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National Prison Project of the American Civil Liberties Union

Race Class 2007; 49; 81

DOI: 10.1177/0306396807080069

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<http://rac.sagepub.com/cgi/content/abstract/49/1/81>

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Abandoned and abused: prisoners in the wake of Hurricane Katrina

NATIONAL PRISON PROJECT of the AMERICAN
CIVIL LIBERTIES UNION

Abstract: During Hurricane Katrina, which struck the US Gulf Coast in August 2005, thousands of men, women and children were abandoned in Orleans Parish Prison (OPP), the New Orleans jail. As the floodwaters rose in the OPP buildings, prisoners were trapped for days in locked cells without food, some standing in sewage-tainted water up to their chests, while guards left their posts. Predominantly poor African-American pre-trial detainees, held on minor charges, such as failure to pay court fees, the prisoners were eventually evacuated to various receiving facilities around the state of Louisiana, only to face systematic racial abuse, assaults and further brutality. The experiences of the OPP prisoners lay bare the routine injustices that

This article is based on the American Civil Liberties Union National Prison Project report *Abandoned & Abused: Orleans parish prisoners in the wake of Hurricane Katrina*, which is available to download at < <http://www.aclu.org/prison> > . The report is the result of an eleven-month investigation by local and national activists and attorneys, based on written accounts from over 1,300 prisoners, who were in OPP when Katrina struck, and interviews with hundreds of OPP evacuees, their family members, as well as former OPP deputies and staff.

Race & Class

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10.1177/0306396807080069 <http://rac.sagepub.com>

permeate a system of incarceration that is effectively run as a profit-making concern.

Keywords: criminal justice system, human rights abuses, New Orleans, prison-industrial complex, racial justice

The first accurate accounts of what happened at Orleans Parish Prison (OPP) during and after Hurricane Katrina came to light once the prisoners started recounting their experiences to family members, lawyers and local and national civil rights and human rights organisations. The picture that emerged from these accounts was one of widespread chaos, caused in large part by inadequate emergency planning and training by local officials, of racially motivated hostility on the part of prison officials and blatant disregard for the individuals trapped in the jail. For many of these prisoners, the nightmare continued for over a year after the hurricane struck. OPP evacuees remained in facilities around the state awaiting long-overdue trials on minor charges. Nearly every day, attorneys discovered another prisoner whose case had slipped through the cracks. These were prisoners doing ‘Katrina time’, as it came to be known.¹ Some prisoners were even returned to a reopened OPP, which became overcrowded and dangerous, full of post-Katrina hazards that Orleans Parish Criminal Sheriff Marlin N. Gusman failed to repair in his haste to repopulate the jail. What follows, based on a much larger study, seeks to provide a picture of what the men, women and children at OPP endured before, during and after the storm. In the year after the storm, the sheriff denied many of the claims made in this report, at times referring to the OPP evacuees simply as liars,² and at other times as ‘crackheads, cowards and criminals’.³ This report is intended to serve as their unified response.

Orleans Parish Prison

The term ‘Orleans Parish Prison’ refers not to a single jail building but rather to a set of some twelve buildings: Central Lock-Up, the Community Correctional Center (CCC), Conchetta, Fisk Work Release, the House of Detention (HOD), the Old Parish Prison, South White Street and Templeman buildings I through V. The jail buildings are all located in downtown New Orleans, in an area commonly called Mid-City. Before Katrina, OPP housed nearly 6,500 individuals on an average day. Although New Orleans is only the thirty-fifth most populous city in the United States, this made OPP the ninth largest local jail.⁴ OPP housed even more people than the notorious Louisiana

State Penitentiary at Angola, which at 18,000 acres is the largest prison in the United States. With a pre-Katrina incarceration rate of 1,480 prisoners per 100,000 residents, New Orleans had the highest incarceration rate of any large city in the United States – double that of the United States as a whole, the country with the highest national incarceration rate in the world.⁵

