

**A LETTER TO SOCIAL JUSTICE  
ADVOCATES: THIRTEEN LESSONS  
LEARNED BY KATRINA SOCIAL JUSTICE  
ADVOCATES LOOKING BACK TEN YEARS  
LATER**

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**I. INTRODUCTION**

Dear Friend,

This Article takes the form of a letter from Gulf Coast Katrina social justice advocates. Specifically, the Letter is addressed to those who work for social justice after a disaster strikes.<sup>1</sup> This is our attempt to tell you some of our stories and

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1. For purposes of this Article, "social justice" refers to the term as formulated by John Rawls: "All social values—liberty and opportunity, income and wealth, and the social bases of self-respect—are to be distributed equally unless an unequal distribution of any, or all, of these values is to everyone's advantage." John Rawls, A

some of the lessons we learned from our experiences with Hurricanes Katrina and Rita in the summer of 2005.

When Katrina hit, many of us looked to the experiences of people in New York and how they responded to the disasters of 9/11. Though all disasters are different, there are shared experiences and lessons learned. This is our offering to you of lessons learned and stories of survival, tears, anguish, and moving forward as social justice advocates. It is my hope these lessons and stories might help those preparing for a disaster or, God forbid, trying to figure out what to do after a disaster.

Hurricane Katrina (Katrina) hit the Gulf Coast on August 29, 2005.<sup>2</sup> Within hours, the levees that surround the City of New Orleans failed.<sup>3</sup> The city, which is partly beneath sea level, began to fill with water.<sup>4</sup> Eighty percent of the city was under water, which in some cases reached over twenty feet deep.<sup>5</sup>

On September 24, 2005, Hurricane Rita (Rita) hit the Gulf Coast, west of where Katrina made landfall.<sup>6</sup> As a result, over a million people were displaced along the Gulf Coast.<sup>7</sup> Over half a million were *still* displaced a month after Katrina.<sup>8</sup> More than a million homes were damaged and economic damages were estimated at \$135 billion.<sup>9</sup>

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THEORY OF JUSTICE 54 (rev. ed. 1999).

2. Joseph B. Treaster & Kate Zernike, *Hurricane Katrina Slams Into Gulf Coast*, N.Y. TIMES (August 30, 2005), <http://www.nytimes.com/2005/08/30/us/hurricane-katrina-slams-into-gulf-coast-dozens-are-dead.html>.

3. *Hurricane Katrina Timeline*, BROOKINGS INST. 2–3, <http://www.brookings.edu/fp/projects/homeland/katrinatimeline.pdf> (last visited Oct. 6, 2015).

4. Fed. Emergency Mgmt. Agency, FEMA 549, HURRICANE KATRINA IN THE GULF COAST: MITIGATION ASSESSMENT TEAM REPORT, BUILDING PERFORMANCE OBSERVATIONS, RECOMMENDATIONS, AND TECHNICAL GUIDANCE ch. 8, at 4 (2006), [http://www.fema.gov/media-library-data/20130726-1520-20490-4521/549\\_ch8.pdf](http://www.fema.gov/media-library-data/20130726-1520-20490-4521/549_ch8.pdf).

5. *Hurricane Katrina Timeline*, *supra* note 3, at 3.

6. Nat'l Weather Serv. Weather Forecast Office—Lake Charles, La., *Hurricane Rita*, NAT'L OCEANIC & ATMOSPHERIC ADMIN., [http://www.srh.noaa.gov/lch/?n=rita\\_main](http://www.srh.noaa.gov/lch/?n=rita_main) (last visited Oct. 6, 2015).

7. William P. Quigley, *Obstacle to Opportunity: Housing that Working and Poor People Can Afford in New Orleans since Katrina*, 42 WAKE FOREST L. REV. 393, 393–94 (2007) (“Roughly one million people left their homes and were displaced by Katrina. One month later, 600,000 people remained in temporary housing—hotels and shelters—with family. Two months later, about a half million people were still displaced and living in subsidized rental property, hotels, or shelters. Eighteen months later, a third of a million people in the New Orleans metro area had not returned.” (footnotes omitted)).

8. *Id.*

9. Allyson Plyer, *Facts for Features: Katrina Impact*, DATA CTR. (Aug. 12, 2015),

The average home in New Orleans ended up with six to nine feet of standing water.<sup>10</sup> Most of the city lost electricity for months.<sup>11</sup> Authorities closed the city,<sup>12</sup> forcing most residents to remain away for weeks and many for months.<sup>13</sup> When enough of the floodwater was pumped out, the city began to reopen, zip code by zip code.<sup>14</sup> The devastation was enormous. Hundreds of thousands remained displaced for months.<sup>15</sup> Over one hundred thousand New Orleans homes were damaged—seventy percent of the city's occupied units.<sup>16</sup>

Twenty Louisiana courthouses were damaged by the storms and floodwater severely damaged the evidence rooms and Clerk of Court's office in New Orleans.<sup>17</sup> The criminal law system in New Orleans was in shambles.<sup>18</sup> No criminal trials were held in New Orleans for ten months.<sup>19</sup> The Louisiana Supreme Court officially closed for weeks while doing its best to conduct business remotely.<sup>20</sup> Approximately 7,500 attorneys, over one-third of the Louisiana bar, were evacuated, and many lost their homes.<sup>21</sup>

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<http://www.datacenterresearch.org/data-resources/katrina/facts-for-impact/>.

10. *How New Orleans Flooded*, NOVA: PBS (Oct. 2005), <http://www.pbs.org/wgbh/nova/orleans/how-nf.html>.

11. Ellen Barry, *Much of New Orleans Is Still in the Dark from Katrina* (Nov. 14, 2005), <http://articles.latimes.com/2005/nov/14/nation/na-electricity14>.

12. *New Orleans Will Force Evacuations*, CNN (Sept. 7, 2005, 12:16 AM), <http://www.cnn.com/2005/US/09/06/katrina.impact/index.html>.

13. Elizabeth Fussell et al., *Race, Socioeconomic Status, and Return Migration to New Orleans After Hurricane Katrina*, 31 POPULATION & ENV'T 20, 21 (2010).

14. See, e.g., Patrick O'Driscoll, *New Orleans Asks More Home to Stay*, USA TODAY (Nov. 16, 2005, 12:16 AM), [http://usatoday30.usatoday.com/news/nation/2005-11-15-katrina-economy\\_x.htm](http://usatoday30.usatoday.com/news/nation/2005-11-15-katrina-economy_x.htm).

15. Peter Whoriskey, *Katrina Displaced 400,000 Study Says*, WASH. POST (June 7, 2006), <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/06/AR2006060601729.html>.

16. Plyer, *supra* note 9.

17. Greg G. Guidry, *The Louisiana Judiciary: In the Wake of Destruction*, 70 LA. L. REV. 1145, 1153 (2010).

18. See Sarah S. Vance, *Justice After Disaster—What Hurricane Katrina Did to the Justice System in New Orleans*, 51 HOW. L.J. 621, 628–38 (2008).

19. NAT'L PRISON PROJECT, AM. CIVIL LIBERTIES UNION ET AL., ABANDONED AND ABUSED: ORLEANS PARISH PRISONERS IN THE WAKE OF HURRICANE KATRINA 88 (2006), [https://www.aclu.org/sites/default/files/field\\_document/oppreport20060809.pdf](https://www.aclu.org/sites/default/files/field_document/oppreport20060809.pdf).

20. Order (La. Oct. 25, 2005), [http://www.lasc.org/katrina\\_orders/1025\\_LASC\\_order.pdf](http://www.lasc.org/katrina_orders/1025_LASC_order.pdf).

21. Laurie A. Morin, *A Tale of Two Cities: Lessons Learned from New Orleans to the District of Columbia for the Protection of Vulnerable Populations from the Consequences of Disaster*, 12 U.D.C. L. REV. 45, 78 (2009).

This Article tells the stories of social justice advocates, some lawyers, some advocates, and some people who were students when Katrina hit and who later went on to become lawyers. Though the stories stand on their own, their wisdom is distilled into thirteen lessons in the hope that these experiences might guide others facing similar disasters.

## II. OUR STORIES

Who can resist the opening lines of “let me tell you a story?”<sup>22</sup> The stories below are recollections of some of the many Katrina social justice advocates. These narratives illustrate the destructive power of disaster on individual lives and show the resilience of people and organizations. Embedded in these stories are the thirteen lessons encapsulated in the section that follows this one and countless other insights which will be revealed to the reader.<sup>23</sup>

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22. Telling stories has always been a part of lawyering and has in recent decades assumed a much more important place in legal scholarship. Stephan H. Krieger & Serge A. Martinez, *A Tale of Election Day 2008: Teaching Storytelling Through Repeated Experiences*, 16 *LEGAL WRITING* 117, 117–18 (2010); see also Nancy Cook, *The Call to Witness: Historical Divides, Literary Narrative, and the Power of Oath*, 98 *MARQUETTE L. REV.* 1585, 1615–22 (2015) (suggesting that “literary witnesses” may provide a model for “civic-oriented” lawyers’ use of narrative); Palma Joy Strand, *Law as Story: A Civic Concept of Law (With Constitutional Illustrations)*, 18 *CAL. INTERDISC. L.J.* 603, 604–05 (2009) (“Story is a fundamental human enterprise. Story takes the raw material of our experience, enables us to navigate the world we encounter, and helps us discover the deeper meaning of our lives. Children make sense of the world through story. There is reason to believe that story is at the core of how we think—that it is the way our brains work. Story also provides a vehicle for forging collectives from individuals: our multi-faceted identities are formed by our association with multiple groups, societies, and cultures, each of which articulates its own distinctive stories. Law is one of these shared stories. Along with other stories, it tells us who we are and how to be with each other—the political, social, and economic roles we are to play. It is ‘part of the normative universe’ that structures our social order. As a community-grounded story, law arises from its cultural context and sounds in that context. Whenever a law-story is “told,” the community responds with affirmation, amendment, or outright defiance. Law is thus the subject of a dynamic process, a cycle, and is continually in the process of renewal, refreshment, renovation, and revolution.” (footnotes omitted)); Jonathan K. Van Patten, *Storytelling for Lawyers*, 57 *S.D. L. REV.* 239 (2012) (discussing the role of storytelling in persuasion).

23. William P. Quigley, *What Katrina Revealed*, 2 *HARV. L. & POL’Y REV.* 361, 363 (2008) (“Disaster can be an excellent lens through which to examine justice issues. The stories of those left behind during and after Katrina illustrate the institutional injustices in our society and the need for powerful new tools to refashion and redistribute justice in our nation.” (footnote omitted)).

## A. LOCAL LAWYERS

### Katie Schwartzmann

Katie Schwartzmann was two weeks into her new job as the staff attorney with the Louisiana ACLU when Katrina hit.<sup>24</sup> When it was clear she could not return to New Orleans, she moved back into her parents' house in Hammond, about fifty miles away from New Orleans.<sup>25</sup> Even her parents' home was without electricity for weeks.<sup>26</sup> She ended up living in "the bedroom I had grown up in as a child. I had two dogs and two cats in the room with me. I lived in that bedroom with my four animals for four months before we returned to New Orleans."<sup>27</sup>

All her ACLU case files were on paper. So Katie snuck back into New Orleans, which was under armed guard and closed at the time, to get her files and computer hard drives.<sup>28</sup> The ACLU office was on the eighth floor of a building downtown that had water still standing on the first floor.<sup>29</sup> The whole building, like the rest of the city, had no electricity.<sup>30</sup> So Katie and another staffer in the office repeatedly climbed up and down the eight floors in the dark to take out their computer hard drives and countless paper files.<sup>31</sup>

The ACLU set up a temporary office in Baton Rouge, about seventy-five miles west of New Orleans.<sup>32</sup> No office furniture was available because so many New Orleans businesses had relocated to Baton Rouge, so Katie's family donated some crawfish tables that ultimately became the ACLU office desks.<sup>33</sup> The commute from her parents' house in Hammond to the ACLU office in Baton Rouge, which should have been about forty-five minutes, became two hours each way because of the traffic from the thousands

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24. Email from Katie Schwartzmann, Co-Dir., Roderick & Solange MacArthur Justice Ctr., to author (June 15, 2015, 4:35 PM) [hereinafter Schwartzmann Email] (on file with author).

25. *Id.*

26. *Id.*

27. *Id.*

28. *Id.*

29. *Id.*

30. Schwartzmann Email, *supra* note 24.

31. *Id.*

32. *Id.*

33. *Id.* A crawfish table is a purpose-built table with raised edges onto which boiled seafood is poured for communal eating. For images of various such tables, see John Flores, *Crawfish Tables*, PINTEREST, <https://www.pinterest.com/johnflores74/crawfish-tables/> (last visited Oct. 25, 2015).

displaced.<sup>34</sup> The ACLU was not able to get back into their office in New Orleans for four months.<sup>35</sup>

The civil liberties and civil rights legal challenges caused by Katrina were enormous.<sup>36</sup> Ms. Schwartzmann remembers:

There were thousands of [New Orleans] prisoners farmed out to facilities around the state who were pretrial [detainees] but had no lawyers and no functioning court system in which their cases could be tried.<sup>37</sup> There were thousands of New Orleans evacuees living in FEMA trailer parks in rural parts of the state that were being subjected to curfews, suspicion-

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34. Schwartzmann Email, *supra* note 24.

35. *Id.*

36. See NAT'L PRISON PROJECT, AM. CIVIL LIBERTIES UNION ET AL., BROKEN PROMISES: 2 YEARS AFTER KATRINA (2007) [hereinafter BROKEN PROMISES], [https://www.aclu.org/files/pdfs/prison/brokenpromises\\_20070820.pdf](https://www.aclu.org/files/pdfs/prison/brokenpromises_20070820.pdf) (detailing police abuse, racial profiling, housing discrimination, voter disenfranchisement, abuse of prisoners, inadequate medical and mental health care, and the indigent defender crisis).

37. See generally Pamela R. Metzger, *Doing Katrina Time*, 81 TUL. L. REV. 1175 (2007).

When Hurricane Katrina swept across New Orleans, over 6500 men, women, and children were locked in the sprawling Orleans Parish Prison (OPP) complex. Forty-eight hours before Katrina made landfall, prison officials cut inmate phone lines, and the inmates lost all contact with the outside world. As the storm grew closer, police continued to arrest suspects: some for serious crimes, like murder and rape; others for petty offenses, like trespass and public intoxication. Meanwhile, the prisoners' families either packed and fled or stayed and watched the water rise.

Within days, OPP had evacuated all of its inmates to state and parish jails and prisons across the State of Louisiana. The evacuated prisoners were taken from OPP without any of their legal documents, personal papers, or meaningful identification. Once evacuated, the OPP prisoners were lost to the known world, just as surely as if they had been among the "disappeared" of a country struggling under a repressive dictatorship.

When Katrina hit, the Orleans Indigent Defender Program did not have a list of its imprisoned clients, much less information about those prisoners' family contacts or medical needs. Still, some of those prisoners had pending and active court cases; their names appeared on court dockets and in prosecutors' case files, and their cases would eventually be tracked by the larger criminal justice system. Other OPP prisoners had private counsel, counsel who knew their names, knew their families and knew their plight. But one group of prisoners vanished almost entirely. Those prisoners were uncharged, unrepresented detainees. As poor people who had been arrested, but not yet formally charged, these prisoners had no public defender. True, a public defender had "stood up" for each of these detainee's initial appearance, but that appearance was a cameo, a systemic sleight of hand that put a fig leaf over the naked abandonment of poor pretrial detainees. Even before Katrina, poor precharge detainees had languished in jail for weeks in a kind of jurisprudential limbo: not charged but not free. After Katrina, poor precharge detainees descended into a Kafka-esque hell: not charged, not free, not known.

*Id.* at 1176–77 (footnotes omitted); see also NAT'L PRISON PROJECT, *supra* note 19 (describing the conditions inside the Orleans Parish Prison during the storm and the prisoner's chaotic evacuation to other prisons).

less searches, racial profiling and discrimination in access to schools and services.<sup>38</sup> A curfew of questionable legality was implemented in New Orleans and then was discriminatorily enforced by members of various military groups who were policing the City without clear legal authority to do so.<sup>39</sup> People returning to the City to retrieve items or . . . secure their homes were randomly arrested and kept in makeshift jails and had no access to the courts.<sup>40</sup> Prisoners and immigrants were cleaning up the streets and facilities with inadequate protective gear. Municipal elections were postponed and there were questions about how evacuees could vote, if they could vote, and whether the elections should proceed.<sup>41</sup> In short, the work changed because incredible circumstances created horrendous and unprecedented fact patterns. There was very little existing law or precedent to guide us in responding to these things.

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38. Josephine Ross wrote about visiting a FEMA trailer park and New Orleans with Howard Law students who were flooded:

The Howard Law students did not spend any time debating whether race was involved in the government's response to the victims. It was simply understood. For example, we saw palm trees that wore braces to straighten their trunks. We were told that the government paid \$1,500 per tree so that the trunks would eventually straighten out. These trees graced the lakefront in an affluent, predominantly white side of town. Meanwhile, the Lower Ninth Ward lay in ruins and no one was paying to straighten the walls of the houses or even to turn the lights in the schools back on. A Howard law student asked me, "How can the racism be this blatant? I didn't expect this type of obvious racism at this time in history."

Joesphine Ross, *Still in Limbo: The Continuing Failed Response to Katrina*, 51 HOW. L.J. 565, 606–07 (2008) (footnote omitted); see also *FEMA's Dirty Little Secret: A Rare Look Inside the Renaissance Village Trailer Park, Home to Over 2,000 Hurricane Katrina Evacuees*, DEMOCRACY NOW (Apr. 6, 2006), [http://www.democracynow.org/2006/4/24/femas\\_dirty\\_little\\_secret\\_a\\_rare](http://www.democracynow.org/2006/4/24/femas_dirty_little_secret_a_rare) (interviewing a resident of one of the FEMA trailer parks who reveals, "We have a lot of rules that they set up.").

39. See MARINA SIDERIS, CRITICAL RESISTANCE, HURRICANE KATRINA AND CRIMINAL JUSTICE 9–11 (2008), <http://www.ushrnetwork.org/sites/ushrnetwork.org/files/cerd2008hurricanekatrinaandcriminaljustice.pdf>; *Midnight Curfew to Be Strictly Enforced*, TIMES-PICAYUNE (New Orleans) (Oct. 10, 2005, 12:00, updated Aug. 2, 2010, 11:44 AM), [http://www.nola.com/katrina/index.ssf/2005/10/midnight\\_curfew\\_to\\_be\\_strictly\\_enforced.html](http://www.nola.com/katrina/index.ssf/2005/10/midnight_curfew_to_be_strictly_enforced.html) (reporting on the imposition of a curfew in the City of New Orleans); see also generally Scott R. Tkacz, *In Katrina's Wake: Rethinking the Military's Role in Domestic Emergencies*, 15 WM. & MARY BILL OF RTS. J. 301 (2006) (discussing the legal implications of an expanded role for the military in a law enforcement capacity following disasters).

40. James Ridgeway, *The Secret History of Hurricane Katrina*, MOTHER JONES, (Aug. 28, 2009, 7:00 AM), <http://www.motherjones.com/environment/2009/08/secret-history-hurricane-katrina>.

41. See Scott Simon & Anthony Brooks, *New Orleans City Elections Postponed*, NAT'L PUB. RADIO (Dec. 3, 2005), <http://www.npr.org/templates/story/story.php?storyId=5037471>.

And the community of lawyers and advocates that would ordinarily respond to such things was itself disjointed, sometimes unable to reach one another as cell phones did not work, offices remained evacuated, and the advocates were themselves displaced.<sup>42</sup>

Looking back, Katie identified two ways in which she and others could have responded.<sup>43</sup> Katie first wished that, even though she was a relatively inexperienced attorney, she had more confidently taken initiative:

At the time, I thought I was too inexperienced as an attorney to begin responding to the crisis. I felt underprepared and didn't have confidence in my ability to chart a course forward. While it is true that I was young and should have deferred to those with more experience, now I know that no one—even the elders and heroes of this work—knew what to do. . . .

I kept waiting for someone who knew more than me to come in and tell me what to do. I remember sending an email to . . . [the] head of a national legal organization, outlining the critical problems I was seeing and asking what to do. I got no response. I kept thinking someone who was smarter, more experienced and better resourced than me would come in and deal with what we were seeing. But they did not.

Eventually I started filing lawsuits and engaging in advocacy, but I regret not having done so sooner.

. . . .

I regret not having trusted my voice more, and I regret my inclination to wait for someone smarter or better to come help . . . .<sup>44</sup>

Secondly, Katie, like many others, found the influx of national organizations, funders, and specialists taking far too much time and energy away from the on-the-ground work:

I also regret spending so much time those first few months on conference calls and touring with lawyers from national nonprofits who were coming down on trips. I am glad to have met those wonderful people and very grateful for the tremendous national outpouring of support and camaraderie.

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42. Schwartzmann Email, *supra* note 24.

43. *Id.*

44. *Id.*



However, I deeply regret my confusion around their abilities or capacity for concrete action. There were limitations on what they could or would do, and I did not understand that at the time. I wish that national organizations and volunteer lawyers had been really clear about the limits on their abilities and capacities. I spent an enormous amount of time explaining things or conducting tours with very little to show for it. Others in our small local legal community have voiced similar frustration, and by a year or two after the storm many stopped even participating in those conversations. I think there lingers deep skepticism of outside “assistance” even to this day. We had a (doubtless well intentioned) version of disaster tourism happening within our legal community. I think it affects how some people view outside assistance even today.

That is not to say that the [n]ational org[anizations] did not truly assist—the best example I can think of is the Voting Rights context—the partnership with NAACP LDF was strong and actually resulted in protections for evacuees.<sup>45</sup> But in my experience, the amount of time spent explaining problems to national organizations that then did not take action was substantial and a terrible use of time. In the criminal justice context *local* individual lawyers just started filing habeas[es] to get wrongfully held people out of jail. Those lawyers are heroes.<sup>46</sup> And they were from here. And

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45. See William P. Quigley, *Katrina Voting Wrongs: Aftermath of Hurricane and Weak Enforcement Dilute African American Voting Rights in New Orleans*, 14 WASH. & LEE J. C.R. & SOC. JUST. 49, 66 (2007); BROKEN PROMISES, *supra* note 36, at 16; see also Quigley, *supra*, at 50 (“Voting wrongs trumped voting rights in New Orleans.”); Jalila Jefferson-Bullock, *The Flexibility of Section 5 and the Politics of Disaster in Post-Katrina New Orleans*, 16 J. GENDER RACE & JUST. 825, 837–42 (2013) (detailing the purging of tens of thousands of African-American voters from the rolls in New Orleans).

46. Sarah Turbeville, *From New Orleans Flooded Streets: Lawyers Who Made a Difference*, HUMAN RTS, Fall 2006, at 17 (2006) (describing four such heroes). Consider Phyllis Mann. She organized a team of volunteers to file habeas litigation on behalf of more than 2,000 prisoners evacuated across the state. *Id.* at 21–22 (“In some cases, Mann and the ad hoc team of lawyers and legal assistants were the only recourse for the evacuated prisoners. The judicial system had completely collapsed, and no government entity was particularly concerned for the legal rights of the evacuated pretrial detainees and prisoners. Mann blames this apathy on human nature itself. ‘Brilliant, talented, hard-working lawyers, judges, and law enforcement officers all were paralyzed—all of the people who were supposed to be in charge were themselves victims of the hurricane.’ As for the failure of democratic institutions to ensure that liberty is not taken without due process of law, Mann said the government ‘did not need us to call and ask if there was anything we could do to help; they needed us to fix it for them.’”).

they just started doing it because it became clear that no one else was going to. I wish that I had realized sooner that was what we were going to have to do, because we wasted a lot of time waiting for a grander fix from afar that never came.<sup>47</sup>

Her suggestions to other lawyers facing disasters?

