Notes on File with the ACLU National Prison Project).

¹¹ 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.

¹² *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.

¹³ Interview with C.N., May 12, 2006 (Notes on File with the ACLU National Prison Project).

¹⁴ Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).

¹⁵ Interview with C.N., May 12, 2006 (Notes on File with the ACLU National Prison Project).

¹⁶ *Id.*

¹⁷ Interview with Joyce Gilson, June 4, 2006 (Notes on File with the ACLU National Prison Project).

¹⁸ Interview with Ronnie Lee Morgan, Jr., June 5, 2006 (Notes on File with the ACLU National Prison Project)

¹⁹ Michael Perlstein, *Prison Became Island of Fear and Frustration*, THE TIMES-PICAYUNE, Sept. 23, 2005.

²⁰ Rene Lapeyrolerie, *What Really Happened At Orleans Parish Prison in the Aftermath of Hurricane Katrina*, NEW ORLEANS TRIBUNE, Feb./Mar. 2006, 24.

²¹ Michael Perlstein, *Prison Became Island of Fear and Frustration*, THE TIMES-PICAYUNE (New Orleans), Sept. 23, 2005.

²² Testimonial Provided by Inmate #241, Oct. 23, 2005 (Original on File with the ACLU National Prison Project).

²³ Interview with JoAnn Bailey Wilson, Mar. 24, 2006 (Notes on File with the ACLU National Prison Project).

²⁴ Testimonial Provided by Inmate #153, Oct. 22, 2005 (Original on File with the ACLU National Prison Project).

²⁵ Testimonial Provided by Inmate #596, Oct. 24, 2005 (Original on File with the ACLU National Prison Project).

²⁶ Testimonial Provided by Inmate #27, Oct. 20, 2005 (Original on File with the ACLU National Prison Project).

²⁷ Testimonial Provided by Inmate #187, Oct. 23, 2005 (Original on File with the ACLU National Prison Project).

²⁸ Testimonial Provided by Inmate #227, Oct. 21, 2005 (Original on File with the ACLU National Prison Project).

²⁹ Testimonial Provided by Inmate #59, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

³⁰ Testimonial Provided by Inmate #266, Oct. 25, 2005 (Original on File with the ACLU National Prison Project).

³¹ Testimonial Provided by Inmate #93, Oct. 20, 2005 (Original on File with the ACLU National Prison Project).

³² Rene Lapeyrolerie, *What Really Happened At Orleans Parish Prison in the Aftermath of Hurricane Katrina*, NEW ORLEANS TRIBUNE, Feb./Mar. 2006, 24.

³³ Agence France Presse, *Sheriff's Deputy Tells How Prisoners Fell onto Barbed Wire*, Sept. 4, 2005.

³⁴ Richard Liebson, *New Orleans Jail Rescue Began in White Plains*, THE JOURNAL NEWS (White Plains), Sept. 9, 2005.

³⁵ Interview with Corey Stevenson, June 7, 2006 (Notes on File with the ACLU National Prison Project).

³⁶ 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).

³⁷ Michael Perlstein and Gordon Russell, *Orleans Criminal Sheriff's Race Gets Nasty*, THE TIMES-PICAYUNE (New Orleans), Apt. 18, 2006.

³⁸ Interview with Inmate #524, July 7, 2006 (Notes on File with the ACLU National Prison Project).

³⁹ Associated Press, *Katrina Victim Found in New Orleans House*, May 28, 2006.

⁴⁰ Press Release, *Roster of Missing Loved Ones Now Fewer Than 300*, FEMA, May 18, 2006, available at <http://www.fema.gov/news/newsrelease.fema?fid=26341>.

⁴¹ Chicago Tribune, *49 Katrina Bodies Remain Unidentified*, July 6, 2006, available at 2006 WLNR 11643743.

Section V

¹ Testimonial Provided by Inmate #24, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

² Testimonial Provided by Inmate #251, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

³ Testimonial Provided by Inmate #160, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

⁴ Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).

⁵ Interview with Inmate #285, Mar. 31, 2006 (Notes on File with the ACLU National Prison Project).

⁶ Testimonial Provided by Inmate #11, Oct. 19, 2005 (Original on File with the ACLU National Prison Project).

⁷ Interview with T.D., Mar. 17, 2006 (Notes on File with the ACLU National Prison Project).

⁸ Testimonial Provided by Inmate #56, Oct. 24, 2005 (Original on File with the ACLU National Prison Project).

