



Field Hearing on
"The Katrina Impact on Crime and the Criminal Justice System in New Orleans"
Written Testimony of the Honorable Ernestine Gray
Judge
Orleans Parish Juvenile Court
To
Subcommittee on Crime, Terrorism, and Homeland Security
of the
Committee on the Judiciary
Lawless Memorial Chapel, Dillard University
New Orleans, Louisiana
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I. MAGNITUDE OF ORLEANS PARISH INFRASTRUCTURE AND JUVENILE JUSTICE PROBLEMS GENERALLY:

Hurricane Katrina was the most destructive natural event New Orleans has ever experienced, both in personal loss and tragedy and overall loss of city infrastructure. In his statement to the nation at the National Day of Prayer and Remembrance Service on September 16, 2005 President George W. Bush said: "The destruction is immense, covering a city, a coastline, a region. Yet the hurt always comes down to one life, one family. We've seen the panic of loved ones separated from each other, the lonely pain of people whose earthly possessions were swept away, and the uncertainty of men and women and children driven away from the lives they knew. Many did not survive the fury of the storm. Many who did ask, why -- and wonder, what comes next."¹

From August 29, 2005 through the date of this testimony, much of New Orleans' city infrastructure (including basic services such as power, gas, communication, water, police, firefighter, city government and juvenile justice services) has been and continues to be inoperable and/or woefully inadequate to maintain public safety and essential juvenile justice services. Over 250,000 homes were lost in the storm. OPJC essential staff were not permitted to reoccupy the court building located at 421 Loyola Avenue until December 2005. The following problem and statement of need provides general information about OPJC's operational status pre-Katrina, OPJC's short-term operational recovery efforts and OPJC's long-term needs to restore essential juvenile justice operations to provide the level of service necessary for recovery of Orleans parish.

II. OPJC OPERATIONS PRE-KATRINA:

Prior to Katrina, New Orleans was the largest city in the state of Louisiana with an estimated population of 463,000. This represented more than 10% of Louisiana's total population of 4.5 million. Twenty-six percent of New Orleans' population was under the age of 18. The youth population in New Orleans was at greater risk of engaging in delinquent behavior prior to Katrina. Studies show that exposure to risk factors such as poverty, poor health and poor education "make [youth] more vulnerable to criminal activity and subsequent institutionalization."³

Youth in Louisiana are subject to a significantly higher level of risk factors than the national average, and children in New Orleans are at even greater risk. According to the Annie E. Casey Foundation's Kids Count and Agenda for Children Louisiana ranks forty-ninth out of the fifty states in terms of overall child welfare and the city of New Orleans consistently ranked lower than the state as a whole.⁴ Louisiana ranks forty-ninth in the country for the number of children living in poverty, with 26.6% of all children in Louisiana living in poverty. In New Orleans, 40.5% of children lived in poverty. Louisiana is forty-ninth in low birth-weight babies. New Orleans had a much higher percentage than the state as a whole (10.1% of births vs. 5.7% of births statewide). Louisiana ranks forty-first in the percentage of teens who are high-school dropouts. Again, New Orleans's children were at a higher risk (15% of sixteen to nineteen year olds in New Orleans were high school drop-outs, compared to 10% statewide).⁵

In 1908, the Louisiana legislature established the Juvenile Court for the Parish of Orleans as the first court in Louisiana to have exclusive jurisdiction over juveniles. The legislature gave the court authority to regulate the care, treatment and control of neglected and delinquent children, seventeen years of age and under, and provided for the trial of adults charged with the violation of laws for the protection of the physical, moral and mental well-being of children, or with desertion or failure to support, wife, or children. The Louisiana Constitution of 1921 formalized the status of the Orleans Parish Juvenile Court as a District Court of specialized jurisdiction. OPJC is a state court mandated to be funded by the City of New Orleans. In meeting this mandate, the City provided personnel, with the exception of judges and grant funded positions, some essential services and supplies. A significant portion of the court's funding is received through state and federal funds.

OPJC handles cases involving Delinquency, Traffic, Families in Need of Services, Child in Need of Care,

Voluntary Transfers of Custody, Termination of Parental Rights, Adoptions, and Child Support.

The OPJC is comprised of six judges with administrative matters assigned to the Chief Judge who is chosen annually by the judges sitting en banc. The court is comprised of several functional divisions: (1) the judiciary, which is responsible for all operations of the court; (2) the judicial administration, which deals with the maintenance of personnel records, ordering of supplies, and preparation of the budget; and (3) the clerk's office, which handles all legal records.