Dive in and start doing! There are lots of wonderful lawyers who will want to help and will support you. Be collaborative, but recognize when collaboration and excessive communication is creating inertia.

Unprecedented circumstances create unprecedented legal questions. There may not be clearly established law governing your situation but do not let this deter you from bringing cases that need to be brought. Sometimes we must bring cases because they are right, even if they might not be successful.

Another life lesson is the sobering limitations of our “justice system.” I was a very young lawyer at the time of Katrina, and I learned that the profession I have chosen has some painful limitations and shortcomings. Things happen that the legal system won’t fix. Our court system is poorly equipped to respond sometimes—there may be no remedy at law, no cause of action. As advocates, we can think about tools other than litigation—reports, films, policy advocacy, etc. And sometimes we just have to acknowledge the pain of our clients, bear witness to it, express support and empathy, and know that is the best that we can do.

Negotiate peace with the limits of your abilities and the imperfections of our legal system.<sup>48</sup>

Finally, “take care of yourself.”<sup>49</sup>

### **Laura Tuggle**

Laura Tuggle was a staff attorney in Southeast Louisiana Legal Services (SLLS) Housing Law section when the storm hit and is now the organization’s Executive Director.<sup>50</sup> Regarding her experience as a social justice advocate after Katrina, Laura had the following recollection:

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47. Schwartzmann Email, *supra* note 24.

48. *Id.*

49. *Id.*

50. Email from Laura Tuggle, Exec. Dir. of Se. La. Legal Servs., to author (June 13, 2015, 8:19 AM) [hereinafter Tuggle Email] (on file with author).

Our family was displaced for six months. [We e]vacuated to my hometown of Shreveport. We were fortunate enough to have a place to go with people we knew and loved. [I g]ot to live in my old childhood bedroom. [I q]ualified for food stamps for the first time in my life which I still feel ashamed for receiving. [I s]till have the card on my mantle to remind me of what my clients go through all the time when they have to take that kind of help to make ends meet.

Katrina hit on a Monday. I will never forget the “New Orleans Dodges the Bullet” headline[s] . . . that day.<sup>51</sup> By Tuesday, we realized the levees broke and thought all was lost. [I s]aw lots of my clients on national media coverage stranded in front of the Superdome or the Convention Center.<sup>52</sup> I cried a lot that day—nothing in comparison to what poor people left behind in the city were going through and the catastrophic upheaval in their lives. So many have never been able to recover. By Wednesday, I got myself together and started calling around in Shreveport where I was displaced to volunteer to help other evacuated folks from the New Orleans area.

One of my first calls was to our sister legal aid office in Shreveport at North Louisiana Legal Services to see if I could volunteer there with evacuees. Low and behold, our Co-Executive Director . . . was there working on our paychecks! We connected and realized that there were five people from our New Orleans office who all landed in Shreveport. We got together and agreed with our hosts at North Louisiana Legal Services, that SLLS (then still called NOLAC), would set up a Disaster Legal Services Office in the Shreveport legal aid office. I remember the first call received on the hotline was from the National Housing Law Project wanting to know how they could help us.

By the following Monday after Katrina, we opened the Disaster Legal Services office once we had all lined up child

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51. See, e.g., *Hurricane Slams Ashore, N'Orleans Dodges Bullet*, WND (Aug. 29, 2005, 12:10 PM), <http://www.wnd.com/2005/08/32044/>.

52. News outlets reported over 20,000 people were stranded at the New Orleans Convention Center and an equal number at the Superdome. See Wil Haygood & Ann Scott Tyson, *'It Was As If All of Us Were Already Pronounced Dead,'* WASH. POST (Sept. 15, 2005), <http://www.washingtonpost.com/wpdyn/content/article/2005/09/14/AR2005091402655.html>; *Superdome Evacuation Complete*, NBC NEWS (Sept. 3, 2005, 7:38 PM), [http://www.nbcnews.com/id/9175611/ns/us\\_newskatrina\\_the\\_long\\_road\\_ba ck/t/superdome-evacuation-completed/#.VdHvXflViko](http://www.nbcnews.com/id/9175611/ns/us_newskatrina_the_long_road_ba ck/t/superdome-evacuation-completed/#.VdHvXflViko).

care and got some decent work clothes from the Salvation Army. Our other Co-Director . . . met us in Shreveport, once we secured him a temporary place to live at my mom's best friend's house. He got us going there until our New Orleans office could be opened. That was not until November 15 or so of 2005. The emergency office was open six months. By then, those of us displaced were able to return to the City. Once there, we kept on trucking.<sup>53</sup>

During the displacement, I received a "field promotion" to Managing Attorney of the Housing Unit as I was the only one left doing that specialized work. During the immediate planning phase, there were lots of meetings back and forth from Shreveport to New Orleans. Resources began pouring in from all over the country—donations, pro bono volunteers, armies of law students from the Student Hurricane Network, lots of media attention. Emergency and disaster related services [came] first. [A]fter about nine months[,] once other resources [were] in place—probably over 50% of my legal work became advocacy-related as opposed to direct service work.<sup>54</sup> [I] got to testify in Congress several times about unmet Katrina-related legal needs and wrote some articles on the recovery—or lack thereof.<sup>55</sup>

Hurricane Katrina had a significant impact on Laura's work until 2010.<sup>56</sup>

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53. The tremendous work of legal services offices was supplemented by hundreds of lawyers in the private bar as well. *See generally Local/Specialty Bars, Others Step Up*, 53 LA. B.J. 296 (2005).

54. *Cf.* Karen A. Lash & Reilly Morse, *Mitigating Disaster: Lessons from Mississippi*, 77 MISS. L.J. 895, 915 (2008) ("The paramount question in public interest work following a massive natural or manmade disaster is how to sustain the advocacy effort over the multiple years it will take to reinvent the impacted area. Imagine the chill Karen Lash felt on a conference call a week after the storm when legal services lawyers in California, New York, and Florida reported that years later their dockets are still filled with disaster-related cases, but the corresponding surge in interest to do pro bono or fund the extra lawyers needed to handle the caseload had long ago disappeared. We are indescribably grateful but at a loss to explain the on-going pro bono support and interest we are still getting well beyond the twenty-four month mark. We believe the silver lining to the nation's worst natural disaster has been a renewed awakening to the stark realities of racism and poverty in America. And a belief that perhaps this time America can permanently alter living conditions in its two poorest states. And a sense that if we can do it in Mississippi and Louisiana, we can do it everywhere.").

55. Tuggle Email, *supra* note 50.

56. *Id.*; *see* Davida Finger, *50 Years after the War on Poverty: Evaluating the Justice Gap in the Post-Disaster Context*, 34 B.C. J.L. & SOC. JUST. 267, 272 (2014) ("Hurricanes Katrina and Rita created overwhelming burdens on civil legal services

The timeline of civil legal needs was basically as follows: From September 2005 until early 2006 we represented lots of people facing evictions from damaged or allegedly damaged property. From September 2005 through early 2007 we did a lot of temporary disaster related benefits issues. From September 2005 through August 2010 we did a lot of affordable housing advocacy. It continued after but this was the peak period. From September 2007 through December 2011 we did a lot of Road Home Grant and title clearing issues for low income homeowners.<sup>57</sup> These continued after 2011 but this was the peak time. We did contractor fraud issues from January 2008 through the end of 2011. And for the last five years we have been doing sustainable communities work.

Believe it or not, almost ten years later, we are still getting calls about people needing title clearing work done in order to qualify for Road Home benefits, FEMA is recouping previously paid benefits and sending people lien notices for their tax returns, and we still have contractor fraud cases in litigation.

In retrospect, . . . [a]s an agency, I feel that the response of civil legal aid to the disaster and its incredibly long aftermath on the clients we serve and our community, was at first our darkest but then our finest hour.<sup>58</sup>

Lessons learned?:

[First, a]ccept and ask for help from outside sources. You can't do it all. When you are going through the problem, you need support. [Second, m]ake sure you have a good disaster plan in place for your business and your family. [Third, a]lways evacuate with a suit—you never know when you will need to suit up post-disaster!<sup>59</sup>

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agencies and the lawyers who were providing civil legal services to the indigent. Legal services programs throughout Louisiana were unable to handle between sixty-six and eighty percent of calls for assistance. The number of people who actually needed assistance is likely far greater than documented because many people with serious legal needs did not or could not call legal services intake lines or visit legal services offices or outreach clinics.” (footnote omitted).

57. See Morin, *supra* note 21, at 81 (describing volunteer efforts to help affected homeowners clear title to damaged properties); David Hammer, *State Can't Pay Legal Aid Bill for Road Home Applicants*, TIMES-PICAYUNE (New Orleans) (Mar. 25, 2008), [http://www.nola.com/news/index.ssf/2008/03/state\\_cant\\_pay\\_legal\\_aid\\_bill.html](http://www.nola.com/news/index.ssf/2008/03/state_cant_pay_legal_aid_bill.html) (describing difficulties in obtaining state funding to pay for legal services attorneys to assist low-income homeowners in clearing title to their properties).

58. Tuggle Email, *supra* note 50.

59. *Id.*

### Willie Zanders

Willie Zanders, a civil rights attorney in private practice with a primary emphasis on education law, was forced out of New Orleans and had to live in Baton Rouge, where he moved in with his oldest son who was then attending law school.<sup>60</sup> Mr. Zanders's experience following Katrina and the lessons he learned are based on the following memories:

There were no deaths in my immediate family, but my home and many homes in my neighborhood received major damage. . . . [t]he upper level of my home was powered with a noisy generator for more than a year. For the first time, I realized how important it was to have so many windows in my home. Yes, most needed to be replaced, but I had light!

. . . I became ill and was briefly hospitalized for the first time in my life. . . I couldn't afford to be ill and slowing down was not an option. The hallway in my poorly lit home, became a "Prayer Wall" littered with inspirational statements and words of praise—my faith in God remained strong.

Much of my "client base" was adversely affected by Katrina, but the anti-democratic and inhumane actions of the local school board and state education officials gave me more legal work than I could handle.<sup>61</sup> In October 2005, while [still] living in Baton Rouge with my son, I filed a lawsuit to prevent the Orleans Parish School Board from converting thirteen traditional public schools to charter schools and diverting \$37 million to a yet-to-be incorporated private association called the Algiers Charter School Association.<sup>62</sup> That [illegal] action was temporarily restrained but later sanctioned by the local state court, despite our argument that most citizens were still under a mandatory evacuation. The

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60. Email from Willie Zanders, to author (June 16, 2015, 12:05 PM) [hereinafter Zanders Email] (on file with author).

61. For a legal overview of the changes in the New Orleans school system following Katrina, see Robert Garda, *Searching for Equity amid a System of Schools: The View from New Orleans*, 42 FORDHAM URB. L.J. 613 (2015). There are also several excellent popular reports describing the dismantling of the New Orleans public school system. See, e.g., LEIGH DINGERSON, CTR. FOR CMTY. CHANGE, DISMANTLING A COMMUNITY (2006), [https://www.opensocietyfoundations.org/sites/default/files/dismantling\\_20061026.pdf](https://www.opensocietyfoundations.org/sites/default/files/dismantling_20061026.pdf) (featuring the voices of the children and teachers involved).

62. See Steve Ritea, *Charter School Proposal Halted*, TIMES-PICAYUNE (New Orleans), Oct. 16, 2005, at B1, <http://www.nola.com/katrina/pages/101605/1016B01.pdf>.

following month, effective November 30, 2005, the Democratic governor supported by state legislators (black and white) passed a law called “Act 35” which led to the state takeover of 107 local public schools and the firing of 7,500 tenured public school employees.<sup>63</sup> In my role as General Counsel for the Principals’ organization, and on behalf of thousands of union employees who were displaced, I amended the lawsuit to challenge the wrongful firing. . . . The lawsuit on behalf of the 8,500 employees was certified as a class action [in 2008]—thanks to the support of seven excellent attorneys who were appointed by District Court Judge Ethel S. Julien.<sup>64</sup> On October 31, 2014, after nearly nine years of successful litigation and victories in the district court and court of appeal,<sup>65</sup> Louisiana’s highest court dismissed the employee’s case based on a 2007 settlement between the local school board and the teacher’s union.<sup>66</sup> As of May 2015, the Supreme Court of the United States refused to review the above decision.<sup>67</sup>

Lawyers facing disasters should be prepared to face many unknown challenges—personally, financially and professionally. There is strength in numbers—especially family members, close friends and a few lawyers who will stand by you (others are fighting for survival). A genuine sense of resolve and determination is critical. So don’t let money, popularity, push-back, or even “ten years” weaken your resolve to win. Finally, never let a disaster get in the way of your best work and desire to win for clients and a struggling citizens who need your services more than ever.<sup>68</sup>

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63. For a more thorough discussion of Act 35, see Robert Garda, *The Politics of Education Reform: Lessons from New Orleans*, 40 J. LAW & EDUC. 57, 67–75 (2011).

64. *Court Authorizes a Class Action Lawsuit on Behalf of New Orleans Public School Employees*, LA. FED’N TCHRS. & SCH. EMPS., <http://la.aft.org/news/court-authorizes-class-action-lawsuit-behalf-new-orleans-public-school-employees> (last visited Sept. 25, 2015). Over 8,500 permanent and tenured employees of OPSB were terminated. *Id.*

65. *Oliver v. Orleans Parish Sch. Bd.*, 2012-1520, pp. 6, 32 (La. App. 4 Cir. 1/15/14); 133 So. 3d 38, 44, 60 (holding that the terminated employees’ due process rights had been violated), *rev’d*, 2014-0329, 2014-0330 (La. 10/31/14); 156 So. 3d 596, *cert. denied*, 135 S. Ct. 2315 (2015) (mem.).

66. *Oliver v. Orleans Parish Sch. Bd.*, 2014-0329, 2014-0330, pp. 20–34 (La. 10/31/14); 156 So. 3d 596, 611–19 (applying res judicata), *cert. denied*, 135 S. Ct. 2315 (2015) (mem.).

67. *Oliver v. Orleans Parish Sch. Bd.*, 135 S. Ct. 2315 (2015) (mem.) (denying certiorari).

68. Zanders Email, *supra* note 60.

### Tracie Washington

Tracie Washington, currently Chief Compliance Officer for the Orleans Parish Sheriff's Office, had a small private practice in the heart of New Orleans when Katrina hit.<sup>69</sup> "Folks could knock on my door for legal services. I did labor and employment, mostly education work representing plaintiffs. About two, three times a year I'd take on a civil rights or big education rights case . . . ."<sup>70</sup>

After the levees broke and her house flooded, she drove out of New Orleans towards Austin, Texas with her twelve-year-old son.<sup>71</sup> Her car broke down outside Beaumont, Texas so they stayed there with some former law school classmates.<sup>72</sup> She enrolled her son in school in Beaumont.<sup>73</sup> Then, a few weeks later, in late September, Hurricane Rita hit the Beaumont area and they got displaced again and were back on the road to Austin in a rental car.<sup>74</sup> In Austin, they stayed with another former law school classmate for several weeks until they were allowed to move into a FEMA hotel in Austin.<sup>75</sup> Her son was then enrolled in school in Austin.<sup>76</sup> The FEMA hotel "was a small piece of hell" and was awful for her son so they moved to another house of a friend.<sup>77</sup> She admits she cried a lot.<sup>78</sup> She was planning on starting a job in San Antonio, but when her neighborhood was reopened and she returned home to New Orleans her son insisted they stay in New Orleans.<sup>79</sup>

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69. Email from Tracie Washington, President, La. Justice Inst., to author (June 21, 2015, 1:50 PM) [hereinafter Washington Email of June 21] (on file with author).

70. *Id.*

71. Email from Tracie Washington, President, La. Justice Inst., (July 17, 2015, 12:21 PM) [hereinafter Washington Email of July 17] (on file with author).

72. *Id.*

73. *Id.*

74. *Id.* Hurricane Rita was one of the strongest hurricanes ever recorded in the Gulf of Mexico and hit the Southeast Texas–Southwest Louisiana area on September 24, 2005. Nat'l Weather Serv. Weather Forecast Office—Lake Charles, Louisiana, *supra* note 6.

75. Washington Email of July 17, *supra* note 71. More than 150,000 people were settled in FEMA hotels for the first few months after Katrina. Spencer S. Hsu, *FEMA Tells 150,000 in Hotels to Exit in 15 Days*, WASH. POST (Nov. 16, 2005), <http://www.washingtonpost.com/wpdyn/content/article/2005/11/15/AR2005111501704.html>.

76. Washington Email of July 17, *supra* note 71.

77. *Id.*

78. Washington Email of June 21, *supra* note 69.

79. Washington Email of July 17, *supra* note 71.



I think the stress of all the moves finally got to both of us. He wouldn't move, and at that point I had to do what was best for him, so I promised we wouldn't move again and we stayed. I wasn't homeless, but I was jobless, damned near broke, and full of anger about being 41 and feeling helpless. [I was called about helping with a case.] And I had a reason to fight.<sup>80</sup>

So she decided to stay in New Orleans and fight.<sup>81</sup>

Economically she was really hurting because she was self-employed in private practice and most of her clients had not returned to New Orleans.<sup>82</sup> One of her pre-Katrina cases settled and she started doing pro bono work.<sup>83</sup> She began working with national non-profit legal firms, "which has been a career blessing working with truly remarkable attorneys."<sup>84</sup> She was hired as the head of the NAACP Gulf Coast Advocacy Center for a year and hosted many Katrina law student volunteers at her house.<sup>85</sup> She later started the Louisiana Justice Institute.<sup>86</sup>

The impact of Katrina has never ended for her. For years she has been involved in Katrina litigation, organizing and human rights advocacy for renters,<sup>87</sup> public school children and employees,<sup>88</sup> people who depended on public healthcare, homeowners, voters, and many other discriminated-against groups and individuals.<sup>89</sup> Regarding the post-Katrina housing

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80. Washington Email of July 17, *supra* note 71.

81. Washington Email of June 21, *supra* note 69.

82. *Id.*

83. *Id.*

84. *Id.*

85. *Id.*

86. *See About LJI*, LA. JUST. INST., <http://www.louisianajusticeinstitute.org/about+lji> (last visited Oct. 5, 2015).

87. On advocacy surrounding the particular needs of public housing residents, see Bill Quigley & Sara H. Godchaux, *Locked Out and Torn Down: Public Housing Post-Katrina*, BILL QUIGLEY: SOC. JUST. ADVOC., <https://billquigley.wordpress.com/2015/06/08/locked-out-and-torn-down-public-housing-post-katrina-by-bill-quigley-and-sara-h-godchaux/> (last visited Oct. 8, 2015).

88. *See* Lesli A. Maxwell, *Lawsuits Say Too Few Schools Open in New Orleans*, EDUC. WK. (Feb. 14, 2006), <http://www.edweek.org/ew/articles/2006/02/15/23neworleans.h25.html> (discussing Washington's advocacy for children turned away from overcrowded schools).

89. *Programs*, LA. JUST. INST., <http://www.louisianajusticeinstitute.org/programs> (last visited Oct. 25, 2015). *See also* DeShuna Spencer, *NAACP Fights for Gulf Coast Residents*, CRISIS, May/June 2007, at 42 (discussing the priorities of the NAACP to secure housing, education, and medical care to enable people of color to return to New Orleans).

situation, Ms. Washington recalled:

Renters, you know, 57 percent of those homes that were destroyed by Katrina were being used by renters. That's what our population was a little upside-down with that. There was no relief really provided by the federal government that went directly into the hands of renters, and so they're just stuck out, and that's the vast majority of the population that we had.<sup>90</sup>

[R]enters received no money from the federal government through community development block grants, only homeowners. And so, we have this part—this segment of our community that was given a one-way ticket out and have no way of returning to our city. It affects us as a community. It affects us in how we live. It affects the color of this community.<sup>91</sup>

Six months after Katrina the public school system was not working well and Tracie Washington had to file suit to force the system to accept newly returning students, some of whom were put on waiting lists for openings in schools:<sup>92</sup>

The education system ha[d] been completely destroyed. They believed that if they opened the doors, chartered organizations all over the country would gladly take over these failing schools; they did not and the state was not prepared to run the schools. So we had a tragedy occur when we had Katrina wash away our children all over the country. When our children returned to New Orleans the state wasn't prepared to educate them. . . .<sup>93</sup>

Because the main public health care provider, Charity Hospital, was closed and never reopened there has been a huge mental health problem:

If you have a mental health crisis, there is no public hospital, no place for you to go, except Parish Prison. So, think about that for a moment, that if you have a mental health crisis,

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90. *Fight to Reopen New Orleans Public Housing "Horrible Slow and Tragic"*, DEMOCRACY NOW (Sept. 4, 2007), [http://www.democracynow.org/2007/9/4/fight\\_to\\_reopen\\_new\\_orleans\\_public](http://www.democracynow.org/2007/9/4/fight_to_reopen_new_orleans_public) (interviewing Tracie Washington).

91. *Four Years After Katrina, New Orleans Still Struggling to Recover from the Storm*, DEMOCRACY NOW (Aug. 31, 2009), [http://www.democracynow.org/2009/8/31/four\\_years\\_after\\_katrina\\_new\\_orleans](http://www.democracynow.org/2009/8/31/four_years_after_katrina_new_orleans) (interviewing Tracie Washington).

92. See Maxwell, *supra* note 88.

93. Spencer, *supra* note 89, at 42 (quoting Tracie Washinton).

the best place to go, the only place to go, is Parish Prison, where you can be locked up for thirty days, but you'll get treatment.<sup>94</sup>

The Katrina work helped Tracie learn much more about human rights and civil rights as well:

I made these choices and I did the best work I could, learning about human rights and about myself and what's important all along the way. I know that human rights [and] civil rights i[s] what I was meant to do as an attorney. I would not have found this path but for Katrina and Rita.

There are some really bad people out here. And they don't like me. Why? Because we had a chance to rebuild New Orleans better and more just. What I've seen is greed, lots of it, and lots of folks who have been co-opted. I tell them so, especially those African-Americans who have pulled up the ladder of opportunity for other Black folk.<sup>95</sup>

There were a lot of people and organizations coming into New Orleans to help:

I learned so much about myself (good and bad) and my attorney skills (good and bad) through working with the social justice community and organizers who came to New Orleans. My world has expanded so much. The best way to say it is, I never knew what to ask for and the dignity and respect to which I am entitled until I met folks like Judy Browne and Penda Hair and Mary Joseph and Anita [Sinha] and Monique [Dixon]<sup>96</sup> . . . the list could go on and on. Most important to me as an attorney is that they've taught me how to listen to others and to really help my clients advocate for themselves.<sup>97</sup>

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94. *Four Years After Katrina, New Orleans Still Struggling to Recover from the Storm*, *supra* note 91 (quoting Tracie Washington); *see also* BROKEN PROMISES, *supra* note 36, at 22 (reporting that at least one criminal court judge has recommended that desperate family members have a mentally ill relative arrested in order for that relative to receive treatment). However, the degree to which Orleans Parish Prison provided appropriate medical treatment is debateable. *See, e.g., id.* at 21–23 (describing the failure of the prison to provide adequate mental health treatment to inmates).

95. Washington Email of June 21, *supra* note 69.

96. Judy Brown, Penda Hair, Anita Sinha, and Monique Dixon were lawyers with the Advancement Project, while Mary Joseph worked for the Children's Defense Fund. All dedicated thousands of hours of work over many years.

97. Washington Email of July 17, *supra* note 71.

The negative side of organizations coming to New Orleans?