⁹ Testimonial Provided by Inmate #111, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

¹⁰ Testimonial Provided by Inmate #227, Oct. 21, 2005 (Original on File with the ACLU National Prison Project).

¹¹ George J. Tamber, *Arrested on Misdemeanors, Left to Die in Flooded Jail*, THE TOLEDO BLADE, Sept. 23, 2005.

¹² *Id.*

¹³ Testimonial Provided by Inmate #305, Oct. 20, 2005 (Original on File with the ACLU National Prison Project).

¹⁴ Testimonial Provided by Inmate #711, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

¹⁵ Testimonial Provided by Inmate #145, Oct. 24, 2005 (Original on File with the ACLU National Prison Project).

¹⁶ Testimonial Provided by Inmate #302, Oct. 19, 2005 (Original on File with the ACLU National Prison Project).

Section VI

¹ 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.

² 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.

³ Editorial, *Housing Juveniles with Prisoners is Criminal*, NEW ORLEANS CITYBUSINESS, May 8, 2006.

⁴ *Id.*

⁵ Transcript of CNN Coverage of Press Conference, Aug. 28, 2005, available at: <http://transcripts.cnn.com/TRANSCRIPTS/0508/28/bn.04.html>.

⁶ 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.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 15.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ 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).

²¹ Interview with Ruby Ann George, June 20, 2006 (Notes on File with the ACLU National Prison Project).

²² 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.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* at 15-16.

²⁸ *Id.* at 16.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.* at 17.

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.* at 18.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.* at 19.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.* at 19-20.

⁵⁹ *Id.* at 20.

⁶⁰ Richard A. Webster, *Juveniles Claim They Were Treated Like "Trash" at OPP*, NEW ORLEANS CITYBUSINESS, May 10, 2006.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

Section VII

¹ 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>.

² 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/>.

³ 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>.

⁴ Compiled from Times Wires, *Allegations of Neglect at Jail are "Fiction," Sheriff Says*, ST. PETERSBURG TIMES, Oct. 6, 2005.

⁵ 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>.

⁶ Staff Reports, *Breaking News from The Times-Picayune and Nola.com Hurricane Katrina - the Aftermath*, THE TIMES-PICAYUNE (New Orleans), Sept. 3, 2005.

⁷ 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>

⁸ *Id.*

⁹ Testimonial Provided by Leroy P. Gardner, III, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

¹⁰ *Id.*

¹¹ 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.

¹² 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>.

¹³ 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.

¹⁴ Rene Lapeyrolerie, *What Really Happened At Orleans Parish Prison in the Aftermath of Hurricane Katrina*, NEW ORLEANS TRIBUNE, Feb./Mar. 2006, 24.

¹⁵ Radio Spot 2, <http://www.marlingusman.com/index.html> (last visited Apr. 20, 2006).

¹⁶ 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>.

¹⁷ 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>.

¹⁸ Rene Lapeyrolerie, *What Really Happened At Orleans Parish Prison in the Aftermath of Hurricane Katrina*, NEW ORLEANS TRIBUNE, Feb./Mar. 2006, 24.

¹⁹ *Id.*

²⁰ 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>.

²¹ *Id.*

²² Interview with Rhonda Ducre, Mar. 15, 2006 (Notes on File with the ACLU National Prison Project).

²³ The statement of Rachel I. Jones is available in the Appendix.

Section VIII

¹ Testimonial Provided by Inmate #251, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

² Testimonial Provided by Inmate #251, Oct. 12, 2005 (Original on File with the ACLU National Prison Project).

³ Testimonial Provided by Inmate #112, Oct. 16, 2005 (Original on File with the ACLU National Prison Project).

⁴ Testimonial Provided by Inmate #230, Oct. 18, 2005 (Original on File with the ACLU National Prison Project).

⁵ Testimonial Provided by Inmate #111, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

⁶ *Id.*

⁷ 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).

⁸ Testimonial Provided by Inmate #120, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

⁹ Testimonial Provided by Inmate #118, Oct. 16, 2005 (Original on File with the ACLU National Prison Project).

¹⁰ Interview with R.C., Apr. 26, 2006 (Notes on File with the ACLU National Prison Project).

¹¹ NIC Technical Assistance Report at 23.

¹² Testimonial Provided by Inmate #64, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

¹³ Testimonial Provided by Inmate #561, Nov. 9, 2005 (Original on File with the ACLU National Prison Project).