Most of the prisoners at OPP at the time of Hurricane Katrina were pre-trial detainees, meaning they had not been convicted of any crime. Approximately 670 were women and two facilities, the Conchetta Youth Center (CYC) and the Youth Study Center (YSC), held juveniles. Children who were being tried as adults were housed alongside adult prisoners. Moreover, 60 per cent of OPP's population on any given day was made up of men and women arrested on attachments, traffic violations or municipal charges⁶ – typically for parking violations, public drunkenness or failure to pay a fine. Under Louisiana's code of criminal procedure, any defendant who is convicted of a crime is liable for all costs incurred in the trial.⁷ According to one local attorney, this 'creates a cycle of incarceration where poor people are routinely sent back to jail for no other offense, except that they couldn't pay their fines and fees'.⁸ Some of the prisoners who were in OPP during the storm were there simply because of unpaid fines and fees. Many were still being held months after the storm, lost in a dysfunctional criminal justice system that was virtually destroyed by Katrina. For example, Greg Davis was in OPP during the storm and was released in March 2006 only after law students from the Criminal Defense Clinic at Tulane Law School took on his case. When the law students met Greg Davis, he had no idea why he was still being held in prison. The reason: \$448 in overdue court fines.⁹

The overcrowding at OPP at the time of the storm was exacerbated by its housing of nearly two thousand state prisoners on behalf of Louisiana's Department of Corrections (DOC), which reportedly pays Sheriff Gusman \$24.39 per day per state prisoner housed at OPP,¹⁰ \$2.00 more than the city of New Orleans pays Sheriff Gusman for housing its own prisoners.¹¹ Because state prisoners represent a source of income, local sheriffs have an incentive to make bed space available to them, either through expansion of prison buildings or creative housing arrangements.

OPP has a long history of cruelty and neglect toward its prisoners. In 1969, a prisoner named Louis Hamilton filed a class action lawsuit on behalf of all of the individuals in OPP regarding their living conditions at the jail. In 1994, women prisoners filed a separate lawsuit. They complained that they were kept shackled while in labour and one female prisoner alleged that she was denied a gynaecological examination despite the fact that she bled for thirty days after giving birth.¹² Juveniles housed in OPP's CYC faced similar problems to the adult

prisoners. In 1993, the Youth Law Center filed a lawsuit on behalf of CYC juveniles, alleging that they were physically abused, denied educational programmes and medical and mental health care, housed in unsafe environmental conditions and denied visits.¹³ In June 2004, two OPP deputies allegedly beat to death a man named Mark Jones after he was picked up for public drunkenness. A number of OPP prisoners have also died in recent years from medical conditions that appear to be entirely treatable. In October 2004, an OPP prisoner died of a ruptured peptic ulcer. According to the Orleans parish coroner, the man probably writhed in agony for twelve hours before his death.¹⁴ OPP has also had major problems with the provision of mental health care. In 2001, a young man named Shawn Duncan entered OPP on traffic charges. Identified as suicidal, Duncan was placed in HOD's mental health tier. During his seven days at OPP, Shawn Duncan was twice placed in five-point restraints: in a bed, his arms were strapped down at his wrists, his legs strapped down at his ankles and a leather belt was strapped across his waist, completely immobilising him. The second time he was placed in restraints, he was left largely unsupervised for forty-two hours and died of dehydration. Less than two years later, another suicidal OPP prisoner died while restrained in the same cell where Shawn Duncan died.

Hurricane Katrina exposed the deep racial divisions that have long existed in New Orleans, which is one of the most segregated metropolitan areas in the country.¹⁵ Its criminal justice system reflects this fact, from the disproportionate targeting of African-American residents by its police department to the over-incarceration of African-Americans in its jail. The New Orleans Police Department (NOPD), in particular, has a longstanding history of racism and brutality. In 1980, a mob of white cops rampaged through a black section of the city in retaliation for the murder of a police officer, killing four people and injuring as many as fifty. According to reports, people were tortured and dragged into the swamps to face mock executions. In 1990, a black man accused of killing a white officer was beaten to death by officers who had gathered to wait for him at the hospital to which he was transported; no officers were criminally prosecuted or administratively sanctioned. These incidents, which would be termed a race riot and a lynching if performed by private citizens, are merely the most sensational examples of the department's racially discriminatory practices. Institutional racism and the targeting of African-Americans by the NOPD have resulted in the over-incarceration of African-Americans in OPP. Although Orleans parish itself was 66.6 per cent black prior to Hurricane Katrina, almost 90 per cent of the OPP population was black. Racial considerations pervade every aspect of the OPP story, from the administrative decision not to evacuate the prison population to the mistreatment of individual prisoners in the weeks that followed.