I don't think enough resources were provided to help us sustain a social justice infrastructure. Many organizations came, did what they needed to do to feel good, and left with the resources that brought them here. So, if there is another natural disaster, guess what? We'll be right back where we were ten years ago. And finally, these folks didn't fight hard enough to help us get our folks home. And I miss our folks.<sup>98</sup>

Her advice for advocates facing disasters based on her decade of experience is straightforward:

This is tough work. You're going to lose a lot of battles, so be prepared emotionally. Your clients will love you and hate you and love you again. Don't work alone or feel like you are responsible for "fixing" things. Your job is to make the government responsible for fixing things, don't get that fact confused. Demand more resources than you think you'll need from foundations and donors. Don't be shy, and if folks tell you to write long narratives about why you need the resources and how you're going to us[e] them, look at them like they're stupid, and then tell THEM to write it up and give you the resources. I spent way too much time trying to please folks and beg.<sup>99</sup>

[Finally, p]ace yourself. Pace yourself.<sup>100</sup>

### Gary Clements

Gary Clements was deputy director of the Louisiana death penalty appeal project he now directs.<sup>101</sup> His home got about three and a half feet of floodwater inside it, destroying most of his family's possessions and forcing him and his family to move in with his wife's parents in Shreveport, 325 miles away, where they ultimately stayed for eleven months.<sup>102</sup>

Gary's co-workers did not get back into his law office until four months later.<sup>103</sup> The criminal justice system was upended.<sup>104</sup>

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98. Washington Email of July 17, *supra* note 71.

99. *Id.*

100. Washington Email of June 21, *supra* note 69.

101. Email from Gary Clements, Dir. Capital Post Conviction Project of Louisiana, to author (May 4, 2015, 4:34 PM) [hereinafter Clements Email] (on file with author).

102. *Id.*

103. *Id.*

104. See generally Brandon L. Garrett & Tania Tetlow, *Criminal Justice Collapse: The Constitution after Katrina*, 56 DUKE L.J. 127 (2006). According to the authors:

The Louisiana Penitentiary, which ended up housing many pre-trial detainees from New Orleans, suspended attorney visits in non-emergency cases.<sup>105</sup> Some of their open cases were pending before the Louisiana Supreme Court and all of these were continued because the paper files had been stored in the basement of the courthouse and were flooded.<sup>106</sup> The wet and waterlogged files had to be sent out of state to be freeze dried and restored.<sup>107</sup>

Advice for advocates facing disasters?: “[I would e]mphasize the need for mental health treatment of all practitioners. [People need c]ounseling and prescribed medication.”<sup>108</sup> You must make sure all your people have decent and affordable health care coverage to make counseling and medication a readily achievable reality.<sup>109</sup>

### Lois Simpson

Lois Simpson, now the Executive Director of the Advocacy Center in New Orleans, was in the same job when Katrina hit.<sup>110</sup> She had to relocate to Baton Rouge, Louisiana.<sup>111</sup> The offices of the Advocacy Center in New Orleans<sup>112</sup> were uninhabitable; until

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Hurricane Katrina washed away the New Orleans criminal justice system. As residents evacuated, the jail flooded to inmates' chests and police scrambled to enforce order without any communication. The water receded weeks later revealing “thousands of detainees awaiting hearings and trials . . . thrust into a legal limbo without courts, trials, or lawyers” resulting in what one judge called “a constitutional crisis.” This dire situation lasted not just during the initial period of severe disruption, but for upwards of a year. While courts eventually reopened, they failed to act as eight thousand people languished for months “doing Katrina time” in prisons. Most were arrested for petty offenses such as public drunkenness, reading tarot cards without a permit, or failure to pay traffic tickets, and then detained based solely on a police affidavit. Most then served long past their likely sentences without ever receiving a judicial hearing. Nor did these thousands of detainees, mostly indigent, meet with lawyers. Only six public defenders remained in New Orleans, which the Chief Judge of the criminal court called “a full-blown disaster.” In effect, Louisiana courts suspended habeas corpus for six months. The United States has rarely experienced such a rapid and complete collapse of local law enforcement, a district attorney's office, the indigent defense system, jails, and criminal courts. A perfect storm illuminated how unprepared a local criminal system may remain for a severe natural disaster or terrorist attack.

*Id.* at 128–29 (footnotes omitted).

105. See Clements Email, *supra* note 101.

106. *Id.*

107. *Id.*

108. *Id.*

109. *Id.*

110. Email from Lois Simpson, Executive Dir., The Advocacy Center, to author (May 6, 2015, 12:54 PM) [hereinafter Simpson Email] (on file with author).

111. *Id.*

112. See *About Us*, ADVOC. CTR., <http://www.advocacyla.org/> (last visited Oct. 8,

eight months later all the staff had to relocate to Baton Rouge or Lafayette, where the state-wide organization fortunately had offices.<sup>113</sup>

The priorities of the Advocacy Center “before Katrina had centered on special education issues; abuse and neglect of people in facilities; accessibility of public buildings; autonomy issues ([e.g.] defense of interdictions); Medicare and Medicaid advocacy; and employment discrimination.”

After Katrina, we focused on getting people with disabilities and seniors, access to shelters, medical care, benefits, and housing.<sup>114</sup> A large number of people with disabilities, who had been housed in group homes or other types of facilities, were displaced. We worked to get them back to Louisiana, with the supports in place that would allow them to return home. In the immediate aftermath of the storm, we had to file a class action lawsuit against FEMA on the grounds that the trailers they supplied were not accessible to people with mobility impairments. That lawsuit resulted in a Consent Agreement under which FEMA agreed to furnish the necessary accessible trailers both for Katrina victims and all future victims of such disasters.<sup>115</sup>

Katrina still impacts our work, th[r]ough our continuing involvement with disaster planning. [We] continue[] to

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2015).

113. Simpson Email, *supra* note 110.

114. On the challenges faced by people with disabilities during disasters, see Wendy F. Hensel & Leslie E. Wolf, *Playing God: The Legality of Plans Denying Scarce Resources to People with Disabilities in Public Health Emergencies*, 63 FLA. L. REV. 719, 720–21 (2011) (“It is no surprise that people with disabilities are often overlooked or given short shrift when public health emergencies arise. In the best of circumstances, challenges facing this group may be invisible because they arise out of the implicit assumptions and institutional arrangements that form the backdrop of daily life. The particular challenges that people with disabilities face in widespread crises, however, can have deadly consequences. Because of their special needs and, in some cases, compromised health status, people with disabilities’ potential for catastrophic outcomes far exceeds that of more typical Americans.”).

115. *Brou v. FEMA* addressed the fact that about 25% of Katrina evacuees had some sort of disability and 8% needed accessible trailers while only 1% to 2% were provided with such trailers. Nat’l Ctr. for Law & Econ. Justice, *Settlement Reached in Landmark Suit Against FEMA*, ADVANCING ECON. JUST., [http://www.nclej.org/pdf/newsletter\\_fall06.pdf](http://www.nclej.org/pdf/newsletter_fall06.pdf) (last visited Oct. 8, 2015). FEMA trailer residents also successfully sued for adverse health effects resulting from toxic levels of formaldehyde in some trailers. See Mike Bruner, *Class Action Suit Against FEMA Trailer Manufacturers Settled for \$42.6 Million*, NBC NEWS (Sept. 28, 2012, 10:11 AM), [http://investigations.nbcnews.com/\\_news/2012/09/28/14140222-class-action-suit-against-fema-trailer-manufacturers-settled-for-426-million](http://investigations.nbcnews.com/_news/2012/09/28/14140222-class-action-suit-against-fema-trailer-manufacturers-settled-for-426-million).

participate in a joint task force that focuses on disaster readiness. Through that committee, we have set up systems whereby, in future disasters, people with disabilities will be supported by specially trained volunteers who would be assigned to shelters. Better transportation systems and tracking systems would also be a part of any future responses. Our involvement with direct services for Katrina victims lasted from 3 to 4 years. We agreed to administer certain case management programs that lasted at least that long. We also monitored the Consent Agreement in the FEMA case for a number of years.

For the most part, I am quite satisfied with the way in which the Advocacy Center responded to the crisis. I think we appropriately “switched gears” to respond to peoples’ new reality. I am also pleased that we managed to continue to pay people on staff and keep them employed, even when they were living out of state. (Many worked out of another Protection and Advocacy Agency in another state and worked with Louisianans who had been exiled to that state.) Our staff in other offices (in Baton Rouge, Lafayette and Shreveport) all pitched in to help house N.O. staff who had lost their homes.

The one thing I would do differently involves the case management programs we became involved with. I do not think we would agree to run case management programs again. These programs were, by their very nature, temporary, which led to a steady staff turnover. That was difficult for clients and for our organization. More importantly, the resources that were available to “manage” for the victims of Katrina were not the resources that people really needed. Most often, we were only able to get people used furniture, emergency funds to pay utilities, and things of that nature. While this was helpful, what people really needed was a roof over their heads. Places to stay were very hard to come by. Added to that, the paperwork and reporting requirements for these programs were a nightmare. Most of them made no sense. I often thought a better use of all that money would have been to simply cut checks for people and let them purchase what they needed.<sup>116</sup>

Lessons learned?:

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116. Simpson Email, *supra* note 110.

The big lesson we learned was to insure that all our operating systems are protected and adaptable. We now have systems in place, through technology, that will allow our staff to work from anywhere in the world, as long as they can get an internet connection. Our data is “in the cloud”; our phone system is internet-based. Everyone has a laptop and phone that are easily transportable. If another hurricane threatens, all staff have been instructed to let their immediate supervisor know their plans, to take the laptop and phone with them if they evacuate, and to report for work as soon as the immediate threat is over. People will be assigned to shelters, or to other work as soon as possible. In the case of Katrina, we had people in the shelters the very day after Katrina struck. We would do that again, except that next time we’ll be even better prepared, through technology, to communicate with each other and with our clients.<sup>117</sup>

### Joan Johnson

Joan Johnson is a lawyer who worked for legal services in New Orleans and lost her house and possessions when her home was flooded.<sup>118</sup> She ultimately chose to purchase a new home in New Orleans but in the meantime lived away for the better part of a year because she wanted her child to finish the school year before moving back.<sup>119</sup>

Fortunately she was able to continue working remotely for legal services in another organization’s office.<sup>120</sup> Their work was visiting disaster shelters and centers to serve new clients as well as locating and serving existing clients who were also displaced.<sup>121</sup> Regarding her Katrina experience, Ms. Johnson recalled:

For many years afterward, our [public] benefits work was significantly focused on disaster-related issues. E.g., appealing denial, and later recoupment, of FEMA benefits and Road Home rebuilding assistance.<sup>122</sup> To a lesser extent,

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117. Simpson Email, *supra* note 110.

118. Email from Joan Johnson (May 5, 2015, 12:43 PM) [hereinafter Johnson Email] (on file with author). This person responded to the questionnaire but asked that no name be used. Joan Johnson is a pseudonym.

119. *Id.*

120. *Id.*

121. *Id.*

122. For general information on the Road Home program, see *The Road Home*



employment work continued to involve issues stemming from the disaster, e.g., people trying to regain their jobs . . . .<sup>123</sup>

Lessons learned?:

I saw a counselor promptly after the disaster and displacement. That was extremely helpful in stabilizing myself and thus being able to continue to work and help others not as fortunate as myself and my family. There was emotional instability and some inappropriate behavior that were I think generated by the personal and professional stress people were undergoing. The L[ouisiana] S[tate] B[ar] A[ssociation] . . . should always actively promote mental health for lawyers and their support staff but particularly after a disaster. While the stigma of mental illness has lessened over the years, the focus I think is too much on a symptom (substance abuse) rather than the underlying causes and the need for mental health treatment and self-care.

Two women, long-time advocates for the poor, long ago impressed on me (when I was doing refugee work) that you can't be strong enough to meet the needs of others if you don't take care of your own physical and mental health.<sup>124</sup>

### Jenn Lai-Peterson

Jenn Lai-Peterson is now a voting rights attorney with The Advancement Project.<sup>125</sup>

I am a non-Black person of color who worked in solidarity and alongside the Black community before and after Katrina. I think the most significant "lesson learned" for me is this: [f]or non-Black people of color engaged in this work, holding space for Black-led grassroots organizing must be an intentional, constant, mindful—almost meditative—daily practice. If this space is not held, not nurtured, not sustained, not cherished, not defended, it disappears,

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*Program Overview*, ROAD HOME, <https://www.road2la.org/> (last visited Oct. 8, 2015).

123. Johnson Email, *supra* note 118. Although much of this litigation was unsuccessful in obtaining relief for those wrongfully terminated, *see, e.g.*, *Oliver v. Orleans Parish Sch. Bd.*, *Oliver v. Orleans Parish Sch. Bd.*, 2014-0329, 2014-0330 (La. 10/31/14); 156 So. 3d 596, *cert. denied*, 135 S. Ct. 2315 (2015) (mem.), there were exceptions, *see, e.g.*, *Madison v. Dep't of Police*, 2007-2405 (La. 4/4/08); 978 So.2d 288 (per curiam).

124. Johnson Email, *supra* note 118.

125. *Jennifer Lai-Peterson*, ADVANCEMENT PROJECT, <http://www.advancementproject.org/people/entry/jennifer-lai-peterson> (last visited Oct. 25, 2015).

particularly in the context of a crisis like Katrina. There are forces anchored in white supremacy, for example, anti-Blackness among people of color, the allure of national funding and exposure, the allure of non-Black advocacy/organizing comfort zones, which work to erode personal and institutional commitments to Black-led grassroots organizing. There are also assumptions, assumed mutual understanding of the centrality of the Black struggle to all struggle and assumed consensus that building institutions for workers advances the economic interests of Black and immigrant women of color. Again, the context of crisis exacerbates the effect of these forces and assumptions.

...

But the reality is that some organizations we built right after Katrina ultimately abandoned our founding commitment to move forward together, or not all. And the Black organizing space created pre-Katrina disappeared. The “laboratory to test Ella Baker’s organizing technology”—created by the people whom Ella herself trained and nurtured—disappeared.<sup>126</sup>

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126. Email from Jenn Lai-Peterson, Senior Attorney, Advancement Project, to author (June 20, 2015, 2:59 AM) (on file with author). “Ella Baker was an unsung, but leading activist in the Black freedom movement, who worked for the NAACP and the Southern Christian Leadership Conference and served as a key mentor and supporter of the Student Nonviolent Coordinating Committee (SNCC).” Ascanio Piomelli, *Sensibilities for Social Justice Lawyers*, 10 HASTINGS RACE & POVERTY L.J. 177, 178 n.14 (2013). According to Professor Piomelli:

At the heart of Baker’s ideas was a developmental democrat’s commitment to nurturing grassroots leaders who would act individually and collectively to reject second-class citizenship. As she stated, “[o]ne of the major emphases of SNCC, from the beginning, was that of working with indigenous people, not working for them, but trying to develop their capacity for leadership.” She was convinced “strong people don’t need strong leaders.” What was needed was “the development of people who are interested not in being leaders as much as in developing leadership in others.” She sought to convince ordinary people—and the young people of SNCC—that, “in the long run,” regular people “themselves are the only protection they have against violence or injustice . . . [T]hey cannot look for salvation anywhere but to themselves.”

Baker shared Dewey’s emphatic rejection of benevolent paternalism and aversion to experts’ making decisions for others. Her ideas sprang from her insider’s view of leading civil rights organizations. She came to detest such “leader-centered groups,” and urged instead the creation of “group-centered leadership.” She saw those organizations as manifestations of an elitist sense of privilege and destiny that led better-educated, middle-class Blacks to believe they could and should use their superior knowledge to act for the entire race. In addition to their presumptuousness, she saw such Black elites as timid and prone to co-optation—afraid to jeopardize the recognition the white power structure afforded them as negotiating partners. Part of Baker’s attraction to the students who formed SNCC was their risk-taking, rebellious spirit and willingness to confront racism in ways “respectable” adult leaders failed to do.

Ascanio Piomelli, *The Democratic Roots of Collaborative Lawyering*, 12 CLINICAL L.

**David Koen**

David Koen now works for legal services in Portland, Oregon but was working for legal services in New Orleans when the storm hit.<sup>127</sup> His work before the storm was “representing homeowners in predatory lending and foreclosure prevention cases.”<sup>128</sup> His story, in his own word is as follows:

My personal life changed radically. My wife and I were forced from our home for two months and lived in Virginia, Delaware, and finally Baton Rouge.

. . . .

Katrina changed my work substantially for years. Many New Orleanians found themselves fighting a bureaucratic war to keep their homes. The destruction of homes was just the start of their problems. Homeowners reported that their insurance companies often fought to avoid fully paying their claims.<sup>129</sup> When homeowners did receive insurance proceeds, they told stories of mortgage companies that often pushed them to pay off their loans rather than to repair their homes.<sup>130</sup> Mortgage companies charged them for inspections of their homes that never occurred.<sup>131</sup> Louisiana's Road Home program was accused of keeping them tangled in a dysfunctional and discriminatory bureaucracy, leading to a \$62 million class action settlement.<sup>132</sup> The list goes on.

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REV. 541, 588–89 (2006).

127. Email from David Koen, Attorney, Legal Aid Servs. of Or., to author (June 12, 2015, 7:33 PM) [hereinafter Koen Email] (on file with author).

128. *Id.*

129. See Leslie Eaton & Joseph B. Treaster, *Insurers Bear Brunt of Anger in New Orleans*, N.Y. TIMES (Sept. 3, 2007), <http://www.nytimes.com/2007/09/03/us/nationalspecial/03orleans.html>.

130. See, e.g., Bob Butler & Jessica Williams, *One Homeowner's Travails: Even After More Than Six Years, Family Can't Move Back into 'New' House*, LENS (Dec. 23, 2011), <http://thelensnola.org/2011/12/23/kisa-holmes-six-years-later/>.

131. See, e.g., *In re Stewart*, 391 B.R. 327, 345–46 (Bankr. E.D. La. 2008) (“In September of 2005, two identical BPO [broker's price opinion] charges appear on the account. While one charge appears duplicative of the other, it is also unlikely that inspections could have been performed at this time given that Jefferson Parish was under an evacuation order due to Hurricane Katrina and closed to all but emergency personnel. Again, copies of the reports were not produced.”), *aff'd*, 08-3225, 08-3669, 08-3852, 08-3853, 08-4805, 2009 WL 2448054 (E.D. La. Aug. 7, 2009), *vacated in part, appeal dismissed in part*, 647 F.3d 553 (5th Cir. 2011).

132. See Settlement Agreement at 2, Greater New Orleans Fair Hous. Action Ctr. v. Dept. of Hous. & Urban Dev., No. 1:08-cv-01938 (D.D.C. 2011), <http://portal.hud.gov/hudportal/documents/huddoc?id=RoadHomeSettlement.pdf>.

There were those who took advantage of the disaster to make New Orleans substantially worse for its vulnerable population. Naomi Klein details the strategy in this regard in her book *The Shock Doctrine: The Rise of Disaster Capitalism* (2007).<sup>133</sup> Some businesses and politicians immediately recognized that Katrina presented a grand opportunity to remake the city in their own retrogressive ideological image.<sup>134</sup> So instead of working to make whole the lives of those whose loved ones died or whose homes were lost, they wasted little time in realizing their pet projects: denying federal funds that thereby ensured that thousands of city workers would lose their jobs; tearing down perfectly sturdy housing projects and Charity Hospital; and chartering the public school system.

I wish that, instead, I—along with other social justice advocates—had somehow been able to proactively seize the day by using strategies—to change existing institutions and build new ones that would have radically alleviated the city from the poverty, violence, and class and racial hatred that still plagues it.

[After Katrina hit,] I suffered from depression and anxiety and began taking medication and entered therapy for the first time shortly after returning to New Orleans.

Eventually, my wife and I found it untenable to continue living in New Orleans. The violence, inequality, corruption, and lack of confidence that the city could survive another hurricane combined to drive us away. In 2009, we moved to Portland, Oregon.

. . . .

It is, perhaps, only a matter of time before another hurricane again destroys New Orleans. And, if so, the opportunity will present itself again to fundamentally remake the city. This topic is of particular personal interest to me because I live now in Portland, Oregon, where, it is predicted, a major earthquake will eventually devastate the city.<sup>135</sup> And so, in

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133. For an overview of Klein's book, see *The Shock Doctrine*, SHOCK DOCTRINE, <http://www.naomiklein.org/shock-doctrine> (last visited Oct. 8, 2015).

134. For links to primary source documents describing these processes, see *Chapter 20: Disaster Apartheid*, SHOCK DOCTRINE, <http://www.naomiklein.org/shock-doctrine/resources/part7/chapter20> (last visited Oct. 6, 2015).

135. See Kathryn Schultz, *The Really Big One*, NEW YORKER, July 20, 2015, at 52, 54.

the meantime, I would urge social justice advocates in cities such as New Orleans and Portland to begin strategizing on how they might position themselves to make the kinds of sweeping changes these cities need.<sup>136</sup>

### Reilly Morse

Reilly Morse, now President and CEO of the Mississippi Center for Justice, was a solo practitioner specializing in civil and environmental justice in Gulfport, Mississippi when Katrina hit.<sup>137</sup> He recounts his time after Katrina as follows:

I left private practice and took a contract position with Mississippi Center for Justice and then won a two year Equal Justice Works fellowship. I moved into a housing-focused advocacy campaign. The focus of work also shifted from litigation to a media-based public advocacy strategy that included research papers, congressional testimony, and civic engagement.

For the next five years, Katrina housing advocacy was 100% of my work. After reaching a negotiated agreement in 2010<sup>138</sup> with HUD and Mississippi Governor Barbour over unmet housing needs, I continued for 2 more years to do Katrina-focused work for the majority of the time, but I also did policy work for non-Katrina campaigns. By 2013, my Katrina-connected work was watch dogging the settlement, overseeing direct service of individuals with claims problems, and a deep engagement in ensuring jobs accountability and environmental justice on a Katrina-funded port expansion which together was about 1/3 of my time. Also in 2013 I was promoted to managing director and then late in 2013 to president of MCJ. At present, the Katrina connected work is 10–15% of my total time.<sup>139</sup>

According to Morse and Karen Lash, there are four themes that legal services providers ought to learn from our experiences of disaster. First, one's ability to triage and absorb a massive

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136. Koen Email, *supra* note 127.

137. Email from Reilly Morse, President, Miss. Ctr. for Justice, to author (June 15, 2015, 8:07 AM) [hereinafter Morse Email] (on file with author).

138. See *Housing Advocates Praise Katrina Recovery Settlement with HUD and Mississippi*, MISS. CTR. FOR JUST. (Nov. 15, 2010), <http://www.mscenterforjustice.org/newsroom/press-release/housing-advocates-praise-katrina-recovery-settlement-hud-and-mississippi>.

139. Morse Email, *supra* note 137.

new caseload is only as good as the strength and integration of the state's delivery and pro bono system before the disaster, so people have work to improve existing service now.<sup>140</sup> Second, to ensure that the pro bono client community gets a fair share of the recovery pie, advocates must get a seat at the policymaking table.<sup>141</sup> Third, the post-disaster recovery phase is an opportunity to reject the status quo of poverty by rebuilding and reinventing new systems that promote fairness and equity for all.<sup>142</sup> And fourth, lawyers play an essential role after a disaster in helping people put their lives and communities back together.<sup>143</sup>

Reilly Morse concluded his experiences on a personal note, stating, "I wish advocates across the region had joined together on common issues sooner than they did. I wish I had filed more lawsuits."<sup>144</sup>

### Hiroko Kusuda

Hiroko Kusuda, now a Clinical Professor at Loyola University New Orleans College of Law, was working as an immigration attorney for Catholic Legal Immigration Network in New Orleans at Loyola when the storm arrived.<sup>145</sup>

[I m]oved to Minnesota with my family for four months where my mother-in-law lived. [I e]nrolled my eleven-year-old son in a private middle school and eight-year-old daughter in public school for a semester.

....

My employer (Catholic Legal Immigration Network, Inc.) allowed me to continue my work with Loyola Law School in Houston. [So I c]ommutated between Minnesota and Houston every two weeks.

....

My husband, who is a jazz musician, lost his employment and became a primary parent for our children.

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140. Karen A. Lash & Reilly Morse, *Mitigating Disaster: Lessons from Mississippi*, 77 MISS. L.J. 895, 898–902 (2008).