¹⁴ 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>.

¹⁵ *Id.*

¹⁶ Testimonial Provided by Inmate #113, Oct. 16, 2005 (Original on File with the ACLU National Prison Project).

¹⁷ Testimonial Provided by Inmate #168, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

¹⁸ Testimonial Provided by Inmate #621, Oct. 18, 2005 (Original on File with the ACLU National Prison Project).

¹⁹ Testimonial Provided by Inmate #121, Oct. 15, 2005 (Original on File with the ACLU National Prison Project).

²⁰ Testimonial Provided by Inmate #113, Oct. 16, 2005 (Original on File with the ACLU National Prison Project).

²¹ 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>.

²² *Id.*

²³ Testimonial Provided by Inmate #121, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

²⁴ NIC Technical Assistance Report at 23.

²⁵ Testimonial Provided by Inmate #361, Oct. 26, 2005 (Original on File with the ACLU National Prison Project).

²⁶ Richard A. Webster, *OPP Doc Recounts Heroic Experience*, NEW ORLEANS CITYBUSINESS, Apr. 3, 2006, available at <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=15189>.

²⁷ Interview with C.N., May 12, 2006 (Notes on File with the ACLU National Prison Project).

²⁸ Testimonial Provided by Inmate #95, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

²⁹ George J. Tanber, *Arrested on Misdemeanors, Left to Die in Flooded Jail*, THE TOLEDO BLADE, Sept. 23, 2005.

³⁰ Testimonial Provided by Inmate #102, Oct. 14, 2005 (Original on File with the ACLU National Prison Project).

³¹ Testimonial Provided by Inmate #263, Oct. 13, 2005 (Original on File with the ACLU National Prison Project).

³² Testimonial Provided by Inmate #574, Nov. 6, 2005 (Original on File with the ACLU National Prison Project).

³³ 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>.

³⁴ 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.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ U.S. Census Bureau, *Census 2000 Demographic Profile Highlights*, available at

http://factfinder.census.gov/servlet/SAFFFacts?_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®=null%3Anull&_keyword=&_industry=.

⁴⁰ Testimonial Provided by Inmate #83, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

⁴¹ 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).

⁴² Testimonial Provided by Inmate #555, Nov. 5, 2005 (Original on File with the ACLU National Prison Project).

⁴³ Interview with Ivy R. Gisclair, June 14, 2006 (Notes on File with the ACLU National Prison Project).

⁴⁴ Testimonial Provided by Inmate #574, Nov. 6, 2005 (Original on File with the ACLU National Prison Project).

⁴⁵ Testimonial Provided by Inmate #50, Oct. 30, 2005 (Original on File with the ACLU National Prison Project).

⁴⁶ Testimonial Provided by Inmate #114, Oct. 17, 2005 (Original on File with the ACLU National Prison Project).

⁴⁷ *Id.*

⁴⁸ 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).

⁴⁹ Testimonial Provided by Inmate #103, Oct. 11, 2005 (Original on File with the ACLU National Prison Project).

⁵⁰ Interview with Inmate #13, May 16, 2006 (Notes from Conversation on File with the ACLU National Prison Project).

⁵¹ *Id.*

⁵² 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.

⁵³ David Rohde and Christopher Drew, *Storm and Crisis: The Inmates; Prisoners Evacuated After Hurricane Alleged Abuse*, THE NEW YORK TIMES, Oct. 2, 2005.

⁵⁴ Statement of Keith M. Dillon, May 28, 2006 (Copy on File with the ACLU National Prison Project).

⁵⁵ Statement of Rachel I. Jones, Sept. 30, 2005, at 4.

⁵⁶ *Id.* at 4-5.

⁵⁷ 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>.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² 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>.

⁶³ 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>.

⁶⁴ Statement of Keith M. Dillon, May 28, 2006 (Copy on File with the ACLU National Prison Project).

⁶⁵ 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>.

⁶⁶ *Id.*

⁶⁷ Interview by Vanita Gupta, LDF Attorney, with prisoners at the Jena Facility, Louisiana, October 4, 2005.

⁶⁸ David Rohde and Christopher Drew, *Prisoners Evacuated After Hurricane Alleged 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.

⁶⁹ 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>.