The descent into chaos

There is no reliable count of the number of people in OPP on the day Hurricane Katrina hit but, according to the Sheriff's statistics, there were 6,375 prisoners held.¹⁶ More than 300 of these had been arrested and booked in the preceding three days, when the city of New Orleans and the state of Louisiana were under states of emergency. One man was arrested five days before the storm for allegedly having failed to pay an old debt of \$100 in fines and fees.¹⁷ He was assigned to Unit B-2, where he spent several days before the storm, sleeping in the common area. He reports that the riot squad came through the tier to put everyone on lockdown. He was placed in a cell with seven other people. 'They maced our whole cell twice while locking us up for asking when they would let us out.' On the Sunday before the storm, many of the prisoners had watched Sheriff Gusman's televised announcement that they would not be evacuated but would instead remain in the prison. But OPP was horribly ill-prepared for Hurricane Katrina. The emergency operations plan that the Sheriff was relying on either did not exist, was inadequate to provide guidance to staff and prisoners or was ineptly executed.

Soon after Hurricane Katrina hit New Orleans, the OPP buildings lost power. Prisoners spent their nights in total darkness, in conditions that were growing increasingly foul due to the lack of ventilation and sanitation, and the presence of chest-deep floodwaters on the lower levels of the prison buildings. Many prisoners remained locked in their cells with bodily waste flowing out of the non-functioning toilets. The jail became unbearably hot, which made it difficult for many inmates to breathe. Female prisoners in Conchetta and Templeman IV, and male prisoners housed on some floors of HOD, report that deputies largely remained on duty following Katrina. However, hundreds of prisoners report that deputies from other buildings abandoned their posts during and after the storm.

Floodwaters began to enter the lower levels of the OPP buildings on Monday 29 August, 2005. On the first floor of Templeman II, prisoners saw water seeping into the dorm through drainage holes in the floor. One prisoner recalls:

Before I knew it my bottom bunk was underneath water. At this point I knew for sure the deputies was nowhere in the building. . . . No food for us to eat. Finally a female deputy came by we shouted to her about our conditions. She than replied there's nothing we can do because there's water everywhere and she left. At this point water had risen to at least 4 ft deep. I thought for sure I would never see freedom again.¹⁸

Many of the women in Templeman IV were being held on minor offences, such as prostitution or simple drug possession. When water began to enter the building, it quickly rose to chest-level, forcing the women to climb onto the second and third levels of their triple-stacked bunk beds. One female prisoner reports: '[w]omen were made to urinate and defecate over the sides of the beds into the water; the water was well over the toilet seats.'¹⁹ A prisoner in Unit A-1 explains that the water was five to six feet deep by the time prison officials returned to free the prisoners from their locked cells. 'Inmates were on the top bunk in their cells trying to escape the water. Due to the water the cell doors short circuited. The staff had to use long hammers to try in force the doors open. It was a race against time!'²⁰ Although the contingency plan called for stockpiling enough food and potable water to last ninety-six hours, nearly every prisoner with whom we spoke reports going days after the storm without receiving either. In Templeman III, prisoners received no food after their Sunday night meal, according to deputies.²¹ 'People were still locked in lower cells screaming for us to help. There was no guards in the control booths, no food, no water, lights, or medical attention.'²² With no water to drink, many of the prisoners resorted to drinking the contaminated floodwater.

Tensions began to rise among the prisoners as conditions inside the prison buildings deteriorated and deputies abandoned their posts. In Old Parish Prison, one prisoner explains that:

there were about 48 to 56 inmates located in one cell designed for 21 inmates. There was no water, food, or air. Inmates began to be upset setting fires to plastic or whatever they could find to burn through the double plated glass to allow some type of air to circulate on the floor [I]nmates had reached a level of frustration at that point they began to destroy the cell breaking through the chicken wire just to be able to move around, ripping the light fixtures from the ceiling to attempt to break windows and with the stress level being so high fights began to break out and the material that was ripped from the cell were at this time weapons.²³

Many of the prisoners began to believe that they had been abandoned. Prisoners in some buildings began to look for ways out of the flooded buildings. Prisoners also hung signs outside of windows and set signal fires in order to get help. One prisoner writes that, when he saw a news helicopter several days after the storm, he and another prisoner hung a sign saying 'HELP NO FOOD DYING'.²⁴ Left unsupervised, some of the prisoners were able to open their cells and free others. One recalled that: 'If it wasn't for inmates somehow getting my cell open I probably would have died.'²⁵ In several buildings, prisoners tied bed sheets together to lower themselves out of broken windows so that they could jump to safety in the water below. Deputy Reed, who was on

the mezzanine level of HOD, where he was stationed to watch for escapes, describes ‘people getting shot by snipers around the jail. It looked like people were getting picked off.’²⁶ Many prisoners and deputies report seeing prisoners hanging from the rolls of razor wire lining the fences that surround the facility. According to Ace Martin, a Templeman III prisoner: ‘One guy jumped out of the hole and they shot him . . . He fell on a barbed-wire fence. They picked him up in a boat and told us to stay in the hole or we’d be shot.’²⁷ Sheriff Gusman has consistently stated that there were no deaths at OPP during the storm and the subsequent evacuation.²⁸ However, several deputies and many prisoners report witnessing deaths at the jail.