141. *Id.* at 913–14.

142. *Id.* at 914.

143. *Id.* at 903–11.

144. Morse Email, *supra* note 137.

145. Email from Hiroko Kusuda, Assistant Clinical Professor, Loyola New Orleans Coll. of Law, to author (June 15, 2016, 4:01 PM) [hereinafter Kusuda Email of June 15] (on file with author).

We went back to New Orleans in October to see our house [which suffered roof damage]. The city was shades of sepia color with a sea of bright blue on rooftops. We felt deep sadness that New Orleans may not come back.

[I l]ost contact[] with [many] clients who had been detained at Plaquemines Parish Detention Center and Orleans Parish Prison. [I t]ried to find them through official government channels without success for a month. It took several weeks before I found out that [some of] my clients almost drowned in detention during the storm.

[I had to] file[] several hand-written emergency motions with the DOJ Board of Immigration Appeals to request briefing extensions and to file out-of-time brief[s]. . . . [One of my clients from Eritrea for whom I was filing appeals had been moved from Plaquemines Parish to Tensas Parish Detention Center 280 miles away. For the fall of 2005] I conducted “Know Your Rights” presentations for Katrina and Rita evacuees in Houston [along with colleagues from the clinic].<sup>146</sup>

[I was disappointed in the responses by both the Red Cross<sup>147</sup> and the federal government.] The Red Cross's gigantic

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146. Kusuda Email of June 15, *supra* note 145. For an example of why such presentations were needed, see Anna Williams Shavers, *The Invisible Others and Immigrants' Rights: A Commentary*, 45 HOUS. L. REV. 99, 143 (2008) (“*The Wall Street Journal* reported that Hispanic victims of Hurricane Katrina were pulled from a Red Cross shelter in Long Beach, Mississippi, and threatened with deportation. The officers were apparently from the police and the U.S. Marshals Service. These officers swept the shelter and targeted approximately sixty individuals, all Hispanic-looking, and demanded identification. Individuals were told to leave the shelter or face deportation.”).

147. See *Red Cross Relief for Katrina Criticized*, NBCNEWS (Sept. 28, 2005, 4:48 PM), [http://www.nbcnews.com/id/9518677/ns/us\\_news-katrina\\_the\\_long\\_road\\_back/t/despite-huge-katrina-relief-red-cross-criticized/](http://www.nbcnews.com/id/9518677/ns/us_news-katrina_the_long_road_back/t/despite-huge-katrina-relief-red-cross-criticized/) (providing an overview of criticisms of the Red Cross response to Katrina); see also Andrew Dana, *Charitable Giving: An Analysis and Extension of Justice Powell's Jurisprudence*, 12 WASH. & LEE J. C.R. & SOC. JUSTICE 233, 249 (2006) (“The American Red Cross (Red Cross) is a tax exempt 501(c)(3) organization. In the weeks following Hurricane Katrina, the Red Cross spent more than \$521 million dollars in providing relief for victims, and expected to spend \$2 billion on hurricane relief in all. [Critical Race Theory] suggests that we also critically analyze the Red Cross, which is such a large organization that it resembles an American institution. Does the Red Cross operate to subordinate minority groups? Many hurricane survivors and local nonprofit groups have observed that ‘Red Cross services have been easier to come by in white, affluent neighborhoods than in poorer, minority neighborhoods.’ In response to the Red Cross’ apparent subordination of rural, poor minorities, black charity leaders in the area have created alternative organizations to the Red Cross, including the Saving Our Selves coalition.” (footnotes omitted)).

administrative fees substantially reduced the money that should have gone to the people who needed help. They also failed to quickly send the donated funds to people in need. The US government apparently believed the rumor that New Orleans was overrun by thugs and criminals during the storm and hesitated to send help.<sup>148</sup> They could have saved hundreds of lives.<sup>149</sup>

Lessons learned?:

[Y]ou should not rely on governmental help. You should make your own plan on evacuation and decide what to bring in case of evacuation. Keep close contact with your neighbors and friends. They are the ones who can help you when you are in dire straits but far away from families. They will need your help, too. You should also make a long-term plan if in case your city does not come back.<sup>150</sup>

### **Dauida Finger**

Dauida Finger, now a Clinical Professor at Loyola University New Orleans College of Law, had grown up in the New Orleans area but was living and working in Seattle as civil rights lawyer when Katrina hit.<sup>151</sup>

I felt like I had to drop everything and get home to New Orleans. . . . [I]t felt very important to me to return. I felt like it was the center of the world and I needed to go there. . . . I felt called in a serious way.<sup>152</sup>

She first went to help with the Red Cross in Southwest Louisiana for a couple of weeks:

I wound up going with the Red Cross to S[outhwest] L[ouisian]a right after Katrina to try to help out. I knew nothing about the Red Cross.<sup>153</sup> That experience is still etched in my mind as one of the worst times of my life.

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148. See Eric Lipton et al., *Breakdowns Marked Path from Hurricane to Anarchy*, N.Y. TIMES (Sept. 11, 2005), <http://www.nytimes.com/2005/09/11/us/nationalspecial/breakdowns-marked-path-from-hurricane-to-anarchy.html>

149. Email from Hiroko Kusuda, Clinical Professor, Loyola New Orleans Coll. of Law, to author (July 23, 2015, 4:30 PM).

150. *Id.*

151. Email from Dauida Finger, Assoc. Clinical Professor, Loyola New Orleans Coll. of Law, to author (May 19, 2015, 2:31 PM) [hereinafter Finger Email of May 19] (on file with author).

152. *Id.*

153. For criticism of the Red Cross response, see *supra* note 147.



I remember one very young woman, a teenager, with a newborn. She evacuated with her family and was in a shelter . . . where I was placed. Her family headed back to New Orleans and they were all killed in a car accident driving back to the shelter. I remember seeing that woman sleeping on the floor with her little baby. Some friends had given me baby clothes to bring with me in case anyone needed it. I gave them to her but I think I woke her up when I did that. It was hard to tell because everyone was just lying around. Since I've had my two kids, I've thought about her so often, what she must have felt losing her parents and extended family and being left alone with that little baby in a shelter and having strangers come up to her and give her adorable lacey clothes for the newborn.

There was so much else there that was completely disturbing. Kids not being allowed to eat if they weren't orderly in the line for MRE [Meals Ready to Eat] food. Not enough bathrooms. No ADA bathrooms. Everyone sleeping all together: children, men, wom[e]n. The prisoners coming on a school bus for shelter and the shelter turning them away. Ms. L[.] from the Red Cross telling me with a group of volunteers that if we didn't fall in line she would lock us in a closet—this as Hurricane Rita was coming in. Single moms being turned away from the shelter with their kids anxiously peering out of car windows.<sup>154</sup> At the second shelter I was put in right before Rita, I was shown around by a volunteer from Berkeley. I cried. It was too much to see all the people strewn about that way. They were all forced to leave quickly without a chance to gather their stuff as that shelter was evacuated for Rita. They lost all the stuff they had salvaged from Katrina and many lost their pets too which had been sheltered near-by but were left behind. We didn't know where we were going. No one would tell us. Some parents couldn't find their kids. We went from place to place until we

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154. See Berre Burch et al., *Children and Disasters: Lessons from Hurricane Katrina*, 10 WHITTIER J. CHILD. & FAM. ADVOC. 3, 5 (2010) (“The mental health problems that emerge in the wake of large-scale disasters are substantial and reach across all age groups. Children have been identified as a particularly vulnerable group. Prevalence estimates of mental health problems in children following Hurricane Katrina suggest that as many as 49% of children were in need of mental health services in the months after the storm. While prevalence rates of mental health problems tend to decline following an initial post-disaster peak, findings from previous large-scale disasters such as Hurricane Andrew suggest that mental health problems for some children persist for many years after the storm, as do secondary effects on behavior, learning, and memory.” (footnotes omitted)).

found a shelter that was big enough. It was awful and very scary. People told me all kinds of stories, about hearing explosions near the levees in New Orleans, about crawling to buses to get out, about witnessing death. From that experience with the Red Cross, I knew I wanted to come back to try to help out. It was so shocking for me.<sup>155</sup>

Davida returned to Seattle where she was on the team litigating the Rachel Corrie case.<sup>156</sup> They lost the case in the District Court on November 22, 2005.<sup>157</sup> The next day she received a call from Oxfam asking her to come to work in Louisiana:

I started working with Oxfam America in December 2005 doing its first domestic post disaster initiative [as] the Louisiana director. I didn't know anything about community development work. I just tried to learn everything I could. I felt that was the best skill I could bring as a lawyer. I was frustrated with the organizational red tape. So many smart people there and so long to get anything done, so much thinking. I understand the process better now with years of reflection than I did then. Back then, I wanted to get help out more quickly. I wanted to focus on the people who were hurting more than what the organization needed for internal purposes. I felt conflicted about having so much access, a rental car, subsidy to stay in hotels when the people around me had nothing. I didn't actually think it through, how long I would stay or what I should be doing. I just went with the opportunity that presented and tried to contribute and build meaningful relationships along the way. I was not a nice person to be around. I stayed at my parents' house in Metairie often and didn't like to talk when I came home. Now I know I was processing other peoples' trauma but back then, but I didn't have words for how I felt. I just felt so badly about everything that was happening and I felt like I couldn't put my finger on how to help make things better quickly enough.

[Katrina] changed the course of my life. I moved back to New Orleans, met the man who eventually became my husband

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155. Finger Email of May 19, *supra* note 151.

156. *Id.* In *Corrie*, the family of a peace activist who was killed in the West Bank during demolitions conducted by the Israeli Defense Forces sued the American manufacturer of the bulldozer used in the demolition. *Corrie v. Caterpillar, Inc.*, 403 F. Supp. 2d 1019, 1022–23 (W.D. Wash. 2005), *aff'd*, 503 F.3d 974 (9th Cir. 2007).

157. *Corrie*, 403 F. Supp. 2d at 1019.

because he traveled to New Orleans to volunteer, and still feel deeply committed to exposing post disaster inequities. For work, I was lucky enough to get a lawyering job at Loyola.<sup>158</sup> That has been the best thing that could have happened to me. I got a [lot] of meaning out of working with individuals. I felt better positioned to try to help people than I had with Oxfam. I got to work with great people too and learn a lot from watching other people work . . . . I felt that I was more effective and saw how my personal shortcomings would need to be overcome in order to be able to be a better lawyer.

I wish I had advocated better, more loudly, been more skilled at building community and coalitions. I wish I had more patience. I've always wished for that, however, FEMA has really tested me.<sup>159</sup> We still have FEMA cases.<sup>160</sup> I feel worn out from them and have to remember that I have to keep up front-line energy because my clients are much more worn down than me.<sup>161</sup>

Lessons learned?:

Build coalitions. Do legal work with community organizations even though that presents significant challenges. Try to figure out what has happened with other disasters. Network. Tell volunteers what is really needed without sugar coating. Remember how pained the people are you are working with—it is life changing pain, no quick fixes. As Rev. Tyrone [Edwards] told me, “where white people are waiting in those long lines, black people don't even need to waste time getting in those lines.” Racism has been a huge part of our post disaster experience. I'm not sure there is any

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158. For a profile of Prof. Finger's clinic at Loyola, see Davida Finger et al., *Engaging the Academy in Disaster Response*, 10 SEATTLE J. FOR SOC. JUST. 211, 213–214 (2011).

159. See Jonathan P. Hooks & Trisha B. Miller, *The Continuing Storm; How Disaster Recovery Excludes Those Most in Need*, 43 CAL. W. L. REV. 21, 25 (2006) (“[S]ubstantive and procedural aspects of FEMA's disaster assistance programs failed low-income families—unnecessarily delaying assistance to them, utilizing unclear and ineffectual rules, or establishing barriers that denied assistance altogether. . . . FEMA fails to consider the impact of policies that exclude those most in need.”).

160. See, e.g., Michael Kunzelman & Ryan J. Foley, *FEMA to Demand That Katrina Victims Return Aid Money* (June 1, 2011, 8:54 AM), [http://www.huffingtonpost.com/2011/06/01/fema-to-demand-thathurri\\_n\\_869584.html](http://www.huffingtonpost.com/2011/06/01/fema-to-demand-thathurri_n_869584.html) (describing the recoupment process).

161. Finger Email of May 19, *supra* note 151.

“lesson” more important than that.<sup>162</sup>

I [also] reflect[] on how botched the privatization was. That some profited from the disasters while others lost everything is so wrong.<sup>163</sup> The *Markets of Sorrow, Labors of Faith* book<sup>164</sup> discussed ways that the charity system/private philanthropy plays into the system of profit. It allowed government to enable profit to corporations while relying on the good hearts of private citizens to do the dirty work for free. That is so wrong. There is no safety net. The companies that profited should have had to donate back to those impacted. Disaster should not generate profit, especially not systemically. I’m not sure this is much of a lesson learned. It is something I should have known but that I learned through this experience. Our system is so broken this way.<sup>165</sup>

### Anita Sinha

Anita Sinha, now Practitioner in Residence at American University College of Law, was an immigrants’ rights lawyer in San Francisco when Katrina hit:<sup>166</sup>

[W]atching the coverage of post-Katrina recovery efforts made me want to do racial justice work more directly. I already was getting frustrated by the lack of a racial justice lens in immigrant rights advocacy, especially at that time.

[I moved to the Washington D.C.-based Advancement Project<sup>167</sup> in June 2006 and joined their post Katrina team. F]rom then to approximately late 2009 I did post-Katrina litigation and advocacy full time. I continued to have a hand in the work until I left the A[dvancement] P[roject] in April 2012.

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162. Finger Email of May 19, *supra* note 151.

163. For a discussion of the outsourcing of billions of reconstruction dollars to private contractors, see Kevin Fox Gotham, *Disaster, Inc.: Privatization and Post-Katrina Rebuilding in New Orleans*, 10 PERSP. ON POL. 633 (2012).

164. VINCANNE ADAMS, *MARKETS OF SORROW, LABORS OF FAITH: NEW ORLEANS IN THE WAKE OF KATRINA* (2013).

165. Email from Davida Finger, Assoc. Clinical Professor, Loyola New Orleans Coll. of Law, to author (Aug. 17, 2015, 6:07 PM) (on file with author).

166. Email from Anita Sinha, Practitioner-in-Residence, Immigrant Justice Clinic., Am. Univ. Wash. Coll. of Law, to author (June 13, 2015, 8:35 PM) [hereinafter Sinha Email] (on file with author).

167. For an introduction to the Advancement Project at its mission, see *Mission*, ADVANCEMENT PROJECT, <http://www.advancementproject.org/> (last visited Oct. 10, 2015).

In addition to the time in which Katrina impacted my work, it continues to do so, in particular how I teach and otherwise think about representing social justice movements in critical times and spaces.<sup>168</sup> I also continue to grapple with how to authentically and usefully link immigrant rights and African-American rights advocacy (it made me more pessimistic about our ability to do so in a way that gives actual solutions or remedies to both groups, instead of it being a zero-sum game).

[In my work challenging the demolition of public housing I found i]t was much easier to represent the residents who were able to come back (albeit still displaced), as opposed to those still displaced outside New Orleans and especially outside the state of Louisiana.<sup>169</sup> And so the former became most, if not all, of our plaintiffs, but there was a self-fulfilling prophecy of sorts that went something like this: [T]hose who were able to return were somehow connected to the power (e.g., part of the resident council in public housing complexes) and were also less desperate and so more likely to accept compromises. And so some of the difficulties we faced stemmed from the fact that we did not represent the most marginalized . . . I think.

Another question I still grapple with is how much to get involved in mediating conversations or controversies between communities/community groups. A few pivotal times they asked me [and the] A[dvancement] P[roject] to help negotiate through their conflicts, but upon reflection I don't know if this was a good role for an outside social justice lawyer to play.<sup>170</sup>

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168. For a similar reflection, see Jim Freeman, *Supporting Social Movements: A Brief Guide for Lawyers and Law Students*, 12 HASTINGS RACE & POVERTY L.J. 191, 195 (2015) ("Legal and policy victories can be important contributions to movements for social, racial, gender, and economic justice. Often, they are necessary to fulfill the goals of a movement. However, they are never going to be sufficient by themselves to address the inequitable power structures that created the need for the movement. Thus, movement lawyers must see beyond their professional bailiwick and focus their energies on helping oppressed communities build the power and capacity they need to protect their interests and advance their priorities more broadly." (footnote omitted)).

169. For a discussion of the legal issues surrounding the demolition of public housing in New Orleans, see Judith Browne-Dianis & Anita Sinha, *Exiling the Poor: The Clash of Redevelopment and Fair Housing in Post-Katrina New Orleans*, 51 HOW. L.J. 481 (2008).

170. Sinha Email, *supra* note 166.

### Lessons learned?

Document everything in as many ways as you can—write, make documentaries [or] short films, whatever you can do to get the actual stories out there. Don't think this is “not a lawyer's job”—as a lawyer you have special access to the stories and the raw realities, and so it's absolutely your job. Also, get close to and closely follow the social justice lawyers working locally—don't just co-counsel with them, truly follow their lead.<sup>171</sup>

### Katherine Mattes

Katherine Mattes, now Professor of the Practice and Director of the Tulane Law School Criminal Clinic, was working at the clinic when Katrina hit.<sup>172</sup>

[I evacuated to Baton Rouge with my nine-year-old daughter while my husband, who is a physician at Tulane stayed to work.] Once it became clear that we weren't going to be able to return to New Orleans, we drove to Houston and flew to Los Angeles—where I have family.

. . . .

My daughter and I remained in California with family until after Christmas. We enrolled her in the local public elementary school that her cousin attended . . . . My husband had to get an apartment in Houston where the medical school had re-settled [since] he was, and still is, faculty at Tulane. He was able to come to California a couple of times during this period. After Christmas my daughter and I drove back to New Orleans . . . .

I then returned to work at Tulane [which resumed classes after the holiday break. But m]y husband had to remain in Houston because the medical school continued to be housed at Baylor. He would drive home to NOLA on the weekends. [Our house was finally repaired by the next summer.]

. . . .

Prior to Katrina I was a litigator. I represented clients in their cases, I prepared for motions, negotiations and trial.

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171. Sinha Email, *supra* note 166.

172. Email from Katherine Mattes, Professor of the Practice & Dir. of the Criminal Defense Clinic, Tulane Law Sch., to author (June 15, 2015, 1:40 PM) [hereinafter Mattes Email] (on file with author).

For me, the resolution to my clients' legal problem[s] was in courtrooms. After Katrina, and after [the] Chief [Criminal] Judge . . . appointed [Tulane] and [the] Loyola Clinic to represent all indigent criminal defendants who had been incarcerated in [the] O[rleans] P[arish] P[rison], we had to find ways to help our clients and it wasn't going to be in a courtroom—there were no courtrooms!<sup>173</sup>

Hurricane Katrina devastated the criminal justice system in New Orleans:

Thousands of Orleans Parish inmates, many pre-trial, some post-conviction, no longer had a lawyer representing them. The more than 7,000 defendants that had been incarcerated in Orleans Parish Prison at the time the levees broke were now being detained in dozens of parish jails all across Louisiana. Some of these jails were as far as 300 miles from New Orleans. These inmates had experienced life-threatening trauma, no food, no water, intolerable heat; they did not know whether their family members were alive, and if alive, where they were. Many of them had not yet been formally charged with a crime despite having been incarcerated for months and, because the hurricane had wiped away the funding source for the public defender's office, they had no lawyers.<sup>174</sup>

[So i]nstead of focusing on individual clients [only] my

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173. Mattes Email, *supra* note 172. For a more detailed description of the criminal justice crisis following the storm, see Garrett & Tetlow, *supra* note 104.

174. Katherine Mattes, *The Tulane Law Clinic: An Evolution into a Combined Individual Client and Advocacy Clinic*, 18 CLINICAL L. REV. 77, 84 (2011); *see also* New Orleans: Prisoners Abandoned to Floodwaters, HUMAN RTS. WATCH (Sept. 21, 2005), <https://www.hrw.org/news/2005/09/21/new-orleans-prisoners-abandoned-flood-waters> (describing the experience of the inmates left behind in Orleans Parish Prison); Ira P. Robbins, *Lessons from Hurricane Katrina: Prison Emergency Preparedness as a Constitutional Imperative*, 42 U. MICH. J.L. REFORM 1, 1 (2008) ("Often overlooked among Katrina's victims are the 8,000 inmates who were incarcerated at Orleans Parish Prison (OPP) when Katrina struck. Despite a mandatory evacuation of New Orleans, these men and women, some of whom had been held on charges as insignificant as public intoxication, remained in the jail as the hurricane hit, and endured days of rising, toxic waters, a lack of food and drinking water, and a complete breakdown of order within OPP. When the inmates were finally evacuated from OPP, they suffered further harm, waiting for days on a highway overpass before being placed in other correctional institutions, where prisoners withstood exposure to the late-summer Louisiana heat and beatings at the hands of guards and other inmates. Finally, even as the prison situation settled down, inmates from the New Orleans criminal justice system were marooned in correctional institutions throughout the state, as the judicial system in New Orleans ceased to function.").

practice expanded to include systemic advocacy. We first had to identify who our clients were—not an easy task given that the Sheriff wouldn't tell us and the public defenders' office hadn't kept files or a client list. We had to drive to the various jails across Louisiana and interview NOLA evacuees to try to figure out who was in custody and why.<sup>175</sup>

Lessons learned?:

[In hindsight, o]ne of my biggest regrets is that I wish we had gone into federal court and filed habeas petitions [right away]. We were so concerned about “following the rules” i.e., state exhaustion, that we didn't recognize that this might have been a time to ask the federal court to make an exception and it might have been a time when they would have been willing. I later learned that some of the federal judges were waiting and wondering why we didn't come to them.

I [also] spent far too much time trying to find things for volunteer lawyers to do so that they could feel like they were being helpful. Very generous[] lawyers from around the country came down for a week or two to help, but it would take so much of my time to explain and orient them that it interfered, rather than assisted, with my getting things accomplished. To really be of help we needed a commitment of months not days or weeks.<sup>176</sup>

Finally, it is “crucial . . . to find different, non-litigation ways to achieve our clients' goals.”<sup>177</sup>

### Denise LeBoeuf

Denise “Denny” LeBoeuf, Director of the John Adams Project of the American Civil Liberties Union, was Director of the Capital Post-Conviction Project of Louisiana when Katrina hit.<sup>178</sup>

Denny evacuated to Peachtree City, Georgia with her sister

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175. Mattes Email, *supra* note 172.

176. *Id.*

177. Mattes, *supra* note 174, at 84.

178. Denise LeBoeuf, Dir., John Adams Project, to author (Jan. 1, 2015, 11:04 AM) [hereinafter LeBoeuf Email]. As the director of the John Adams Project, Denise LeBoeuf is “assisting in the defense of capitally charged Guantánamo detainees.” *Denny LeBoeuf*, AM. CIV. LIBERTIES UNION, <https://www.aclu.org/bio/denny-leboeuf> (last visited Sept. 25, 2015). She submitted her responses from Guantanamo Naval Bay Station where she was working on several cases as habeas counsel.



who was very ill from cancer.<sup>179</sup> In the weeks she was displaced she was in numerous places including Tuscaloosa, Peachtree, New York, Cambridge, Baton Rouge, Indianapolis, Houston, and Vermont.<sup>180</sup> Then the deaths hit. In the space of a few months Denny lost: her “darling brother-in-law” who “died in a car crash, driving to rebuild their flooded home from temporary refuge in Baton Rouge,” her sister, from cancer; and her law partner, of a drug overdose.<sup>181</sup>

Katrina brought everything to a halt. As Denny recalls:

No courts, no access to clients for months, no access to computers or files, no mail, no access to witnesses, family members, opposing counsel, clerks, each other. My office staff was scattered. One staff member, a young paralegal, had some terrifying experiences. She and her boyfriend had to leave their home by boat. They performed a number of rescues, then were menaced by people with guns and had to flee to an interstate overpass that was not submerged. Another staffer left the city with his granddaughters, one of whom was three days old, and an eighty-year-old friend. They spent the next 5 weeks in shelters, enduring great difficulties and privations. He was in his seventies, and in a wheelchair. When he asked if he could have a cot to sleep on, instead of a floor space, he was told “You should have brought your cot with you.” At one Red Cross shelter in a Baptist church in rural Avoyelles Parish, white church workers shone lights in their eyes every two hours to do a “bed check” of African-American children, as if they were incarcerated, not “sheltered.”