⁷⁰ David Rohde and Christopher Drew, *Prisoners Evacuated After Hurricane Alleged Abuse*, THE NEW YORK TIMES, Oct. 2, 2005; Henry Weinstein, *A Shattered Gulf Coast; Evacuated Inmates at One Prison Alleged Abuse by Guards*, THE LOS ANGELES TIMES, Oct. 2, 2005.

⁷¹ 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>.

⁷² 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>.

⁷³ NIC Technical Assistance Report at 30.

⁷⁴ 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.

⁷⁵ Testimonial Provided by Inmate #374, undated (Original on File with the ACLU National Prison Project).

⁷⁶ Testimonial Provided by Inmate #573, Oct. 26, 2005 (Original on File with the ACLU National Prison Project).

⁷⁷ Testimonial Provided by Inmate #581, Oct. 19, 2005 (Original on File with the ACLU National Prison Project).

⁷⁸ Testimonial Provided by Inmate #1226, May 8, 2006 (Original on File with the ACLU National Prison Project).

Section IX

¹ Alex Berenson, *With Jails Flooded, Bus Station Fills the Void*, THE NEW YORK TIMES, Sept. 7, 2005.

² 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=8F3A7027421841978F18BE>

895F87F791&tier=4&id=3C4639CFDE1443D4B8BF8F1CDF028184.

³ 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>.

⁴ 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>.

⁵ *State v. Peart*, 621 So.2d 780 (La. 1993).

⁶ 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.nacl.org/public.nsf/DefenseUpdates/Avoyelles>.

⁷ *State v. Citizen*, 898 So. 2d 325, 339 (La. 2005).

⁸ 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>.

⁹ 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>.

¹⁰ *Id.*

¹¹ 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>.

¹² See Henry Weinstein, *Evacuated Prisoners Are Captive to Legal Limbo*, LOS ANGELES TIMES, Oct. 16, 2005.

¹³ 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>.

¹⁴ 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>.

¹⁵ 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>.

¹⁶ 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>.

¹⁷ 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

¹⁸ Editorial, *The Criminal Justice Mess*, THE TIMES-PICAYUNE (New Orleans), May 29, 2006.

¹⁹ 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>.

²⁰ 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>.

²¹ NewsHour with Jim Lehrer, *News Orleans Struggles to Rebuild Justice System after Hurricane Katrina*, PBS, May 25, 2006, available at http://www.pbs.org/news/hour/bb/law/jan-june06/neworleans_05-25.html.

²² 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>.

²³ Letter from Eric Balaban, ACLU National Prison Project, to John Weeks and Allen Usry, Oct. 14, 2005.

²⁴ Minute Entry, *Hamilton v. Morial*, No. 69-cv-2443, Chasez, M.J. Oct. 19, 2005.

²⁵ Facsimile from John Weeks, to Eric Balaban, ACLU National Prison Project, Nov. 7, 2005.

²⁶ 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 CITY BUSINESS, Dec. 19, 2005, available at <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=14229>.

²⁷ Richard A. Webster, *N.O. Prison's Future in Question*, NEW ORLEANS CITY BUSINESS, Dec. 19, 2005, available at <http://www.neworleanscitybusiness.com/viewStory.cfm?recID=14229>.

²⁸ Letter from Eric Balaban, ACLU National Prison Project, to John Weeks and Allen Usry, Oct. 14, 2005.

²⁹ 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>.

³⁰ Interview with Anonymous Prisoner, Mar. 28, 2006 (Notes on File with Critical Resistance).

³¹ Interview with Inmate #1284, June 5, 2006 (Notes on File with the ACLU National Prison Project).

³² Interview with M.M., Mar. 28, 2006 (Notes on File with Safe Streets).

³³ Orleans Parish Criminal Sheriff's Office, Inmate's Grievance Form (Form ARP-1), J.R., Apr. 27, 2006.

³⁴ Orleans Parish Criminal Sheriff's Office, Step One Response Form (Form ARP-2A), J.R., May 2, 2006.

³⁵ La.C.Cr.P. Art. 648(A).

³⁶ La.C.Cr.P. Art. 648(A)(2)(a)

³⁷ *Id.*

³⁸ 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.nacl.org/public.nsf/defenseupdates/louisiana088>.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² 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/22357lg/20051110.html>

⁴³ *Id.*

⁴⁴ 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.