The evacuation finally begins

Prisoners went days without food, water or medical attention before officers from the Angola state penitentiary arrived at OPP to begin an evacuation by boat. The process took over three days and appears to have been completed at some point on Thursday evening or early Friday. Boats dropped the prisoners off a short distance from the Interstate 10 on-ramp and prisoners then waded through chest-deep water until they were able to get to the dry portions of the Broad Street Overpass that rises above the Interstate. Thousands of prisoners were eventually transferred to the Overpass, where they were placed in rows and were ordered to remain seated back-to-back. They remained there anywhere from several hours to several days. Sitting on the hot asphalt, prisoners began suffering from dehydration and heat exhaustion; and they were assaulted by guards when they attempted to stand to go to the bathroom or ask for food or water. Robie Waganfeald was arrested several days before the storm on a charge of public intoxication; in a letter written to his father, he states that he sat in the sun on the Overpass for ten hours with ‘no water and with National Guardsmen threatening to shoot people. Some got hit with rubber bullets, others with pepper spray. It was the most humiliating, unjustifiable thing I’ve ever seen.’²⁹ Among those held on the Overpass were juveniles, some of whom also witnessed excessive use of force. One 17-year-old states:

One man was maced and beat up really badly. His head was busted . . . They let the dogs loose on that man . . . The dogs were biting him all over. They told people they would kill them if they moved . . . The worst thing I saw was the guards beating that man while everyone was just sitting there. . . . Those people need to go to jail or something.³⁰

There are also reports of youth being maced by guards. One boy writes: ‘When [we] were shackled it was ten youth shackled together. [Another

boy] slipped out his handcuffs so they maced him and since we were all shackled together, the other kids basically got maced too.’³¹ Another boy states: ‘Guards did not really care about us. [One] kid got maced requesting water. Some kids were too weak to act, or do anything for themselves.’³² In the five days before the storm, now-Chief Judge David Bell of the Orleans Parish Juvenile Court issued orders releasing those pre-trial juveniles who were held in Orleans Parish detention centres and were not deemed threats to society. Those release orders appear not to have been executed and, to this day, it is still unclear how many children were detained in OPP at the time of the storm.³³

Abuses continue at other sites

From Interstate 10, OPP evacuees were bussed to prisons and jails throughout Louisiana. Most female prisoners were sent directly to Louisiana State Penitentiary at Angola, while thousands of men were transported to the undamaged Elayn Hunt Correctional Center in St. Gabriel, Louisiana. There, many of the OPP evacuees were consolidated onto a single field surrounded by a fence. Armed guards watched over the prisoners from towers and from behind the fence. The guards established a gun line along the length of the fence which prisoners were not permitted to cross.

Prisoners were not separated by offence. Pre-trial prisoners arrested on public intoxication charges were held side-by-side with convicted felons. Municipal, state and federal prisoners were also mixed together on a single field. Prisoners who were previously housed, for good reason, in protective custody were suddenly placed on the field with no protection at all. Given their sheer numbers, the evacuees found themselves sitting on a powder keg. Violence broke out all over the large yard at Hunt. One man writes that on the yard, ‘people [were] getting stabbed for they food and the guards just let it happen. Guys were constantly fighting and stabbing each other up all day we could not really sleep because we had to watch ourselves all the time.’³⁴ Instead of intervening to control the prisoners, Hunt guards remained outside the fence. Ronnie Lee Morgan, Jr, recounts how a fellow evacuee, like him a federal inmate in protective custody, was wary of entering the yard ‘because he could see his enemies out there. He walked onto the yard and got stabbed all over his face. Blood was like a waterfall out of his face. He ran to the guards and they shot at him and then stripped him of his clothes. . . . I don’t know if he lived or what, but he was pretty bad off.’³⁵ Another man reports that after he was stabbed on his left wrist by another prisoner, ‘I went for help [and] the guards pointed their guns at me and told me to leave or I would be shot at.’³⁶