Practicing law post-Katrina [for the first several months] was in a word, challenging. From the day before the evacuation, until when I returned to the desk in my old office in December 2005, I had set up eight different places to work. For months, phones and fax machines did not work because of a telephone company problem that had an estimated repair date in February. A local law firm generously donated office space to us but their direct internet access was lost, and the vagaries of wireless access left us “down” a good bit of the time. We had to go to a trailer at the Superdome to ask for office mail. We went to a former discotheque to talk to

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179. LeBoeuf Email, *supra* note 178.

180. *Id.*

181. *Id.*

opposing counsel. “Screening” of criminal cases was done at the end of the bar. Not making this up.

Very early, within the first week after the storm, we managed to get word to our clients that there was a computerized version of their legal papers that had survived the storm. We were able to reassure them that no court action would be taken immediately, and that we would help those with friends and families in New Orleans locate their loved ones as soon as possible.

The first in-person meeting of some of the Louisiana capital defense community was [five weeks later on] October 7th. We had to hold our Louisiana meeting in Houston, as there were no hotel rooms in New Orleans for the staffers whose homes had been destroyed. The damage to our homes ran the gamut. Both our deputy director and coordinator lost their homes. Two staffers who rented lost virtually every possession. Two of the people in our office could not come back to the city because they had no place to live, and apartments and houses are unconscionably expensive. Two have children who started new schools in September, and were uncertain about whether to uproot them again. Two, reluctantly, resigned. One young attorney’s partner had to re-locate. Another who lost everything decided to begin life over somewhere else.

For a few days in October, we were [allowed into our offices and] permitted to carry some files out to work on them in our borrowed temporary locations or at home. However, “carry” meant just that: we had to walk up and down sixteen flights of stairs to retrieve these papers. It was not until the first week of November, ten full weeks since the storm, that we had elevator access to our office. It was then we discovered that my computer hard drive was irreparably damaged and [was] a total loss. The most striking thing about this was the inconsequence of it. What would have distressed me for days before August 29th barely even registered.

....

I think the personal devastation of Katrina [and the losses] in my life made me incapable of doing my best work for several years. I was too depressed. I also think the delays in the cases hurt some clients. I think one innocent client, released eventually in 2013, lost years in the fight to free him. However, sometimes delays are beneficial in capital

cases. I think that may have affected one prosecutor's decision to agree to a life sentence.

[Ironically, e]xpertise in trauma was one of my core areas of competence before the storm. I know more now, and more about the fact that the intellect alone won't get you over trauma.<sup>182</sup>

Lessons learned?:

If a disaster is imminent, there should be an effort to release all misdemeanor or "fines and fees" contempt prisoners at the local jail.<sup>183</sup> They can help their own families, and won't need evacuation. Lawyers at every jail, immigration center, holding facility of any kind should regularly ask to see the disaster-response plans.

Ask for it. Ask the courts to release your clients with no bond. Ask for contact visits with family members and prisoners. Ask for money for poor people. Ask to have the entire public defender system re-configured. Ask for money for poor people without forms or patronizing supervision. Ask that the culture be saved. Ask for whatever is right, and say: these are special times.

Keep your eyes and your heart open, and tell people what you see and feel.

There is a growing realization that the majority black city that existed on August 28th could be replaced by a white, more conservative population. We have to continue the fight for the "right of return" because it is just, and because the unique culture of New Orleans comes from and is nourished by the poor African-American community. We are doing what we can to see that the culture does not die.

[Finally,] I am not going to judge or criticize the way the social justice community responded. Most of us tried our best, and we were all so damaged. If anything, more compassion for each other and for ourselves would have helped. I also know a lot more about the meaning of community. Ours was so utterly ruptured, and will never be the same. But I do appreciate an intensity and awareness of community that lasts. We are all living in an intentional

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182. LeBoeuf Email, *supra* note 178.

183. *See supra* note 174.

community. You had to make a choice to come back.<sup>184</sup>

## B. ADVOCATES

### Barbara Major

Barbara Major, a community organizer, was the Director of a community-based health clinic, the St. Thomas Community Health Center,<sup>185</sup> when Katrina hit.<sup>186</sup>

She had lived in New Orleans East for over twenty years.<sup>187</sup> She had nine feet of water in her house and was unable to live in it again.<sup>188</sup> She did not immediately return to New Orleans because the flood destroyed the neighborhood, and she lost all the relationships she had built over decades;<sup>189</sup> her pharmacist, her grocer, and her cleaners all moved away or did not reopen their businesses.<sup>190</sup> While living in six different places including Houston, she drove back and forth to New Orleans every week for work.<sup>191</sup> After two years, she finally was able to find and live in a home in New Orleans permanently.<sup>192</sup>

My youngest son has no desire to ever come back to live in New Orleans[;] to a New Orleans mama, that is huge.

My focus on justice did not change, however my method of organizing did. I realized that the most marginalized part[s] of my community were not going to be coming back, at least not soon. Immediately after Katrina, my focus was on not leaving people behind, once I realized that if the African-American [c]ommunity was to find a place in this New-New Orleans, I had to galvanize what many would consider the "Black Middle Class." We were the only ones who could get back on our own and we would be the only ones to protect any

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184. LeBoeuf Email, *supra* note 178.

185. For a description of the center's services, see *A Medical Home for You and Your Family*, ST. THOMAS COMMUNITY HEALTH CTR., [www.stthomaschc.org](http://www.stthomaschc.org) (last visited Oct. 10, 2015).

186. Email from Barbara Major to author (May 5, 2015, 1:21 PM) [hereinafter Major Email of May 5] (on file with author).

187. *Id.*

188. Email from Barbara Major to author (July 20, 2015, 7:43 PM) [hereinafter Major Email of July 20] (on file with author).

189. *Id.*

190. Major Email of May 5, *supra* note 186.

191. Major Email of July 20, *supra* note 188; Email from Barbara Major to author (July 24, 2015, 9:45 PM) [hereinafter Major Email of July 24] (on file with author).

192. Major Email of July 20, *supra* note 188; Major Email of July 24, *supra* note 191.

place/space for us to be in this city in the future. My work is now centered around economic equity. As I saw the city being rebuilt, I did not see my community participating.<sup>193</sup> My focus now is on policy that can lead to wealth creation. I realized that the conversation around economics and the Black community only spoke of jobs. We do want jobs but we want businesses as well and we must protect the business that are in our community already.

The impact of Katrina is still being felt. As I witness the influx of all the New-New Orleanians I am extremely angry at how welcome they are and how unwelcome we are in our own city. I know that the attitudes of both the old and new white community in New Orleans has not changed. They welcome our culture back but not us.

The one regret I have is the organizing I saw in regards to the housing issues, it pitted my people who lived in private housing against those living in public housing. It was not intentional but the organizers did not realize the issue should have been housing for everyone including those that rented in the private sector. The majority of black people in our city who were poor lived in private housing, not only public housing. If the struggle would have been centered on housing for all, we maybe could have built a mighty force. This might be my biggest regret, not getting more involved [in that].<sup>194</sup>

Lots of local and national organizations made plenty of money on our misery. "Church organization[s] were the most honorable."<sup>195</sup> Most of the local and national organizations? They were no more than "disaster pimps."<sup>196</sup>

[T]he community could still utilize the help of the legal profession. We must get a disparity study, if we are to challenge this race and gender-neutral policy that disallows

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193. For a discussion of the racially-disproportionate recovery, see Chad Calder, *A Tale of Two Recoveries: Urban League Report Shows Stark Differences in Post-Katrina Recovery for Black New Orleanians*, NEW ORLEANS ADVOC. (Aug. 26, 2015, 8:33), <http://www.theneworleansadvocate.com/news/13271684-123/urban-league-report-takes-unstinting> (describing a report that finds that the recovery disproportionately benefitted whites as measured in terms of political power, criminal justice, economic development, unemployment, education, environment, health care, and housing).

194. Major Email of May 5, *supra* note 186.

195. Major Email of July 20, *supra* note 188.

196. *Id.*

us from ensuring that Black Businesses have the opportunity to make money. Thank God for Ernest Jones and Gino Gates<sup>197</sup> for being there for us in this equity fight. We are still fighting the big boys in this city for access. Got to get back to work!<sup>198</sup>

### John Thompson

John Thompson, the founder and Executive Director of Resurrection After Exoneration (RAE), reflected on lessons learned about lawyers and the legal system.<sup>199</sup> Mr. Thompson spent eighteen years in prison, fourteen on death row, for a crime he did not commit. He has been active in the criminal justice community and providing assistance for those released from prison since.<sup>200</sup>

Lawyers should have stepped up to the plate more quickly [even though they had t]o deal with what they had to deal with and put their life back together and go through what their friends, family, and clients were going through.

. . . .

[A]ttorneys should have looked at the justice system and asked the bar association to step up and assist the public defenders in the city. The public defense system was seriously messed up.<sup>201</sup> Lawyers didn't have records, access to evidence and records.

. . . . I wish I had seen other . . . lawyers and members of the

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197. Ernest Jones and Gino Gates are New Orleans lawyers.

198. Major Email of May 5, *supra* note 186.

199. Email from John Thompson, Dir., Resurrection After Exoneration, to author [hereinafter Thompson Email] (July 20, 2015 2:36 PM) (on file with author).

200. See John Thomsson, *Letter from the Founder*, RESURRECTION AFTER EXONERATION, <http://www.r-a-e.org/about/letter-founder> (last visited Sept 25, 2015) (describing Thompson's organization's mission); see also Ellen Yaroshefsky, *New Orleans Prosecutorial Disclosure in Practice after Connick v. Thompson*, 25 GEO. J. LEGAL ETHICS 913, 913 (2012) ("In separate trials, John Thompson was convicted of attempted robbery and of capital murder, and incarcerated for eighteen years—fourteen of those in isolation on death row. A few weeks before his execution date, a defense investigation found exculpatory evidence in the robbery case that had been withheld from his trial counsel by prosecutors and law enforcement, including blood evidence. Once tested, the evidence established his innocence; the robbery case was dismissed and the murder conviction was overturned." (footnotes omitted)).

201. See Garrett & Tetlow, *supra* note 104, at 144–53 (2006); Albert Samaha, *Indefensible: The Story of New Orleans' Public Defenders*, BUZZFEED (Aug. 13, 2015), <http://www.buzzfeed.com/albertsamaha/indefensible-new-orleans-public-defenders-of-fice>.

Bar support[ing] the Public Defender. . . . [T]he Public Defender was begging for help and no one stepped to up to help him it seemed.

Lawyers could have strategized how to deal with the problems together rather than individually. Organizations and legal non-profits should have worked together and force[d] the courts and systems to make justice happen. I don't know who was responsible for making sure people's constitutional rights were protected but I believe that unless you were a big time branded lawyer, whatever you said fell on deaf ears.

We started RAE in 2006.<sup>202</sup> Everything was hard at that point. We just had the compensation bill passed and the government had not given anyone money yet.<sup>203</sup> Our struggle was always the same before and after the storm. . . . [M]y motives and mission started to change. My mission was never to fight the system. My mission was housing and helping men coming out of prison to re-adjust. After my case went to the U.S. Supreme Court,<sup>204</sup> I started challenging the system. Before my court case, I didn't even challenge the use of the death penalty and all. After my court case, after my compensation was denied, I started doing more advocacy work and looking more at the legal system that allowed this to happen to me. When Safe Streets/Strong Communities<sup>205</sup> was started, formerly incarcerated people could organize and have a voice and be respected. That created a change in me. My reach was further than others because I had a story of innocence while on death row. When I saw the organizing work of Safe Streets, I understood the power of the truth and

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202. See *About*, RESURRECTION AFTER EXONERATION, <http://www.r-a-e.org/about> (last visited Oct. 10, 2015) (outlining the organization's vision and mission).

203. Act of July 12, 2005, No. 486, 2005 La. Acts 2287 (codified as amended at LA. STAT. ANN. § 15:572.8 (Supp. 2015) ("A prisoner is entitled to compensation in accordance with this Section if he has served in whole or in part a sentence of imprisonment under the laws of this state for a crime for which he was convicted and: (1) The conviction of the petitioner has been reversed or vacated; or (2) The petitioner has proven by clear and convincing scientific or non-scientific evidence that he is factually innocent of the crime for which he was convicted.").

204. *Connick v. Thompson*, 563 U.S. 51 (2011) (reversing \$14 million award on the grounds that prior *Brady* violations by the district attorney's office were insufficient to establish failure-to-train theory of recovery); see Susan A. Bandes, *The Lone Miscreant, the Self-training Prosecutor, and Other Fictions: Comment on Connick v. Thompson*, 80 *FORDHAM L. REV.* 715 (2011).

205. For information on this organization, see *About Us*, SAFE STREETS/STRONG COMMUNITIES, <http://safestreetsnola.org/new/> (last visited Sept. 25, 2015).

started Voices of Innocence to tell the stories of those who were innocent and incarcerated. It gave me the opportunity to be in front of people and have an audience.

Katrina taught me about my voice. I got to travel and share my story in a way that I don't think I could have or would have had it not been for the storm.<sup>206</sup>

### C. STUDENTS WHO LATER BECAME LAWYERS

#### Morgan Williams

Morgan Williams, now General Counsel for the National Fair Housing Alliance, had just completed his first week of his second year of law school at Tulane when Katrina hit.<sup>207</sup> He first evacuated to Jackson, Mississippi, then traveled to Georgia, North Carolina, and New York City before ending up in Washington, D.C., where he stayed until returning to New Orleans.<sup>208</sup>

I initially started working with some folks in the broader Tulane Law community on an initiative called From the Lake to the River, then worked with a dedicated team of law students to launch the Student Hurricane Network.<sup>209</sup>

The Student Hurricane Network brought over 200 law students from fifty-seven law schools to volunteer on the Gulf Coast over the school break in late 2005.<sup>210</sup> The organization ultimately enabled over 4000 law students to come volunteer.<sup>211</sup>

In the Student Hurricane Network we were learning in our work in the immediate aftermath into our subsequent

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206. Thompson Email, *supra* note 199.

207. Email from Morgan Williams, Gen. Counsel, Nat'l Fair Hous. All., to author (June 16, 2015, 9:27 AM) [hereinafter Williams Email] (on file with author).

208. *Id.*

209. *Id.* For additional information about this organization, see STUDENT HURRICANE NETWORK, LAW STUDENTS WORKING WITHIN THE POST-KATRINA LEGAL LANDSCAPE: THE STUDENT HURRICANE NETWORK ANNUAL REPORT, OCTOBER 2005-OCTOBER 2006 (Laila Hlass et al. eds., 2006), <http://hurricanearchive.org/archive/files/14fb2a1d2a672d14fb2a1d2a6b10.pdf>; Finger et al., *supra* note 158, at 221-33; Janell Smith & Rachel Spector, *Environmental Justice, Community Empowerment and the Role of Lawyers in Post-Katrina New Orleans*, 10 N.Y. CITY L. REV. 277, 291-93 (2006); *About Us*, STUDENT HURRICANE NETWORK, <http://www.studentjustice.org/about/> (last visited Sept. 25, 2015).

210. Smith & Spector, *supra* note 209, at 291.

211. *About Us*, *supra* note 209.



efforts.<sup>212</sup> After that first winter post-Katrina, we worked with law student groups to coordinate their own funding and logistics, leaving student coordinators to focus on training/orientations and work placements. We also did a better job as time passed on coordinated specific work projects, such as the FEMA Trailer Survey, the Gideon Project, and Matchmakers for Justice, which served to utilize the assistance of large numbers of law students in a meaningful way in short periods of time.

Katrina radically affected my career path, as it caused me to focus on housing issues, which ha[ve] since been my passion. The summer 2006, I worked for Laura Tuggle in the housing unit [at legal services]. After law school, I worked for several years with the Greater New Orleans Fair Housing Action Center, litigating cases involving the Road Home program, opposition to affordable housing development, and a number of other post-disaster issues of housing discrimination. In 2012, I took a job coordinating the enforcement of the National Fair Housing Alliance, where I work with fair housing offices across the country to litigate cases of housing discrimination against banks, insurance companies, and other large players in the housing market.

[For the Student Hurricane Network, looking back] it may have been helpful to focus more on the summers and in engaging volunteers to travel to the region for longer periods of time. [In terms of housing law advocacy, as I explained in] an article on long-term post-disaster fair housing issues,<sup>213</sup> I

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212. Finger et al., *supra* note 158, at 223–24 (“The Student Hurricane Network, which organized an estimated 5,500 students to work in pro bono placements in the hurricane-devastated region from the winter of 2005 until its dissolution in June of 2009, grew out of a number of different organizing efforts that solidified in October 2005. Days after Katrina, law students in the Northeast formed a listserv for the Katrina Law Student Coalition, and once the fall semester began this group met and planned how best to assist the communities in affected regions. Students held fundraisers, collected supplies, staffed a hotline, and began organizing for winter pro bono trips. Law students were in touch with a group called From the Lake to the River, formed to a large extent by Tulane Law School, and by October 2005, these groups united as a result of a working group discussion at the Equal Justice Works Fair. From there, law students became more organized nationally and eventually became known as the Student Hurricane Network (SHN). SHN used national legal listservs to inform law students, administrators, and faculty about projects. During weekly organizing conference calls, dozens of individuals scattered across the country conducted the business of SHN.” (footnotes omitted)).

213. Morgan Williams & Nisha Arekapudi, *Disasters' Long-Term Impact on Fair Housing: Rebuilding an Engine to Perpetuate or Challenge Entrenched Segregation*, in BUILDING COMMUNITY, RESILIENCE POST-DISASTER 345 (Dorcas Gilmore & Diane

think that housing lawyers can leverage the influx of disaster funds to ensure those funds are used in a manner that promote residential integration rather than perpetuating entrenched patterns of segregation, as is unfortunately often the case.<sup>214</sup>

### Emily Ratner

Emily Ratner, now a civil rights and criminal defense lawyer, was living in New Orleans as an undergraduate at Tulane when Katrina hit.<sup>215</sup> She was renting an apartment in a building that flooded but fortunately her space was on the second floor.<sup>216</sup> She was displaced to Mobile, Alabama for several months.<sup>217</sup> Once she got back to New Orleans she volunteered to gut houses for people and finished her degree:

After I graduated I started working with a local human rights film festival,<sup>218</sup> and that became my point of entry to the community work I wanted to do. I started working with local organizers who were doing work related to the right to return, the public housing battle, public education, and on and on. Working with them and attending community meetings and events introduced me to concepts like bottom-up organizing and the philosophy that “nothing about us without us is for us.”<sup>219</sup> These were things I realized I’d always believed in, but had never actually heard anyone say, or seen in practice. Seeing it and hearing it showed me what was possible, and made me believe in justice work where everyone has a role to play, and all struggles are connected to one another.

. . . [T]he specific justice area that I found most jarring, and in which I most wanted to invest my efforts, was police

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M. Standaert eds., 2013).

214. Williams Email, *supra* note 207; *see also* Williams & Arekapudi, *supra* note 213.

215. Email from Emily Ratner, to author (June 14, 2015, 2:53 AM) [hereinafter Ratner Email] (on file with author).

216. *Id.*

217. *Id.*

218. *See* Patois Film Festival, FACEBOOK, <https://www.facebook.com/patoisfilmfest/> (last visited Oct. 10, 2015).

219. For a discussion of “bottom up organizing” in the Katrina context, *see* Rachel Luft, *Beyond Disaster Exceptionalism: Social Movement Developments in New Orleans after Hurricane Katrina*, 61 AM. Q. 499 (2009) (using the People’s Hurricane Relief Fund as a model of this sort of organizing).

abuse. The Danziger Bridge<sup>220</sup> and Henry Glover<sup>221</sup> stories deeply affected me—and I was also amazed to find that when I traveled outside New Orleans and told these stories, people didn't believe me. Not only did they not believe me, but I could tell from their reactions that they were now examining everything I told them with a slightly more critical eye. I began to realize that certain understandings I'd taken for granted about how government, police, the state, and capitalism function, were not as universal as I thought, even though they were increasingly common for people in New Orleans, often regardless of race and class, at least in those earlier days. These largely shared understandings made it very important to me to work and live in a world with people who shared these experiences. I felt a kind of kinship with many people that I hadn't felt in a very long time.

The Katrina impact on my work has to do, I think, with a sea change that occurred before I started my work, which is related to New Orleans becoming a spotlight city for social justice, both in the eyes of funders and of people, mostly young people, looking to do important work. We're awash in a sea of young do-gooders, many only here for short stints. I don't mean that as a criticism (though I think there are aspects to criticize), but I wonder if the influx of new money, new (or newly restructured) nonprofits, and new people has been so intense that we don't yet know what it all means, and what to do or think about it. I feel strange discussing that trend because I don't know my place in it. After all, I was in that last group of people who moved to New Orleans before it was attractive mainly as a place to do important work. But I wonder about the ways that New Orleanians are being shut out—of the economy, housing, the city itself, and justice conversations, all of it. That's a pretty cliché to bring up at this point, but even so, with all the dialogues we've had about it, I'm not sure we've come at all close to any real answers.<sup>222</sup>

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220. Police shot at a group of civilians on the Danziger Bridge in New Orleans, killing two. See John Burnett, *What Happened on New Orleans' Danziger Bridge?*, NPR (Sept. 13, 2006, 1:28 AM), <http://www.npr.org/templates/story/story.php?storyId=6063982>.

221. One police officer shot and killed Henry Glover and another burned his body. See *Henry Glover's Death Ruled a Homicide by Orleans Parish Coroner*, NOLA.COM/TIMES-PICAYUNE (Apr. 1, 2015), [http://www.nola.com/crime/index.ssf/2015/04/henry\\_glovers\\_death\\_ruled\\_a\\_ho.html](http://www.nola.com/crime/index.ssf/2015/04/henry_glovers_death_ruled_a_ho.html).

222. Ratner Email, *supra* note 215.

Lessons learned?:

Write it down. I remember so little from that time. Maybe that's a blessing, and maybe I wouldn't want to remember all that. Maybe if I had written it, I never would have looked at it again. But it is disturbing to have significant memory gaps. So write it down just so that later you know you have it, even if only for peace of mind. It might have been too painful to do, but I wish I'd written every day—maybe just for twenty minutes—about whatever had happened that day that was the most important, the most bizarre, the saddest, and the funniest. I also think that particularly for disasters in the U.S., we have this assumption that what is important will be recorded for posterity. Katrina taught me the absurdity of that idea. You can't assume someone else will record something just because it's their job, especially if what needs recording cuts against the interests of those in power. If you think it's important, write it down. And take pictures too, even of the seemingly mundane within your disaster context. Later it'll be hard to believe—and sometimes even remember—that that crazy stuff you saw actually happened. But, of course, be mindful of what you're photographing, especially if it depicts someone else's loss or pain. If you think it could hurt someone who will see you take the picture, then don't.