⁴⁵ *Id.*

⁴⁶ Matthew Crawford, *Recovery Zone: Orleans Parish Sheriff Shares His Experiences After Katrina*, CORRECTIONALNEWS.COM, May/June 2006, available at <http://correctionalnews.com/ME2/Audiences/dlrm.asp?sid=&nm=&type=Publishing&mod=Publications%3A%3AArticle&mid=8F3A7027421841978F18BE895F87F791&tier=4&id=3C4639CFDE1443D4B8BF8F1CDF028184>.

⁴⁷ 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.

⁴⁸ Exit Interview with A.P., Mar. 29, 2006 (Notes on File with Safe Streets).

⁴⁹ Exit Interview with C.B., Mar. 28, 2006 (Notes on File with Safe Streets).

⁵⁰ Letter from M.C. to Elizabeth Alexander, ACLU National Prison Project, Mar. 21, 2006 (Original on File with the ACLU National Prison Project).

⁵¹ *Id.*

⁵² Interview with Inmate #870, June 5, 2006 (Notes on File with the ACLU National Prison Project).

⁵³ *Id.*

⁵⁴ Interview with Inmate #1261, June 5, 2006 (Notes on File with the ACLU National Prison Project).

⁵⁵ *Id.*

⁵⁶ Interview with J.M., June 5, 2006 (Notes on File with the ACLU National Prison Project).

⁵⁷ 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).

⁵⁸ Interview with Inmate #1261, June 5, 2006 (Notes on File with the ACLU National Prison Project).

⁵⁹ Interview with Inmate #421, June 5, 2006 (Notes on File with the ACLU National Prison Project).

⁶⁰ Interview with C.S., Mar. 29, 2006 (Notes on File with Safe Streets).

⁶¹ Interview with Inmate #399, June 5, 2006 (Notes on File with the ACLU National Prison Project).

⁶² 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-11475915953030.xml&coll=1>.

⁶³ *Id.*

⁶⁴ Interview with T.H., June 7, 2006 (Notes on File with the ACLU National Prison Project).

⁶⁵ Interview with T.M., June 7, 2006 (Notes on File with the ACLU National Prison Project).

⁶⁶ *Id.*

⁶⁷ 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>.

⁶⁸ *Id.*; see also Susan Finch, *Prison Neighbors Want Tents Out*, THE TIMES-PICAYUNE (New Orleans), Dec. 16, 1992.

⁶⁹ Settlement Agreement, *Hamilton v. Morial*, Mar. 26, 2003.

⁷⁰ NIC Technical Assistance Report at 56.

⁷¹ C.J. Schexnayder, *What Price Incarceration?*, GAMBIT WEEKLY, Nov. 19, 2002.

⁷² 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>.

⁷³ C.J. Schexnayder, *What Price Incarceration?*, GAMBIT WEEKLY, Nov. 19, 2002.

⁷⁴ Christopher Cooper, *Foti's Wish Comes True: Prison Space for 7,140*, THE TIMES-PICAYUNE (New Orleans), Oct. 20, 1993 A1.

⁷⁵ Susan Finch, *Orleans Sheriff Fires 73 to Even Budget; he Cites Revenue Drop from Fewer Prisoners*, THE TIMES-PICAYUNE (New Orleans), Apr. 15, 2004.

⁷⁶ Sheriff's Ninth Motion for Jail Funding Judgment with Incorporated Memorandum, *Hamilton v. Morial*, Nov. 1, 2005 Ex. B.

⁷⁷ 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/22357lg/20051110.html>.

⁷⁸ *Id.*

⁷⁹ 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>.

⁸⁰ James Varney, *Gusman Beats Riley in Criminal Sheriff Race; Heated Battle Grew Bitter Toward End*, THE TIMES-PICAYUNE (New Orleans), Nov. 3, 2004.

⁸¹ 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>.

⁸² Keith Woods and Susan Finch, *Citizens Often Hire Inmates*, THE TIMES-PICAYUNE (New Orleans), Jan. 25, 1989.

⁸³ Leslie Williams, *Inmates in Training Program Do Work on Judge's Home*, THE TIMES-PICAYUNE (New Orleans), July 12, 2006.

⁸⁴ Dale Curry, *Tilapia Serving Time; The Catch is More than Criminals at Orleans Parish Prison*, THE TIMES-PICAYUNE (New Orleans), May 24, 2001.

⁸⁵ 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>.

⁸⁶ See Affidavit of Katie Schwartzmann, Oct. 12, 2005.