Although OPP evacuees were handed a sandwich when they first arrived at Hunt, food was delivered more haphazardly after the men

were placed on the yard. Hunt guards threw bags of sandwiches over the fence into the crowd and hungry prisoners fought one another for food. One man writes: 'When we was finally given food they took bags with one or two sandwiches and threw them over a barbed wire fence, and you had to fight for it like dogs. If you didn't eat, you just went hungry.'³⁷ One 53-year-old man, held on a parole violation, reports: 'Most of us older guys did without food and water while there because guys was fighting, cutting each other, the deputies was just looking and laughing. They were throwing sandwiches in the crowd like they were in New Orleans, at the Mardi Gras!'³⁸

From the yard at Hunt, prisoners were transported to a number of other facilities, where many experienced racism. Vincent Norman, who had been arrested on 24 August 2005 on a warrant for failure to appear in court and a \$100 fine, was brought to the Ouachita Correctional Center, where he suffered what he called 'horrendous treatment'. 'Ouachita was a reminder of the old South,' he says.

I was exposed to overt racism, called racial slurs and subjected to physical and mental anguish. I saw segregation and outright inhumane events. . . . They wouldn't talk to the inmates, and if we asked questions we would be maced or beanbagged. . . . I've never experienced blatant racism – never seen it like that. After going through what I've been through I wonder if I'll ever be the same. They used to set the food trays on the floor and we would have to pick it up from there. I asked why they did that and they said we were like monkeys and that's what you do with animals at the zoo. . . . I was in jail for almost four months on a \$100 fine that I didn't even know I had to pay.³⁹

Business as usual

After the waters receded, Sheriff Gusman quickly began the process of refilling OPP. When much of the city was still assessing whether it was safe to return to flood-ravaged areas, the Sheriff was moving people back into the jail, without putting into place the most basic safeguards for the health and well-being of the men and women housed there. It is not difficult to understand why the Sheriff quickly reopened the facility and returned prisoners to his jail: the Sheriff's office receives large payments for housing federal prisoners.⁴⁰ This may explain why thousands of local prisoners charged with minor offences languished for months in state facilities without access to counsel and without any chance of appearing in court, while federal prisoners were among the first to be returned to OPP following the hurricane.

The return of prisoners to OPP also provided the Sheriff with the labour force that his office has long offered for private hire at the

minimum wage.⁴¹ From these wages, the Sheriff would deduct living expenses, travel expenses, support costs of the prisoners' dependants and payment of the prisoners' debts, with any remaining money going to the prisoner. If anything, Hurricane Katrina has accelerated the jail's exploitation of prison labourers. After the hurricane struck, Sheriff Gusman promised to make prisoners available to assist in the recovery. Given the fact that the majority of prisoners had yet to be convicted or were convicted of minor offences, this use of prisoners amounts to modern slavery – or a throwback to the notoriously racist convict-lease and state-use prison labour systems that proliferated in the South after Reconstruction.

A disregard for dignity

Like many of the stories that came out of Katrina, the story of the prisoners at Orleans Parish Prison is one of survival. With few exceptions, the prisoners held in OPP in the wake of Hurricane Katrina took care of one another. They worked to free fellow prisoners trapped in cells filled with contaminated floodwaters, watched out for the frail and sick, as well as for juveniles too small to stand in the water without help. Without food, water, light, or ventilation for days, the response of the prisoners to chaotic, terrifying conditions was remarkable. Many of the stories are also about racially motivated animosity on the part of prison officials, while all of the stories are about the blatant disregard for the dignity that was owed to each man, woman and child trapped in OPP during and after the storm.

The stories in this report are not, however, simply about survival. Rather, they are stories of a criminal justice system that has had serious problems for a very long time. The abuse of prisoners at OPP and the inattention paid to their basic needs existed long before Hurricane Katrina struck the Gulf Coast. Likewise, the damage caused by the storm only revealed how infirm Louisiana's indigent defence system already was. It is important that these stories are told, so that they are not forgotten. It is also important so that the mistakes chronicled in this report are never repeated.

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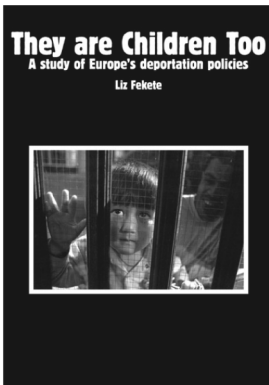
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THEY ARE CHILDREN TOO

A study of Europe's deportation policies

By Liz Fekete



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They are Children Too is a special issue of the *European Race Bulletin*.
Published March 2007. Price £10.00. 80 pages. ISBN 0 85001 067 5.

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