Be open to believing everything you hear. I recently read *Missoula: Rape and the Justice System in a College Town*, by Jon Krakauer.<sup>223</sup> He talks about how when cops investigate a rape or sexual assault allegation, they often begin with the assumption that the crime likely did not occur, until they can establish that it did.<sup>224</sup> This is the opposite of how cops investigate most other crimes. I think we treat disaster victims—especially poor and Black disaster victims, or victims of color, similarly to the phenomenon Krakauer is describing. Crazy, crazy things happen in a disaster, and you can't simply trust that the familiar media outlet, the agent of the state, or the employee of an established nonprofit is a more reliable teller than the person who's telling you they've been through some [of] it.<sup>225</sup> In addition to the fact that a

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223. JON KRAKAUER, *MISSOULA: RAPE AND THE JUSTICE SYSTEM IN A COLLEGE TOWN* (2015).

224. *See id.* at 102–03.

225. For instance, New Orleans politicians and the mainstream media painted a dramatic and deeply disturbing picture of violence and looting in devastated New

disbelieving attitude can hinder whatever assistance needs to be rendered, encountering that disbelief, especially time and again, re-traumatizes the victim. After the flood, there were rumors that levees had been deliberately blown to save wealthy parts of the city. There were rumors that police were up to all kinds of bad behavior. Some of these rumors proved true, while others didn't. But even those that weren't true, like the levees being blown, are rooted in historical reality. If one is unwilling to entertain the rumors until proven otherwise, I think that person reveals herself as being apart from and unwilling to learn from the lived experiences and histories of the people she is trying to support.

Don't forget that people, in general, are good, well-meaning, and just trying to get by. There were other rumors during the flood that slowed down disaster response and painted New Orleanians, especially poor Black New Orleanians, in a terrible light in the eyes of first responders and the country. These rumors included babies being raped in the Superdome and "snipers" shooting at rescue helicopters, and the sources of these rumors (at least for first responders and national audiences) included highly placed public officials.<sup>226</sup> While

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Orleans. The New Orleans Police Superintendent asserted that "little babies [were] getting raped" in the Superdome, a shelter where hurricane survivors took refuge. As a guest on the Oprah Winfrey Show, New Orleans Mayor Ray Nagin reported that Katrina's survivors were sinking into an "almost animalistic state" after days of "watching hooligans killing people, raping people."

Similar accounts dominated newspaper headlines and TV coverage of Katrina for days. The media consistently depicted post-Katrina New Orleans both as a city descending into anarchy and violence and as a war-zone in which Katrina's victims attacked those who had come to their aid. Epitomizing this alarming rhetoric, a *New York Times* editorial reported that New Orleans was "a snake pit of anarchy, death, looting, raping, marauding thugs, suffering innocents, a shattered infrastructure, a gutted police force, insufficient troop levels and criminally negligent government planning." Not to be outdone, the *Financial Times of London* asserted that, at the Convention Center, another shelter of last resort for New Orleans' besieged citizens,

girls and boys were raped in the dark and had their throats cut and bodies were stuffed in the kitchens while looters and madmen exchanged fire with weapons they had looted.

The lead news story in the *Los Angeles Times* described National Guard troops taking "positions on rooftops, scanning for snipers and armed mobs as seething crowds of refugees milled below, desperate to flee." Television coverage likewise asserted that looting had overtaken New Orleans. Television channels played clips of Katrina survivors taking goods from deserted stores in a seemingly never-ending 24-hour loop. Yet these unrelenting tales of anarchy, violence, and chaos in post-Katrina New Orleans proved to be, at best, greatly exaggerated and, at worst, utterly false.

Lisa Grow Sun, *Disaster Mythology and Availability Cascades*, 23 DUKE ENVTL. L. & POL'Y F. 73, 73–74 (2012) (footnotes omitted).

226. See *Crimes After Katrina May Have Been Overblown*, NBCNEWS (Sept. 29, 2005, 8:53 AM), [http://www.nbcnews.com/id/9503449/ns/us\\_news-katrina\\_the\\_long\\_](http://www.nbcnews.com/id/9503449/ns/us_news-katrina_the_long_)

it's important to be open to believing everything you hear, it's just as important to temper that willingness to believe by remembering that people who are in a desperate situation are far more likely to be looking to survive than looking to commit violent crimes—and survival rarely requires the commission of violent crimes (it is amazing to me that, from a distance, we so readily believe in the violent crime-committing survivor). When we don't challenge rumors that cast desperate people in a dangerous light, we risk further victimizing and marginalizing those people, slowing their access to necessary aid, and, most horrifically, endangering them with the possibility of violence. Those rumors created an environment in which it was acceptable for both vigilantes and police to gun down Black flood victims in the name of protecting people and property, which was wholly unnecessary.

Know your place. Or rather, know that you don't know your place. I was a full-time resident of New Orleans when Katrina happened. That made me somewhat immune to inclusion in the phenomenon of people who fell out of the sky (short- or long-term) and crashed into justice work, prescribing solutions for this city while knowing they'd go home to an intact community apart from the one they were trying to help. I think a lot of those folks would have benefited from knowing that they didn't know their place, and letting the folks who were juggling putting their lives back together while doing the justice work set the pace and help them understand where their place might be. But I think knowing that you don't know your place also applies to lawyers whose own communities are hit with disaster. By virtue of being a lawyer, you're already likely far better off than most who've been affected by the disaster. It's important to keep one[']s relative privilege in perspective. Play hardball and work that privilege in spaces where you are interacting with power, but shut up and listen when you're among people who are feeling totally powerless.

Remember that everyone was hit, and everyone is hurting. I'd never heard this articulated until a friend said it to a group of students while I was in law school, but I had felt the

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[road\\_back/t/crimes-after-katrina-may-have-been-overblown/](#) (quoting statements made by the police chief and the mayor that later turned out to have “little or no basis in fact”).

void where this advice should have been countless times.<sup>227</sup> After Katrina, my biggest fear was that I'd be on the street or in a store, and someone who'd just hit their limit would start shooting a gun indiscriminately, for absolutely no reason. That felt entirely possible, pretty much all the time. It felt like all of us were on the verge of snapping at any given moment. I don't think a community can really come back from something like Katrina unless people figure out how to respect the dignity in everyone around us. That didn't happen in a systemic way here (not by a mile), but in small interpersonal ways, it happened all the time—I think almost by instinct. And in moments where it didn't, it took a long time for the pain of that interaction to fade—even if my role in the interaction was only as a witness. Some people are hit harder than others and those distinctions certainly matter. But everyone is suffering and everyone is grieving, everyone is angry and confused and intensely sad, and they will be for a very, very long time. Make space for that.

Sorry, one more lesson, closely related to (and maybe part of the same lesson as) remembering everyone was hit, and everyone is hurting: Everyone is a victim, and everyone is an advocate. I think our society and especially our legal system are set up to put people in fixed roles, particularly related to victimhood. When we treat people exclusively like victims, we remove their agency, and we deprioritize their perspective and input in their own outcome. Similarly, when we don't recognize that advocates are also dealing with their own pain, suffering, and trauma, we don't make space for the psychological and emotional support they need, or the fact that they may not be able to be as responsive or as on-point

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227. On the process of emotional recovery following a disaster, see Joel B. Eisen, *The Trajectory of "Normal" After 9/11: Trauma, Recovery and Post-Traumatic Societal Adaptation*, 14 FORDHAM ENVTL. L.J. 499, 518–20 (2003) ("Those affected by traumatic events must understand that the recovery process is a necessary component of resolving the issue that impacted their lives. The principal stages of recovery are fairly widely recognized. The central idea of recovery is 'to restore power and control to the survivor.' First and foremost, one focuses on restoring the trauma victim's connections with society through a process that has three basic steps. In the first stage, we allow the victim to establish a sense of safety. . . . After basic safety is established, the trauma victim still needs to recognize and process the traumatic experience, often by way of sharing it with others. Finally, the survivor reconnects with external society. The recovery process is not as cleanly delineated as it appears from this brief description. Most importantly, the stages are not discrete; nothing is linear when responding to trauma. Recovery can occur sporadically and over a lengthy period of time. Numerous studies recognize that "backsliding" can occur along the way." (footnotes omitted)).

as we think they should be.<sup>228</sup>

### **Anna Lellelid**

Anna Lellelid, now a social justice lawyer, was living in Vancouver, British Columbia, Canada when Katrina hit:<sup>229</sup>

I remember sitting in a coffee shop when I saw the images on CBC news of people on top of their houses, waving flags for help, with a lake of water around them.

I did not know anyone living in New Orleans, had never been to New Orleans, and had no family there. [I was angry] as I watched the photos of homes and neighborhoods destroyed, people stranded waiting for help that took far too long to come, and the blatantly racist response from those in power with the privilege and the means to do something who did nothing to help those most in need. Yet, I was shocked by the news reports of private military patrolling the streets of New Orleans's wealthy neighborhoods, poor people not receiving food or water for days, stuck on bridges waiting for help, and then not able or even allowed to return home for weeks after the storm.<sup>230</sup>

Hearing the bits and pieces from New Orleans in the days and weeks after Katrina, I realized that I needed to somehow find a way to get to New Orleans. I decided I had to do something myself to say no to the blatant disregard for poor Black and Brown people's lives in my country.

It took a few years, but . . . I applied to Loyola University New Orleans College of Law and hoped to study [with people] who I had read about and heard on Democracy Now in reports about the Katrina Clinic and the work they were doing to help New Orleanians return home and keep their homes.

I think Katrina impacts my work to this day. I do not know if I would have gone to law school in New Orleans had I not seen the news about Katrina. I would not now be advocating for students in New Orleans charter schools and speaking about the impacts of that hurricane and its aftermath on

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228. Ratner Email, *supra* note 215.

229. Email from Anna Lellelid, to author (June 14, 2015, 3:09 AM) [hereinafter Lellelid Email] (on file with author).

230. For more information about these and other unconstitutional actions after Katrina, see MITCHELL CRUSTO, INVOLUNTARY HEROES: HURRICANE KATRINA'S IMPACT ON CIVIL LIBERTIES (2015).



New Orleans public education system.<sup>231</sup>

It took me a few years to make it to New Orleans and when I came I did not know very much about the storm's impact on the city. I only began to learn about the different levels of violence inflicted primarily on New Orleans'[s] Black population during my first year of law school and summer after working at the Juvenile Justice Project of Louisiana.

Even though I was not of the first wave of white Yankee helpers, I am very aware that I am not from here and I too came from elsewhere to help. I too have good intentions and

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231. For a discussion of the changes in the public education system in New Orleans following Hurricane Katrina, see SARAH CARR, HOPE AGAINST HOPE: THREE SCHOOLS, ONE CITY, AND THE STRUGGLE TO EDUCATE AMERICA'S CHILDREN 6 (2013) ("And just as the disaster exemplified our government's widespread failure to protect its most vulnerable, the stumbling recovery of New Orleans can be read as a parable for what happens when well-intentioned, deeply divided people try to make things right. Some of the divide is political. But what separates the staunchest supporters of charter schools from their staunchest critics is often less about contrasting politics than about how our race, class, and differing life experiences shape our beliefs and understanding. It's harder to talk about these divides because we must venture out of political realms into more personal ones, and the risk of offense rises. Too often we aren't even speaking the same language from the start."); Garda, *supra* note 61 at 614–15, 619 ("New Orleans has been the epicenter of education reform since Hurricane Katrina decimated the city and its schools in August of 2005. In the storm's aftermath, New Orleans schools were remade based on the education reforms of the day: charter schools, choice, and state takeover of failing schools. The Recovery School District (RSD), an arm of the state Department of Education, wrested control of over ninety percent of the schools from the Orleans Parish School Board (OPSB) and chartered these schools to private operators over the course of the next nine years. In the 2014–15 school year, the RSD became the first district in the United States to have one hundred percent charter schools. With seventy-four charter schools, sixty-seven private schools, and only six traditional schools run directly by an elected school board, New Orleans is "reinventing itself as a decentralized system of schools.

New Orleans education stands at a crossroads in deciding how to achieve equity for its vulnerable student populations. Down the path to the right lies the market-driven reform that underlies the charter movement and reliance on specialized schools serving the unique needs of each student. This is the path New Orleans followed for seven years after the storm. Down the path to the left lie centralizing services, planning, and oversight to ensure that every school provides an appropriate education to any type of student that walks through every schoolhouse door. New Orleans has moved towards this route more recently, but political forces prevent the system from seeing the centralization path to the end. Or New Orleans could keep a foot in both approaches: some specialized schools but at least minimum services provided in every school with centralized oversight."); Nghana Lewis, *After Katrina: Poverty, Politics, and Performance in New Orleans Public Schools*, 11 LOY. J. PUB. INT. 285 (2010); Bill Quigley, *Fighting for the Right to Learn: A Report on Results of the Public Education Experiment in New Orleans Two Years after Katrina*, TRUTHOUT (Aug. 9, 2007), <http://www.truthout.org/article/bill-quigley-part-i-new-orleans-children-fighting-right-learn>.

am always eager to help. I am grateful for the lessons that people who can say they are from here or at least that they have been here for a while have passed along to me about listening, stepping back when necessary and forward when asked to, and as a new attorney these lessons are even more important to use as a guidepost for every action and every representation.

I wish those with great intentions would not come into the schools here and think that they have the answers. I wish they would ask their students about their lives, ask for their parents' and grandparents' input in their child's education. I wish that these new teachers would talk with the teachers who were fired after the storm and learn about their experience teaching children from New Orleans. I would like the teachers and the principals, the charter management organizations and board members, to seek the input of parents and grandparents when planning curriculum, applying for a charter, and creating discipline policies. I also wish they would ask the students for their feedback and involve them in decision making at their schools. I would like those who come here to start a new school to meet directly with community members about the history and meaning those schools had in their communities.

Basically, I would like others who come here with big plans and great intentions to listen first and take action when asked to by those who will be impacted most by those big plans and those great intentions.<sup>232</sup>

### **Saul Sarabia**

Saul Sarabia is a consultant working on partnerships fighting for racial equity and social justice.<sup>233</sup> Mr. Sarabia recalls the days leading up to Katrina as follows:

I had just accepted a position as the first Administrative Director of the Critical Race Studies (CRS) Program at UCLA School of Law in the weeks before Hurricane Katrina hit the Gulf Coast. In the first few days of the epic storm, it became evident that a man-made disaster was brewing, one that laid bare how the historical legacies of slavery and Jim Crow still determine who dies, who lives, whose neighborhoods would

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232. Lellelid Email, *supra* note 229.

233. Email from Saul Sarabia, Indep. Consultant, Solidarity Consulting, Inc., to author (June 20, 2015, 2:59 AM) [hereinafter Sarabia Email] (on file with author).

thrive or disappear.<sup>234</sup> My own personal life changed in that I wrote to our faculty and suggested that if our plans to deepen legal praxis to advance racial justice was going to be meaningful in any way, we needed to consider stepping fully into the battle for a just Reconstruction of New Orleans and the Gulf Coast.

The CRS faculty agreed and scrapped the work plan and priorities we had identified for the 2005–06 school year. Instead, we made a collective decision to give our students an opportunity to be actors in the racial justice challenge of their law school years. One of our first steps was to connect with Jennifer Lai, an alumna of UCLA Law, who had been learning and working with Black organizers and civil rights leaders in New Orleans before and after the Hurricane. With Jennifer as a partner, we simply set out to stand as allies and offer the support of our students and faculty to the organizations in the Gulf Coast working for a just reconstruction. This process lasted for more than two years and transformed our law school and the students who eventually travelled to New Orleans to support the fight for justice.

The specific interventions generated by the post-Katrina social justice effort began with hosting a convening of lawyers, scholars, organizers, and others from the Gulf Coast and connecting them to allies from the West Coast at UCLA, a few months after the Hurricane. The presence of the

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234. For discussion of how Hurricane Katrina exposed the persistent racism, see Cheryl I. Harris, *Whitewashing Race: Scapegoating Culture*, 94 CAL. L. REV. 907, 907–08 (2006) (reviewing MICHAEL K. BROWN ET AL., *WHITEWASHING RACE: THE MYTH OF A COLOR-BLIND SOCIETY*) (“The images of the suffering that washed over New Orleans in the wake of Hurricane Katrina seemed to provide incontrovertible evidence of the significance of race and persistence of racial inequality in contemporary U.S. society. The simple fact that the faces of those left to fend for themselves or die were overwhelmingly Black challenged the prevailing paradigm that the United States is a colorblind society. Colorblindness holds sway in both legal and popular discourse and directs us to discuss race and racism in the past tense, as though they were vices that passed away with the conclusion of the civil rights movement. This racial grammar allows race no relevance or contemporary meaning, accepting instead the depiction of the television ads that Americans of all races intermingle as equals. On this view persistent racial inequality is then largely invisible; any residual disadvantage is a consequence of something other than racism.” (footnotes omitted)); see also Ruben J. Garcia, Foreword, *Confronting the Rights Deficit at Home and Abroad*, 43 CAL. W. L. REV. 1, 1 (2006) (“In 2005, Hurricane Katrina exposed the rights deficit on the Gulf Coast. At the end of August 2005, legacies of racial, economic and social inequality were laid bare on the nation’s televisions and computer screens.” (footnote omitted)).

advocates and residents of the Gulf Coast to strategize in a full day session and to present a public forum, one of the first opportunities for collective reflection away from the Gulf, was in itself inspirational. Their willingness to share the pain and trauma, along with the analysis and call to action, became a spark that animated us towards uncharted partnerships. The magnitude of the challenges to the environment, to Native tribes, to Black residents, recruited workers, Vietnamese residents, and others were heavy with uncertainty and, even shock. But there was a certainty that emerged in the air that day: that the fight for justice in the Gulf Coast had to be waged; that it needed allies; that it wanted to extend itself to the rest of the nation.

And so it was. In coordination with the indefatigable activists in New Orleans, we deployed several cohorts of students to the Gulf Coast. Some went during winter and spring breaks, other[s] during the summer and some arranged to go for a full semester. They brought the idealism of law students who see in their education and profession the potential to leverage the institutional power of the courts towards justice and the realism of Derrick Bell and his progeny in Critical Race Theory, who understand that the courts have functioned more as an obstacle, than a catalyst for racial justice. The lawyer-activists on the ground leveraged the energy of the CRS students to picket, sue, organize, and do whatever the communities they were serving needed them to do to mitigate the damage of the man-made disaster and animate new alliances and campaigns.<sup>235</sup>

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235. Finger et al., *supra* note 158, at 211–12 (“More than six years ago, volunteer lawyers, law students, and law faculty from the Gulf Coast and around the country provided assistance to communities devastated by Hurricanes Katrina and Rita and the systemic failures of their own government. The volunteers provided much-needed support at a time when existing legal institutions were completely overwhelmed. Through their participation, the law students learned important firsthand lessons about the lack of equality in society, the possibility of redress through law, and the limitations of law. Disasters present challenges and opportunities for law schools and other academic institutions with social justice missions because they expose poverty, racism, and inequality. Whether the disaster is a flood, hurricane, fire, tornado, or riot, preexisting social inequality and vulnerability will affect how severe and how lasting the damage will be. Accordingly, the study of disasters can serve as a lens for a broader inquiry into social injustice, an inquiry that the legal academy is obliged to make as part of its educational mission. In particular, as the most recent Carnegie Report observes, law schools have room to improve in providing more direct experiential learning that incorporates an ethical framework for legal practice. Disasters can offer a useful

One of the biggest lessons that emerged from these efforts, from the dialogue across space and across cohorts of students, is that the process of building community among the students and the people supporting them by hosting their visits, providing legal training, and helping them to historicize and contextualize their experiences, was as important as the immediate outcomes of specific legal challenges or campaigns. These students became bonded to each other, to the activism in the Gulf Coast, and to generations of activist lawyers they will never know, simply by being in New Orleans and the Gulf Coast in the support role that they played.

We also learned to push the institutions of legal education, especially our own, to act in support of the formation of these future civil rights leaders and in support of the cause of racial justice in the Gulf Coast. Without the Critical Race and Public Interest Programs . . . students, alumni, and faculty, the institutional response would have been far more measured. The students who participated organized panels to present about their efforts at Legal Conferences where they inspired other institutions to act, they presented to alumni from UCLA interested in the school's role as a public institution, and to their peers about what they learned, saw, and gained from the post-Katrina legal advocacy. For the students at the law school during this period, this type of praxis became a normal part of their education and it motivated them to define new projects and facilitated their path towards becoming activist lawyers and scholars.

Some of these students—now lawyers—were central to organizing a major die-in by lawyers in support of the Black Lives Matters movement which shut down a [c]ourthouse on a rare rainy day in Los Angeles. They have pushed their own organizations, firms, and law school alma mater to deepen their commitments to racial justice. Most importantly, they remain connected around their commitment to social justice AS LAWYERS and not simply as individual activists who happened to go to law school. These alumni frequently share how rare this community is amongst their professional brethren and how precious it is for them. This is the spirit of post-Katrina New Orleans, of those who were lawyers and scholars at the time in the battered region, opening their

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context for the type of dynamic, social justice-oriented learning advocated by the Carnegie Report.” (footnotes omitted)).

arms to them and showing them, what struggle looks like and what it gives.<sup>236</sup>

### **Alison McCrary**

Alison McCrary, now with the Office of the Independent Police Monitor for the City of New Orleans, was living in New Orleans and working as a community organizer with ACORN when Katrina hit.<sup>237</sup> She first evacuated to the Astrodome in Houston, then went into Red Cross shelters, then stayed with a Baptist Minister and his wife.<sup>238</sup> This is her story:

I was twenty-three years old when the levees broke. Through the experience of evacuating and going to the Astrodome in Houston, the a Red Cross Shelter, and then a home with a Baptist Minister who was a friend of one of my cousins and his wife for a few weeks in Houston, I came [to] embrace detachment from a physical space and a place to call home, the unknowing of what may come next and where life was going to take me, not knowing if I could return to New Orleans.

At the shelters, we were treated like prisoners in some ways. We had a 5:00 pm curfew. I remember arguing with some locals who were “volunteering” at the shelter as security “for us” when they wouldn’t allow a single mother of three to go out and purchase baby formula from the Wal-Mart down the street because of the curfew.

I had never been on government benefits as an adult on my own until Katrina hit. It was my first time individually applying for food stamps, Medicaid, and other benefits at a shelter in Houston, Texas. Through the experience, I came to see the common humanity shared among us more. After the storm when all we knew was that most of our city was underwater, everyone, rich and poor, was in line for the same government services, the same lines for food stamps, the same line for a Red Cross debit card, the same line for healthcare benefits. For those who had wealth in possessions or fancy homes, assuming all was lost, experienced the insecurities that come with not having the comforts and

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236. Sarabia Email, *supra* note 233.

237. Email from Alison McCrary, Mediation Coordinator, New Orleans Indep. Police Monitor, to author (July 19, 2015, 2:36 PM) [hereinafter McCrary Email] (on file with author).

238. *Id.*

security they had back home. Upon return, one's individual recovery played out on the access they had to resources, the damages they incurred, the securities of having family members with financial resources, and the emotional and psychological ability to recover from the trauma and return back home.

During evacuation, I learned of my need to stay active and involved to maintain good mental health. I ended up being a coordinator of volunteers in Houston. We needed professionals (doctors, nurses, language interpreters for Spanish and Vietnamese, lawyers, and others) and we had a surplus of ordinary folk just wanting to help.

I also experienced the generosity of strangers. I started to look for work elsewhere and some women lawyers came together and asked their firms to hold suit drives so I had something to wear for an interview. Most of my lawyer suits and shoes I wear today are my Katrina suits and shoes. I never met the women who donated them from New York but I am deeply grateful for them.

[When I returned to New Orleans,] I learned interdependence in a new way. [Although I did not know] during the storm and levee breach, the house I was living in when the storm hit only had a little water enter it and wind damage. The homes for several blocks in most directions of where I lived had 5–6 feet of water inside the house. My house became more like a neighborhood center of a sort with neighbors coming through during the rebuilding of their own homes nearby and using it as a working space for ACORN after the storm since the ACORN offices were damaged and there was no functioning copier, machines, and such in New Orleans to use.

I also became more aware of my gender during a disaster.<sup>239</sup> Upon return to the city, I often felt like the only or one of a few women in the whole city. The only jobs available were for men and were jobs around policing, construction, or security. I felt like a piece of meat walking down the street

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239. Cf. William P. Quigley, *Thirteen Ways of Looking at Katrina*, 81 TUL. L. REV. 955, 1000 (2007) ("It is impossible to begin to understand the impact of Katrina without viewing it through the lenses of race, gender, and poverty. Katrina exposed the region's deep-rooted inequalities of gender, race, and class. Katrina did not create the inequalities; it provided a window to see them more clearly. But the aftermath of Katrina has aggravated these inequalities.").

and was told by one man that I should get a job on Bourbon Street as a stripper to entertain all the men in the city.

[Soon after my] return, my time with ACORN ended. With some local public health students, I started a food bank and community center in the church hall of St. Augustine Church. For nearly twelve months after the storm, we were feeding two hundred families a week. One man who had lost his barber shop in the flood opened it back up in a corner of the church hall. We started a computer lab and a place where people could get information about FEMA and other benefits.

A few months later, I started working as a paralegal on death penalty cases for the Capital Post-Conviction Project of Louisiana. Some of the attorneys in the office were connected to other social justice issues so I started learning more about what was going on with different issues while immersing myself into the legal world to help me discern going to law school. In August 2007, I began studying at Loyola's College of Law and became much more involved in community organizing and legal advocacy around social justice issues. Ten years later, I continue to visit the men on death row and grow in relationship with them.

Katrina and the levee breach helped me realize the interconnected[ness] of justice issues in a way I hadn't seen before. The combination of justice issues related to inadequate education systems, a broken criminal injustice system, lack of affordable housing, lack of sufficient public transportation means, environmental dangers based on where one lives or where corporations decide to put their toxic refineries and plants, lack of mental health access, inadequate physical healthcare, political corruption, and others were not as apparent to me before. I became much more attentive to these systems and how they fail people, especially poor people and people of color.<sup>240</sup>

Lessons learned?:

Find the good and beauty that is happening around in the midst of suffering, pain, despair, hopelessness, fear, uncertainty. Identify your passions and what brings you joy. Do more of it. Work with community organizers and grassroots organizations. It's a must. The work cannot be done without genuine and intentional collaboration with the

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240. McCrary Email, *supra* note 237.



people on the ground who have the deepest relationships with those in the community. Make yourself available to assist and provide legal support for the work on the ground without plopping yourself in spaces where you may not be welcome. Wait to be invited to assist and let groups know you are available but don't intervene without a request. Know when to step up and when to step back.

As newcomers moved to New Orleans after Katrina, I wish white people had organized sooner to become more aware of the individual and collective impact of our presence in a community of color. A group called European Dissent<sup>241</sup> is now doing incredible organizing around gentrification and other issues. I wish we had organized and started organizing earlier before so much gentrification took place by developers coming in. The developers had plans in the works while the storm was hitting and used Katrina to implement their plans immediately. I don't think we were organized enough to challenge them and demand authentic community input in the "projects" they were creating and implementing. Gentrification is not just changing a neighborhood. It's changing the soul of a space and with a profit motive. My heart aches at the spirit and soul I see being stolen from some neighborhoods by developers and those who support them. New Orleans is unique in ways that don't exist anywhere else and it's unique because of the people of this city. If . . . African-Americans [are] to continue . . . the traditions of the Black Indians of New Orleans, the second line parading, brass band music, and other traditions, [but can] no longer reside in the neighborhoods that have for centuries created public spaces for organic and spontaneous cultural expression and ritual, the neighborhoods lose parts of their spirits and soul.

Gather regularly to reflect on the work you are doing with

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241. This organization is a part of the Peoples' Institute for Survival and Beyond:

Since 1989, a collective of white anti-racist organizers initiated European Dissent to explore ways in which to practice The People's Institute principles in their personal, social, family and work lives.

The members of European Dissent are persons of European descent who "dissent" from the racist institutions and values designed to benefit them. Since its inception, white anti-racist groups developed throughout the country. In 2002, European Dissent/New Orleans provided major leadership for a gathering of 65 white anti-racist activists who seek to strengthen the white anti-racist voice in discussions and actions to undo racism.

*Programs*, UNDOING RACISM: PEOPLE'S INST. FOR SURVIVAL & BEYOND, <http://www.pisab.org/programs> (last visited Oct. 10, 2015).

other social justice lawyers, organizers, journalists, and other like-minded individuals. Reflect on what's working well and what changes we need to make in our approaches.<sup>242</sup>

### III. LESSONS LEARNED

These lessons are set out briefly and simply so they might prove helpful to others who are preparing for or who have gone through disasters. The longer individual stories above illustrate how challenging these lessons are to learn, but learn them you must either before or after disaster hits your community.

#### Lesson One: Prioritize the Needs of the Marginalized

When disaster hits, some people are left behind.<sup>243</sup> When Katrina hit, it was the elderly in their homes and nursing homes, prisoners, people too poor to leave, disabled people, and children of poor families, just the way many knew it would happen.<sup>244</sup>

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242. McCrary Email, *supra* note 237.

243. The United States government estimated 60,000 people were stranded after Katrina. U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-06-903, COAST GUARD: OBSERVATIONS ON THE PREPARATION, RESPONSE, AND RECOVERY MISSIONS RELATED TO HURRICANE KATRINA 3 (2006), <http://www.gao.gov/new.items/d06903.pdf>.

244. One commentator phrases this quite aptly:

There was a disaster plan for New Orleans, and things proceeded exactly as planned. Those with the means would leave, those without the means would not. It is difficult to evacuate an entire city in a compressed time period. It eases the way for some if others are left behind so gridlock does not form. Anyone who had given it a thought, and some were paid to give it a thought, knew what triage would allow some to leave quickly.

Mari Matsuda, *The Flood: Political Economy and Disaster*, 36 HOFSTRA L. REV. 1, 5 (2007) (footnotes omitted). When compared to national disaster preparedness plans around the world, the experience of New Orleans's most vulnerable populations appears tragically common:

During natural disasters, vulnerable populations may include individuals with disabilities, pregnant women, children, the elderly, prisoners, members of ethnic minorities, people with language barriers and people living in poverty. A review of thirty-seven national disaster preparedness initiatives worldwide reveals that "none of the plans suggested any systemic attempt to identify" vulnerable populations, and fewer than twenty-five of those plans included provisions specifically designed to address the needs of "one or more economically or socially disadvantaged groups."

Lack of consideration of vulnerable populations' needs can result in high death tolls and deepening of poverty conditions in the post-disaster social landscape. While natural disasters have typically been viewed as equalizing "acts of God" that affect all strata of a community equally and without discrimination, recent studies on the specific effects of natural disasters on individuals living in poverty reveal that disasters are not in fact "status levelers" but rather increase the vulnerability of already-vulnerable populations. Sociologists demonstrate that one's position within society determines one's life experiences, relationships and opportunities; during a disaster, social status can be a matter of life or death.

Emily Naser-Hall, *The Disposable Class: Ensuring Poverty Consciousness in Natural Disaster Preparedness*, 7 DEPAUL J. SOC. JUST. 55, 57-58 (2013) (footnotes omitted).

When the response to disaster is dictated by the politically connected and free market forces, those who are left behind when the disaster hits will be left further behind in the rebuilding.<sup>245</sup> That is exactly what happened with Katrina. Because of this, social justice advocates have to prioritize working with marginalized people, families, communities and populations.<sup>246</sup> Working with organizations of people is the best way to bring about social change after a disaster.<sup>247</sup>

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245. The Urban League of Greater New Orleans has produced a detailed report analyzing the persistence and, in some cases, the increase of pre-Katrina inequalities. STATE OF BLACK NEW ORLEANS: 10 YEARS POST-KATRINA (Ericka McConduit-Diggs et al. eds, 2015), [http://www.urbanleagueneworleans.org/ul/wpcontent/uploads/2015/08/StateofBlackNewOrleans\\_TenYearsPostKatrina.pdf](http://www.urbanleagueneworleans.org/ul/wpcontent/uploads/2015/08/StateofBlackNewOrleans_TenYearsPostKatrina.pdf).

246. As Gandhi said:

Whenever you are in doubt, or when the self becomes too much with you, apply the following test.

Recall the face of the poorest and the weakest person whom you have seen, and ask yourself if the next step you contemplate is going to be of any use to that person. Will that person gain anything by it? Will it restore that person to a control over his or her own life and destiny? In other words, will it lead to freedom for the hungry and spiritually starving millions?

Then you will find your doubts and your self melting away.

Mohandas Gandhi, *The Gandhi Talisman*, in MOHANDAS GANDHI: ESSENTIAL WRITINGS 190, 190–91 (John Dear ed., 2002). There is an analogous principle in liberation theology which mandates a “preferential option for the poor” and marginalized. Book Note, *Transcending Class: A Jurisprudence for Social Justice*, 111 HARV. L. REV. 2123 (1998) (reviewing ROBERT E. RODES, JR., PILGRIM LAW (1998)); see also Morin, *supra* note 21, at 80–85 (describing obstacles to access to emergency assistance, public benefits, and public housing after Katrina).

247. See Charles Elsesser, *Community Lawyering—The Role of Lawyers in the Social Justice Movement*, 14 LOY. J. PUB. INT. L. 375, 384 (2013) (“The central tenet of ‘community lawyering’ is that social change comes about when people without power, particularly poor people or oppressed people, organize and recognize common grievances. Social change can only be lasting when it is led and directed by the people most affected. It is this organizational work, leadership development and power building that is and has been key. This is our theory of social change. It has been demonstrated over and over again in the civil rights movement, the workers’ rights movement, the housing movement and the immigrants’ rights movement. Community lawyering is supportive of this grassroots organizing and mobilization for social justice. Those involved in community lawyering understand that these organizing efforts may be the only real route to long-term social change.”); Freeman, *supra* note 168, at 192–93 (“More of us are coming to the realization that even if the legal profession were somehow able to meet all of the discrete, individualized needs of oppressed people, we still would not have a just society. There is also greater recognition that the most significant challenges facing low-income communities, communities of color, and other politically marginalized communities are too large and complex to be addressed in any meaningful way by a legal strategy alone, and thus require a more comprehensive strategy. Thus, more lawyers are coming to the conclusion that rather than seeking to drive the change themselves, they should be helping oppressed communities become the leaders of large-scale, systemic change.” (footnotes omitted)); William Quigley, *Ten Questions for Social Change Lawyers*, 17

## Lesson Two: Understanding and Empathy

After Katrina and Rita hit, there were literally a million stories of survival, loss, and suffering scattered across the Gulf Coast like diamonds on the ground.<sup>248</sup> If you asked anyone for their story you had better be prepared to settle back and hear about the pain of being driven out of their home, the chaos of trying to find new schools, new churches, new doctors, new everything for weeks, for months, for years and in many cases forever. The deaths were many, the destruction widespread, and the disruption enormous.<sup>249</sup>

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PUB. INT. L. REP. 204, 204 (2012) (“Social change lawyering starts with the idea that history shows us that systemic social change comes not from courts or heroic lawyers or law reform or impact litigation, but from social movements. Social change lawyers work with, assist and are in constant relationship with social movements working to bring about social change.” (footnotes omitted)).

248. See Susan L. Waysdorf, *Returning to New Orleans: Reflections on the Post-Katrina Recovery, Disaster Relief and the Struggle for Social Justice*, 12 U.D.C. L. REV. 3, 15 (2009) (“Survivors eagerly share their stories with people who are willing to listen. They warmly express thanks to volunteers who have come to help. As one travels the city, it is virtually impossible not to meet survivors and hear their stories. Those who lived in New Orleans before the storm clearly have been transformed by the events of Katrina and their lives have been changed forever. It appears that the desire to tell one’s story and the process of storytelling are a vital part of the healing process. Among the many who told me their stories, there are palpable and complex senses and emotions. Bittersweet sadness, a strong pervasive sense of abandonment, a uniquely New Orleans resiliency, and intense pride and love for their city are spiced with a deep simmering anger aimed at the difficult and piecemeal recovery. For many people who have returned to New Orleans, it is too emotionally taxing to take it all in and think about the disaster on a daily or constant basis. This is, in part, a defense mechanism necessary because of the many unanswered questions about what happened and why, and because of the enormous difficulties of daily life. A visitor does not have to look far at all to hear these stories, but rather just open oneself up to empathize. Indeed, everyone has a Katrina story.”)

249. For example, Beth Butler was living in New Orleans and working as the Director of Louisiana ACORN when Katrina hit. Email from Beth Butler, to author (June 8, 2015, 10:46 AM) (on file with author). She was displaced to Baton Rouge. *Id.* Her home and her office were uninhabitable for months. *Id.* She and her staff worked out of their Baton Rouge offices. *Id.* After two months she was able to work out of a home in New Orleans next door to their offices:

At the same time we were organizing with ACORN members who were rallying in Baton Rouge and in the lower 9th ward on a regular basis on a number of issues. . . . ACORN nationally organized to provide direct services and organizing support to members who were displaced all over the country. Louisiana ACORN organizing staff were hired by other state operations where they had moved. . . . Some of our staff never returned to Louisiana, one star native New Orleanian organizer is still so “upset” that she was never able to return to work and is retired. Her home in the lower 9th ward was bulldozed. . . . Her mother, a great ACORN member, never returned to the upper 9th ward and died in Alabama, we buried her last year.

*Id.*; see also Ass’n of Cmty. Orgs. for Reform Now, *ACORN Katrina Organizing Update*, KATRINA READER, <http://katrinareader.org/sites/katrinareader.org/files/Katr>

We learned lawyers cannot just try to jump to the “legal” issues; it is important to give people the chance to tell their stories.

The social justice advocates each had their own losses of jobs, homes and health.<sup>250</sup> In addition to experiencing and living with their own losses, they chose to continue their work helping others, alongside countless others, as they fought to rebuild their own lives.

As a result, their individual capacity for understanding and empathy was stretched and expanded.<sup>251</sup> This work required social justice advocates to be willing to open their hearts and minds to the pain of others and to participate with them in rebuilding lives in ways most people had not experienced before.

### **Lesson Three: Challenge Racism and Exclusion of Women**

The people left behind in the rush to escape the wrath of

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ina-II-C-Housing4-9thward-12.pdf (last visited Oct. 10, 2015).

250. The case of Mark Moreau, codirector of Southeast Louisiana Legal Services is not atypical:

“. . . There was so much to do to recover yourself that it essentially was a full-time job for months,” says [. . . Moreau . . .]. To that, one had to add one’s legal work.

Moreau and his wife lost their home when levees broke. Getting back on their feet, they had to deal with the Federal Emergency Management Agency (FEMA), other agencies and insurance companies, find a new place to live amid an acute housing shortage and skyrocketing costs, and generally reconstruct their lives.

His wife, a child psychologist, lost 90 percent of her business because of client displacement. Grateful that he retained his job, they found a silver lining in the loss of hers: at least she had time to deal with FEMA and the others.

“For most lawyers, there has been no relief from stress—first dealing with clients’, then their own . . . personal dilemmas,” Moreau says.

Michael J. Vitt, *After the Storm: Gulf Coast Lawyers Rebuild*, BENCH & BAR MINN., Mar. 2006, at 22, 23.

251. Empathy has four attributes. See Kate Thieda, *Brené Brown on Empathy vs. Sympathy*, PSYCHOL. TODAY (Aug. 12, 2014), <https://www.psychologytoday.com/blog/partnering-in-mental-health/201408/bren-brown-empathy-vs-sympathy-0>. First, “[t]o be able to see the world as others see it—This requires putting your own ‘stuff’ aside to see the situation through your loved one’s eyes.” *Id.* Second, “[t]o be nonjudgmental—Judgment of another person’s situation discounts the experience and is an attempt to protect ourselves from the pain of the situation.” *Id.* Third, “[t]o understand another person’s feelings—We have to be in touch with our own feelings in order to understand someone else’s. Again, this requires putting your own ‘stuff’ aside to focus on your loved one.” *Id.* Fourth, “[t]o communicate your understanding of that person’s feelings—Rather than saying, ‘At least you. . .’ or ‘It could be worse. . .’ [you] try, ‘I’ve been there, and that really hurts,’ or . . . ‘It sounds like you are in a hard place now. Tell me more about it.’” *Id.*

incoming Katrina were the same people left behind when it hit.<sup>252</sup> The same people have been left behind in the rebuilding and recovery.<sup>253</sup> They were overwhelmingly people of color and women.<sup>254</sup>

When disaster strikes the nearly universal response of those at the top is to hurriedly consult with each other and start taking action. These undemocratic responses result in reinforcing white male privilege, institutional racism and gender inequality.<sup>255</sup>

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252. See STATE OF BLACK NEW ORLEANS, *supra* note 245, at 95–96; see also Jamelle Bouie, *When Black Lives Matter Began: Hurricane Katrina Exposed Our Nation's Amazing Tolerance for Black Pain*, SLATE (Aug. 23, 2015, 9:01 PM), [http://www.slate.com/articles/news\\_and\\_politics/politics/2015/08/hurricane\\_katrina\\_10th\\_anniversary\\_how\\_the\\_black\\_lives\\_matter\\_movement\\_was.html](http://www.slate.com/articles/news_and_politics/politics/2015/08/hurricane_katrina_10th_anniversary_how_the_black_lives_matter_movement_was.html) (“White Americans saw the storm and its aftermath as a case of bad luck and unprecedented incompetence that spread its pain across the Gulf Coast regardless of race. This is the narrative you see in Landrieu’s words and, to some extent, Obama’s as well. To black Americans, however, this wasn’t an equal opportunity disaster. To them, it was confirmation of America’s indifference to black life. ‘We have an amazing tolerance for black pain,’ said Rev. Jesse Jackson in an interview after the storm. Rev. Al Sharpton, also echoed the mood among many black Americans: ‘I feel that, if it was in another area, with another economic strata and racial makeup, that President Bush would have run out of Crawford a lot quicker and FEMA would have found its way in a lot sooner.’ Even more blunt was rapper Kanye West, who famously told a live national television audience that ‘George Bush doesn’t care about black people.’”).

253. See *supra* note 245.

254. See generally AVIS-JONES DEWEEVER, INST. FOR WOMEN’S POLICY RESEARCH, *WOMEN IN THE WAKE OF THE STORM: EXAMINING POST-KATRINA REALITIES OF THE WOMEN OF NEW ORLEANS AND THE GULF COAST* (2008); STATE OF BLACK NEW ORLEANS, *supra* note 245. After a visit to India to meet with survivors of their disastrous tsunami, Katrina survivors joined with their Indian hosts to come up with a statement of principles from the community perspective:

[W]e insist on gender equity. Our experiences have clearly shown us that there is a systematic violation of the rights of women in every phase of disasters. In planning, preparation, evacuation, distribution of relief, rebuilding, the right to return, and in every phase of policy and decision making, the presence and participation and value of the role of women have been seriously inadequate. The human rights of women must be immediately respected as their suffering and disrespect continues today in both our countries.

Bill Quigley, *Lessons Learned by Katrina and Asian Tsunami Social Justice Activists*, COUNTERPUNCH (May 28, 2007), <http://www.counterpunch.org/2007/05/28/lessons-learned-by-katrina-and-asian-tsunami-social-justice-activists/>.

255. For examinations of Katrina and its aftermath at the intersections of feminist theory and critical race theory, see JANE HENRICI ET AL., INST. FOR WOMEN’S POLICY RESEARCH, *GET TO THE BRICKS: THE EXPERIENCES OF BLACK WOMEN FROM NEW ORLEANS PUBLIC HOUSING AFTER HURRICANE KATRINA* (2015), <http://www.iwpr.org/publications/pubs/get-to-the-bricks>; Audrey McFarlane, *Fighting for High Ground: Race, Class, Markets and Development Done Right in Post-Katrina Recovery*, 14 WASH. & LEE J. C.R. & SOC. JUST. 77 (2007); Deleso Alford Washington, *Hurricane Katrina and Collective Identity: Seeing Through a “Her-storical Lens*, 31 NOVA L. REV. 325 (2007). Washington tells the story of Milvithra Hendricks, an

These patterns are also too often reflected in the social service and legal services communities. Social justice advocates must intentionally and consciously struggle to work with impacted communities in ways that do not reinforce the marginalization of women, people of color, and immigrants.<sup>256</sup>

#### Lesson Four: Sustainability

Growth comes at a price. No one can truly and deeply participate with others who are undergoing tremendous suffering without putting their own health and well-being at risk.<sup>257</sup>

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African-American woman made famous by a picture of her draped in the US flag outside the Convention Center in New Orleans:

Ms. Milvirtha Hendricks is a testament to faith beyond facts or memory. She embodies a collective identity of black women whose geographical “space” and “place” has been navigated by an African American history of migration, both voluntary and forced—one that cannot be captured in a photo while draped in a symbol of freedom and justice after experiencing the truth of this Nation’s failure to timely exercise either—once again.

*Id.* at 337.

256. For further discussion of Katrina’s impact on immigrant communities, see Kevin R. Johnson, *Hurricane Katrina: Lessons about Immigrants in the Administrative State*, 45 HOUS. L. REV. 11, 19 (2008) (“[T]he problems that arose in the U.S. government’s response to the needs of immigrants in the Hurricane Katrina disaster is symptomatic of a more general failure of American democracy—the lack of political accountability of the immigration bureaucracy to the persons most directly affected by its actions.”); Bethany Li, *We Are Already Back: The Post-Katrina Struggle for Survival and Community Control in New Orleans East’s Vietnamese Community of Versailles*, 18 ASIAN AM. L.J. 25 (2011) (relating the story of the remarkably resilient and creative response by one Vietnamese community after Katrina and the hurdles they faced); Ashley Morey, *No Shelter from the Storm: Undocumented Populations and Federal Disaster Aid*, 11 SEATTLE J. FOR SOC. JUST. 257, 258–59 (2012) (“The impacts of disasters are amplified in undocumented populations. In addition to financial and social issues that uniquely affect them, undocumented populations are barred from receiving most kinds of federal aid. Undocumented populations also have an acute, and understandable, fear of detention and deportation, which prevents them from utilizing available government resources after disasters. The United States is home to nearly 12 million undocumented immigrants, and neglecting them in times of crisis is a violation of human rights. As disasters become more common and more severe, the United States’ disaster policies should not be shaped by the immigration policy debate, but rather by our commitment to providing safety and security for all people affected by disasters.”).

257. See Mark Maggio, *Hurricane Katrina: Resiliency, the Other Side of Tragedy*, FED. PROB., Dec. 2006, at 42, 43 (“It is very easy to get caught up with the external challenges following a tragedy. In fact, we can all but ignore our own needs. The physiology of stress is a daily reminder for us. Our bodies do what they were designed to do to combat the daily grind and give us the capability to manage life’s challenges. Under the stress of a tragedy such as Katrina, the strain on the body can be enormous and the impact can be felt for months, if not years following the event. The reason for this is not only the intensity of Katrina’s impact but also the duration of the trauma and subsequent physiological impact. The potential for the creation of gastrointestinal, cardiovascular, respiratory, and musculoskeletal disorders is very

It may seem selfish to focus on sustainability in the midst of disaster but it is absolutely not. Those who could not keep at the work stopped. There should be no criticism of those who must stop to take care of themselves and their families because in order to be an effective advocate for others, one must be whole in body and mind.

The stories above tell about loss, breaking down, crying, trauma, depression, fear, and burnout. Failures and losses were common. We had to learn how to deal with our limitations and still go forward.

But the stories also tell about recovery, resilience, recuperation, renewal and the need to find joy in the work. In order to do this work over the months and years, we must learn how to sustain ourselves. We cannot give what we do not have.

All the caregiving professions are warned of the dangers of secondary trauma.<sup>258</sup> But after a disaster, caregivers are subject to primary trauma because they are usually victims themselves and secondary trauma because of interactions with people and the effects of disaster.<sup>259</sup>

Recovery is not just physical; it involves the opening of streets, the opening of courts, the rebuilding of homes and schools as well.<sup>260</sup> Disaster rips up relationships and leaves people

real in the aftermath of a tragedy of Katrina's magnitude.”).

258. See Dianne Molvig, *The Toll of Trauma*, WIS. LAW., Dec. 2011, at 4 (describing the effects of “compassion fatigue” among public defenders).

259. See Lainie Rutkow et al., *Protecting the Mental Health of First Responders*, 39 J.L. MED. & ETHICS 56, 58 (2011) (“First responders’ efforts in emergencies can make them susceptible to the development or exacerbation of mental health conditions.”).

260. Ron Wilson was and is a civil rights attorney in private practice in New Orleans. Email from Ron Wilson, to author (June 15, 2015, 12:29 PM) (on file with author). He lived in New York and Toronto before being able to return to New Orleans. After Katrina:

I continued to practice civil rights and public interest litigation but it became more burdensome. The practice came to a grinding halt for an extended period of time. Clients were displaced, and so were court officials, including judges. The Louisiana Supreme Court was closed from August 29, 2005 to November 28, 2005.

... [A]bsent clients and a functioning judicial system, my primary source of revenue was adversely impacted. I strongly contemplated relocating my practice to New York City, since I am licensed in the State of New York.

*Id.*; see also Order (La. Oct. 25, 2005), [http://www.lasc.org/katrina\\_orders/1025\\_LASC\\_order.pdf](http://www.lasc.org/katrina_orders/1025_LASC_order.pdf)

Lessons learned?

I was hoping, albeit with a certain degree of naiveté, that the lessons learned from this tragedy would usher in a cohesiveness in the City. I was hoping there would be more cooperation among the races, and a greater concern for the less



vulnerable. The trauma of disaster is emotional as well. Fixing the house does not always fix the trauma that the destruction of the house wrought.

This means we all need access to professional and community assistance to help repair and solidify our mental health. The need for access to mental health counseling is one of the items repeatedly mentioned above.

### **Lesson Five: Get Ready to Lead**

Lesson five is that you may well be the one you are waiting for. After a disruptive, disastrous event, there is a tendency to look around and see who knows what they are doing and then join up. As the stories above illustrate oftentimes no one knows what to do and you may be called upon, despite your youth or inexperience and after appropriate reflection, to start taking action.

Certainly we all have to find our place in the response. We have to make sure that our response is not one that echoes the gender, race, class, ability and age criteria that characterize the personal and institutional responses that privilege the resourced.

But, as the advocates' stories show, people have to step up, and fortunately, they do.

### **Lesson Six: Government Is Essential but Also Deadly**

Every Katrina social justice advocate developed a love-hate relationship with government. While tens of thousands of private volunteers helped out for periods long and short, massive destruction cannot be addressed without massive public response.<sup>261</sup>

We needed government help.<sup>262</sup> Billions were spent.<sup>263</sup> But

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fortunate. I hoped there would be some form of economic justice which would allow individuals to earn a decent living. [As regards] the public education system[,] I hoped that it would allow for both a strengthening of the successful public schools and a complete overhaul of those that were not fulfilling their mission to educate the children of New Orleans.

*Id.*

261. For an analysis of the failed government response to Katrina, see SELECT BIPARTISAN COMM. TO INVESTIGATE THE PREPARATION FOR AND RESPONSE TO HURRICANE KATRINA, H. REPT. 109-377, A FAILURE OF INITIATIVE (2006) [hereinafter FAILURE OF INITIATIVE], <http://www.gpo.gov/fdsys/pkg/CRPT-109hrpt377/pdf/CRPT-109hrpt377.pdf>.

262. Elizabeth F. Kent, *Where's the Cavalry? Federal Response to 21st Century Disasters*, 40 SUFFOLK L. REV. 181, 212–13 (2006) (“During a catastrophe, which by

we quickly found the governmental response was not focused on women, children, the elderly, the disabled, renters, and the poorest and neediest among us.<sup>264</sup> Rather governmental assistance was quickly directed to corporate needs and those institutions and individuals who had the most resources, were best politically connected, and who could lobby and navigate the bureaucracies.<sup>265</sup>

Katrina social justice advocates fought these twisted priorities of government. People tried mightily to redirect assistance to the needs of the most vulnerable communities.<sup>266</sup> Many worked alongside communities resisting the push of disaster capitalism.<sup>267</sup>

Be prepared to push and pull all the way through the rebuilding.

### **Lesson Seven: Volunteers and National Organizations Can be Helpful and Harmful**

People are extremely generous after a disaster. Tens of thousands of volunteers from all walks of life came to the Gulf

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definition almost immediately exceeds state and local resources and significantly disrupts governmental operations and emergency services, the role of the federal government is particularly vital, and it would reasonably be expected to play a more substantial role in response than in an 'ordinary' disaster.' If nothing else, America's experience with Hurricane Katrina highlights an inevitable obstacle: no matter how detailed and comprehensive a plan is written, if it cannot, or is not implemented effectively, it is a failure. The best of plans are only as good as the implementation of their components. It may never be possible in a time of crisis to anticipate or to respond completely to all needs. The U.S. government and its citizens must commit to building the level of preparation, needed infrastructure, and public education programs that will equip us to avoid a recurrence of the disastrous unmet needs in Katrina." (footnotes omitted) (quoting U.S. SENATE COMM. ON HOMELAND SEC. & GOV'T AFFAIRS, S. REPT. 109-322, HURRICANE KATRINA: A NATION STILL UNPREPARED 3 (2006)).

263. Bruce Alpert, *\$120 Billion in Katrina Federal Relief Wasn't Always Assured*, NOLA.COM/TIMES-PICAYUNE (Aug. 21, 2015, 8:15 AM), [http://www.nola.com/katrina/index.ssf/2015/08/federal\\_governments\\_120\\_billio.html](http://www.nola.com/katrina/index.ssf/2015/08/federal_governments_120_billio.html).

264. For an analysis of this phenomenon as a common thread in many disasters, see JOHN C. MUTTER, *DISASTER PROFITEERS: HOW NATURAL DISASTERS MAKE THE RICH RICHER AND THE POOR EVEN POORER* (2015).

265. See Naomi Klein, *Disaster Capitalism: How To Make Money out of Misery*, GUARDIAN (Aug. 29, 2006), <http://www.theguardian.com/commentisfree/2006/aug/30/comment.hurricanekatrina>.

266. See, e.g., *supra* text accompanying notes 137–44 (relating the experience of Robert Morse).

267. See, e.g., *supra* text accompanying notes 69–100 (relating the experience of Tracie Washington) and 166–71 (relating the experience of Anita Sinha).

Coast. They helped us with food and water and medical relief.<sup>268</sup> They helped us clean and gut and rebuild many homes.<sup>269</sup> They helped with legal work.<sup>270</sup> Many stayed on.<sup>271</sup> There is an important place for volunteers.

The best volunteers generously and humbly partnered with local charities, churches, and schools. They stayed long enough to begin to understand what was needed and to contribute enough to justify the supervision they needed. They willingly worked wherever needed, slept on church floors, and acted according to the direction of local leadership. Many came back again and again becoming part of the communities they were assisting. Back in their home communities they raised funds to send to local partners to directly assist those in need.

Other volunteers raised disaster funds back home, not to contribute to local communities, but to pay for their own travel and lodging on the Gulf Coast. They came not humbly but proud of what they had sacrificed to come help the less fortunate. They came with specific actions and goals in mind and when they found out the community actually needed something else they were flustered and frustrated with local "attitudes."

Volunteers will show you that good intentions are not enough. Sometimes volunteers require more attention and maintenance than they contribute. Good volunteers arrive in humility, listen to and learn from the community, and contribute under the direction of people who have long time ties. They come not to teach but to learn.

Likewise, after Katrina countless national organizations focused energy on the Gulf Coast. They sent national and international experts to the area to view the damage, to hear the stories of the displaced and to connect with local advocates.

The best organizations built long-term supportive relationships with local communities and assisted those organizations with people and money and expertise.<sup>272</sup>

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268. See FAILURE OF INITIATIVE, *supra* note 261, at 342–54.

269. See, e.g., *RHINO: Rebuilding Hope in New Orleans*, ST. CHARLES AVENUE PRESBYTERIAN CHURCH, <http://www.rhinonola.org/about/> (last visited Oct. 12, 2015).

270. See *supra* note 209.

271. See, e.g., Korina Lopez, *Katrina Volunteers Come to Stay* (Jan. 14, 2009, 11:01 PM), [http://usatoday30.usatoday.com/news/nation/2008-01-14-katrina-volunteers-main\\_N.htm](http://usatoday30.usatoday.com/news/nation/2008-01-14-katrina-volunteers-main_N.htm).

272. In this author's experience, the best partners were those who generously

The worst showed up with their own agendas, spent money as they saw fit, and praised themselves and raised money for themselves based on local work. These organizations had specific missions which prohibited them from doing much of what locals needed, so they attempted to provide what they always provided whether this was what was needed or not. These organizations organized endless trips to the area, hosted endless conference calls, and gave endless advice to locals.

The challenge was to figure out which national organizations came to observe, listen, stay and help out and which ones were here for their own purposes.

A lot of energy was wasted on servicing those organizations that “came to help.”

Those who came and developed working and respectful partnerships with local communities were unfortunately not in the majority. But they were critically important to the rebuilding and recovery that has happened.

### **Lesson Eight: Community is Critical**

On both the personal and professional level, community is crucial to social justice advocates.<sup>273</sup> On a personal level, no one is able to journey through the post-disaster landscape alone. Interdependence is a fact of life for people, but also for issues. Professionally, no one had the luxury of deciding they were only going to be involved in one issue area. Every issue was inter-related with many more.

There were no single issue Katrina advocates. The survival of the Mardi Gras Indian community was intertwined with the

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stayed as long as it took to help. For example, partners like the Advancement Project, the Jenner & Block law firm, and Stephen Rosenfeld came early and often and remained partners for the long run. There were many, many more.

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Movements for transformation take place through the lives and work of people and communities for whom lawyers are at most a small part of the story. Therefore, an important question for lawyers working on social justice issues is how to carry out their professional work in ways that empower the people whose lives are involved.

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Is the goal of legal work for social justice to win recognition of rights, such as passing a statute against discrimination, or is the ultimate goal a change in culture and practice in a society that brings greater equality for all?

MARTHA R. MAHONEY ET AL., *SOCIAL JUSTICE: PROFESSIONALS, COMMUNITIES, AND LAW* 763 (2003).

housing campaign.<sup>274</sup> Bringing schools back online was part of the struggle for families and the human right to return.<sup>275</sup> Addressing the needs of the homeless required working on health care.<sup>276</sup> When lawyering with the community, community lawyering is essential.<sup>277</sup>

### Lesson Nine: A Human Rights Lens Is Important

Understanding and using international human rights law is

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274. See, e.g., text accompanying notes 237–42 (relating the story of Alison McCrary). Cathy Albisa is the Executive Director of the National Economic and Social Rights Initiative in New York. Email from Cathy Albisa, to author (May 5, 2015, 1:44 PM) (on file with author). NESRI tried, mostly unsuccessfully, to partner with a local organization in New Orleans to fight the demolition thousands of public housing apartments:

We had to work outside our model, which is usually a deep partnership supporting a community campaign. We couldn't find that in NOLA for some reason.

We worked trying to find a way to be useful [in the fight to save public housing in New Orleans] for almost 6 years, but we had to declare it one of our first big failures. We didn't save even one unit.

*Id.*

Lessons learned?

We tried to help the public housing residents build themselves, but we learned you just can't do that from afar. We should have accepted the situation on the ground as it was and worked around it better. Perhaps we should have put someone on the ground, we didn't do that. We also never got out of a defensive posture, we probably should have tried to influence the redevelopment instead of stopped it, but it's hard to know.

Also, accept your limitations. [After a disaster] you don't have time to build campaigns, or perhaps the perfect court case, or do the kind of proactive work that might be ideal. Mitigation is probably not a terrible thing because when you fail to try and get at least that, you might get nothing!

*Id.*

275. See, e.g., text accompanying notes 69–100 (relating the experience of Tracie Washington).

276. For a discussion of post-Katrina improvements in community-oriented medical care, see Katy Reckdahl, *Ice Chests on Sidewalk: New Orleans' Groundbreaking Post-Katrina Healthcare System*, NEXT CITY (June 10, 2014), <https://nextcity.org/daily/entry/new-orleans-groundbreaking-post-katrina-healthcare-system>.

277. Bonnie Allen, Barbara Bezdek, and John Jopling offer the following definition of community lawyering:

Community lawyering augments traditional lawyering models with an approach that features building and sustaining relationships with clients, over time and in conjunction with their communities. Community lawyering is based on a collaborative strategic vision of building community by developing client communities' ability to advocate for themselves. It requires lawyers and law students to confront the legitimate fear in many communities that attorneys will dominate the representation, replicating systems of subordination with which they already struggle, and derail community efforts to change those systems and gain greater social, economic and political equality.

Bonnie Allen et al., *Community Recovery Lawyering: Hard-Learned Lessons from Post-Katrina Mississippi*, 4 DEPAUL J. FOR SOC. JUST. 97, 98 (2010).

essential after a disaster.<sup>278</sup> Why? In many instances, traditional U.S. laws do not offer any help after disaster.<sup>279</sup>

For example, there is no right based in U.S. law for victims of disaster to be able to return to their communities.<sup>280</sup> But there is such a right to return recognized by international law.<sup>281</sup> Likewise there is no right to housing in U.S. law,<sup>282</sup> but there is a body of international law that supports a right to housing following disaster.<sup>283</sup>

These human rights offer survivors new ways to express deeply shared beliefs and to connect their struggles with others across the nation and the globe.<sup>284</sup>

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278. For a discussion of the use of human rights law in the post-Katrina context, see Amy Laura Cahn, *Our "Rights are not cast in stone": Post-Katrina Environmental "Red-Lining" and the Need for a Broad Based Human Right Lawyering Movement*, 12 U. PA. J.L. & SOC. CHANGE 37, 61-65 (2009).

279. See generally Quigley, *supra* note 239 (describing the myriad ways U.S. laws failed to protect the poor and marginalized in the aftermath of the storm).

280. People in several parishes were not allowed to return immediately after the storm passed. See Elaine Pittman, *Re-Entry Plans Aid Repopulation After Mass Evacuation*, EMERGENCY MGMT. (Nov. 30, 2011), <http://www.emergencymgmt.com/disaster/Re-Entry-Plans-Aid-Repopulation.html>.

281. For a discussion of the right to return following internal displacement, see Lolita Buckner Inniss, *A Domestic Right to Return? Race, Rights and Residency in New Orleans in the Aftermath of Hurricane Katrina*, 27 B.C. THIRD WORLD L.J. 325, 367-371 (2007). According to Inniss:

No specific treaty protects the rights of persons displaced within their own national borders by natural disasters or other causes. To address this void, the United Nations Commission on Human Rights prepared a set of guidelines to be used in cases of internal displacement. The resulting document, the Guiding Principles on Internal Displacement (Guiding Principles), sets forth thirty principles detailing international laws that protect the human rights of internally displaced persons. The Guiding Principles outline the scope and purpose of the document and state general principles for ensuring humanitarian assistance. They also describe procedures for three phases of internal displacement: pre-displacement; displacement; and return, resettlement, and reintegration.

*Id.* at 368 (footnotes omitted)

282. *Lindsey v. Normet*, 450 U.S. 56, 74 (1972).

283. Charles W. Gould, *The Right to Housing Recovery After Natural Disasters*, 22 HARV. HUM. RTS. J. 169, 174 (2009) ("A right to housing does not spring whole from a disaster; it is grounded in the well-established right to housing under international law. While the right to housing is among the most recognized of the economic, social, and cultural rights . . . this is decidedly not the same as saying that the right to housing has been realized.").

284. For a discussion of the aftermath of Hurricane Katrina in the context of international human rights, see William Quigley & Sharda Sekaran, *A Call for the Right to Return in the Gulf Coast*, in 3 BRINGING HUMAN RIGHTS HOME: PORTRAITS OF THE MOVEMENT 291 (2008)

### Lesson Ten: Challenge Privatization

The strong forces trying to dismantle public institutions will use disasters as opportunities to privatize public services such as housing, education, health care, and even government itself. The push for privatization can only be combatted by equally strong counterforces.

The failure of our communities to forcefully combat the push for privatization has left the post-Katrina landscape littered with the shells of formerly public institutions like housing, education, and healthcare.<sup>285</sup> They are now mostly replaced with privately run institutions, which have absorbed the public funds but are not nearly as democratically responsive as the public institutions they replaced.

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285. Cynthia Wiggins, Property Manager for the Guste Homes Management Corporation, a resident-managed public housing complex of over 400 apartments in New Orleans, was living there when Katrina hit. Email from Cynthia Wiggins to author (May 4, 2015, 4:32 PM) (on file with author). Guste Homes Resident Management Corporation began in 1988 when residents began years of training to manage their own community. *About Us*, GUSTE HOMES RESIDENT MGMT. CORP., <http://www.ghrmc.org/about.html> (last visited Oct. 12, 2015). In 1999 they became the full-time managers of all public housing on the site. *Id.* She first evacuated to Atlanta and lived with her brother. Email from Cynthia Wiggins to author (July 20, 4:43 PM) (on file with author). While in Atlanta a local church provided them with food and clothing. *Id.* When New Orleans started to open back up she returned but was unable to stay and moved to a FEMA hotel in Beaumont, Texas. *Id.* After moving to Jackson Mississippi to stay with family, she ultimately returned to New Orleans several months later. *Id.*

After Katrina there was quite a bit of work to do repairing the hundreds of apartments of the Guste Homes and helping families return. *Id.* Affordable housing in New Orleans changed as rents shot up, the stock of public housing went down, and housing violations increased. *Id.* She thinks more public housing should have been rebuilt and there should have been rent controls and more uniform renter-friendly policies:

While some disagreed with the redevelopment of public housing I agree redevelopment needed to take place considering the conditions families were living in. However, what I did not anticipate was the opportunity for developers to take prime real estate and convert it to market rate housing that not even working families can afford. [This forced poor and working people who had lived in public housing] to move in private housing with the same conditions, less rules and a greater risk of becoming homeless.

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The experiences [of former public housing residents who are now in private housing] are different depending on who you talk with. Their financial struggles are difficult for some especially since there is less restriction with regard to rents, utilities and the passing on of expenses [by landlords].

*Id.* Ms. Wiggins did not have much experience with lawyers helping the community but is grateful for Tracie Washington and the Advancement Project who worked with residents on the right to return. Email from Cynthia Wiggins to author (July 20, 4:43 PM) (on file with author).

### Lesson Eleven: Document It, Capture the Voices

It is important to capture the voices of those who are struggling to recover. Not to be voices for the voiceless, but rather to raise the volume of the voices of the people who are not being listened to in the traditional narratives of the resourced.

As this Article is written, the story of the ten-year anniversary of Katrina is being reported and argued.<sup>286</sup> Some interests, notably the privatized institutions, the tourism industry, and many elected officials are stressing what has been rebuilt, who has returned, and the resilience of the area.<sup>287</sup> Others point to the loss of nearly one hundred thousand African-Americans in the City of New Orleans, the rise in rents, the pervasive poverty, the accelerating gap between white and black incomes, and the continuing displaced as examples that the rebuilding has been focused on those with the most resources.<sup>288</sup>

Write it down. Film it. Record it. Preserve the voices of those left out. Preserve the perspectives of the people that mainstream media do not include.

### Lesson Twelve: You Will Be Challenged, Learn Flexibility

By definition, disasters violently push us far out of our comfort zone. Every single person has been challenged. Social justice advocates have to learn new ways to practice, new ways to organize help for and with people, and new ways to bring about change. Disasters change all the rules and the ways we work and live. We have to work with new people in new ways on new issues.<sup>289</sup> Those who respond the best are those who can find

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286. Compare Jennifer Callas, *New Orleans Mayor Touts Resilience in City's Comeback*, USA TODAY (Aug. 21, 2015, 7:12 PM), <http://www.usatoday.com/story/news/nation/2015/08/18/new-orleans-mayor-touts-resilience-citys-comeback/31859099/> with John C. Mutter, *How Natural Disasters Harm the Poor More Than the Rich: It Was True Before Katrina and It Is True Now*, SLATE (Aug. 28, 2015, 5:45 AM), [http://www.slate.com/articles/business/moneybox/2015/08/katrina\\_and\\_other\\_disasters\\_they\\_almost\\_always\\_make\\_the\\_poor\\_poorer\\_and.html](http://www.slate.com/articles/business/moneybox/2015/08/katrina_and_other_disasters_they_almost_always_make_the_poor_poorer_and.html).

287. See, e.g., Callas, *supra* note 286 (“For New Orleans Mayor Mitch Landrieu, the recovery in the 10 years since Hurricane Katrina can be defined in one word: resilience.”).

288. See generally STATE OF BLACK NEW ORLEANS, *supra* note 245.

289. Cf. ASS'N OF THE BAR OF THE CITY OF N.Y. FUND, INC. ET AL., PUBLIC SERVICE IN A TIME OF CRISIS: A REPORT AND RETROSPECTIVE ON THE LEGAL COMMUNITY'S RESPONSE TO THE EVENTS OF SEPTEMBER 11, 2001, at 58 (2004), *reprinted in* 31 FORDHAM URB. L.J. 831, 927 (2004) (“Flexibility, adaptation, and innovation were critical aspects to the 9/11 legal relief effort.”).



ways to change along with the changed landscape surrounding our communities.<sup>290</sup>

### Lesson Thirteen: The Time to Prepare is Now

The chaos of a disaster is no time to start to figure out how to respond. Nearly all people and institutions were caught off guard by the disaster even though we had decades of warnings.<sup>291</sup> In that confusion, those with clear agendas were able to slice through the confusion and disorder and push their visions of response and recovery.

Social justice advocates have to work with our communities to prepare for the disasters which are yet to come. We must insist that community voices be heard and that community wisdom be incorporated into all planning.

We have to prepare our allies and institutions so that our communities can be at the forefront when the next disaster hits.

On a lighter but important personal note which seems appropriate to end this section, one of our social justice advocates suggested “Always evacuate with a suit—you never know when you will need to suit up post-disaster!”<sup>292</sup>

## IV. CONCLUSION

A good friend says there are no words people like better than “in conclusion.”

So, in conclusion, friend, I hope these stories and lessons

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290. Marjorie Esman, now Executive Director of the ACLU of Louisiana, was in private practice in New Orleans when the storm hit. Email from Marjorie Esman, Exec. Dir., Am. Civil Liberties Union of La., to author (May 4, 2015, 4:17 PM) (on file with author). She evacuated to Grand Coteau, Louisiana with her daughter, a junior in high school, and stayed there four months. *Id.* Fortunately the law firm she worked for had an office in Lafayette so she was able to keep her job. *Id.* Katrina was the impetus for her to give up her private practice and become the head of the ACLU of Louisiana. *Id.* “I loved my practice, but it was no longer as fulfilling as I wanted it to be. I felt that I needed to do something more meaningful, and this opportunity arose.” *Id.*

Lessons learned from Katrina?: “The entire city was making it up as we went along, and nobody knew what to do or how to do it. Being flexible is essential. Easier said than done though.” *Id.*

291. On the importance of such preparation for legal professionals, see Brooke Ashton, *Disasters: Are You Prepared Personally and Professionally?* UTAH B.J., Oct. 2011, at 42, 42 (“Before a person can assist others in a disaster, he or she must first be prepared himself or herself.”).

292. Tuggle Email, *supra* note 50.

learned will help you as you prepare for the possibility of a disaster in your community. Disasters offer a lens to look closely at our communities and our nation. We see the best and the worst. It is an important time to be a social justice advocate but it is also quite challenging. This might help you as you scramble out of a disaster and look for lessons and stories of others who went through disasters. In either case, all of us on the Gulf Coast wish you the best.