III. OPJC SHORT-TERM OPERATIONAL RECOVERY EFFORTS:

Following the storm's destruction, courts in the affected areas were forced to close for extended periods of time. With the assistance of Baton Rouge Juvenile Court, Orleans Parish Juvenile Court re-opened on September 12, 2006 through the end of October, 2005, in Baton Rouge to conduct emergency detention hearings for pre-adjudicated children and youth. The Office of Youth Development housed, clothed, and fed over one hundred Orleans Parish juvenile offenders who were in local detention centers pending court hearings and whose families were displaced by the storm. OPJC judges, with the assistance of Baton Rouge staff, Orleans Parish Indigent Defenders, the Juvenile Justice Project of Louisiana, the Office of Youth Development, the Baton Rouge Public Defender's Office, and the Baton Rouge Sheriff's Office conducted hearings to reunify as many children and youth as public safety would allow. The court also held emergency hearings for children and youth in Child in Need of Care proceedings in Baton Rouge. The Dependency Division began locating children in foster care, foster parents, biological parents, social workers, lawyers, CASA volunteers and others to ensure the safety and reunification of all children in the system.

In November 2005, Occupational Safety and Health Administration (OSHA), Federal Emergency Management Agency (FEMA), and the City of New Orleans did not allow OPJC essential personnel to reoccupy the courthouse located at 421 Loyola Avenue because of the hazardous conditions resulting from a flooded basement. OPJC made arrangements in December with the First City Court in Algiers to continue to hold delinquency hearings, including detention hearings three days a week: Monday, Wednesday, and Friday. OPJC also conducted dependency hearings in Jefferson Parish at First City Court four days a week reviewing every open case.

In September 2005 the New Orleans City Council, which provides city funds to the OPJC for staff and operational expenses, asked OPJC to cut all staff but essential personnel. In October 2005 the city reduced OPJC's staff by approximately 70% thereby dramatically reducing essential court services. In December 2005 the City reduced the overall budget – by over 50% - including personnel and operations from \$2,311,042.00 to \$1,129,455.00. The City reduced OPJC's operational budget from \$215,469.00 to \$150,847.00.

OPJC had ninety four employees (94) employees and currently has sixty-six (66) employees. Twenty-four (24) of who are funded by the City of New Orleans. The remaining forty-two (42) are from other grant funds including funds from the Department of Justice for Criminal Justice Infrastructure Recovery. Much of the grant funds will end by June 2008.

Despite the challenges presented by dramatic budget cuts, OPJC reorganized essential staff responsibilities among the initial thirty-one (31) employees, re-occupied the building on Loyola Avenue in January 2006, and opened full-time to the public on January 10, 2006. Since the Court reopened in January it has received 60 new delinquency petitions and 16 new emergency hold orders through March 2006 and is currently operating with 1576 open cases.

IV. OPJC'S LONG-TERM NEEDS TO RESTORE ESSENTIAL JUVENILE JUSTICE OPERATIONS TO PROVIDE THE LEVEL OF SERVICE NECESSARY FOR RECOVERY OF ORLEANS PARISH:

Orleans Parish current estimated population is 200,000⁶. According to recent reports there were approximately 28,000 children registered in New Orleans Public Schools⁷.

Generally, children and youth have few structured activities and care available to them in the city with only 18% of its public schools open, 17% of its child care centers open, 38% of its public libraries open, and 36% of its hospitals open⁸.

Risk factors⁹ for delinquency post-Katrina remain the same and the pre-Katrina data suggests that without recovery, the situation for New Orleans' children is more dire because of the lack of services to address Post-Traumatic Stress and other issues related to the traumatic events they experienced. According to the United Way of Greater New Orleans, before Katrina there were 3,200 nonprofits in Louisiana which collectively spent \$8 billion each year. Nearly 10% of employees in the Greater New Orleans Area worked for non-profits. Fewer than half of the GNO Area nonprofits are fully operational and/or providing any services at all. Children and youth without community-based resources and structured activities to provide supervision have the opportunity to engage in delinquent behavior.

As summer approaches, the anticipated school vacation coupled with lack of recreational activities and other protective factors¹⁰ suggests to this Court that the number of arrests for delinquent behavior – both representative of normal adolescence and actual crimes – may significantly increase. It is not my purpose to sound alarmist, because I believe that the whole the news about our youth, those 17 and under, is positive. In fact, prior to Hurricane Katrina, based on information from the New Orleans Police Department Juvenile Division, we began to see some decline in juvenile delinquency and status offenses. For example,

the Juvenile Division reported a 6% decrease in curfew violations, a 35% decrease in truants and a 12% decrease in juvenile arrests when comparing the first eight months (January to August) of 2004 and 2005. During 2006 there were 870 arrests for delinquent behavior which resulted in 347 new delinquency petitions being filed in the Court. The breakdown of the arrests by crime type was as follows:

possession of marijuana	120 or 14%
warrants	101 or 12%
criminal trespass	71 or 8%
disturbing the peace and simple battery	63 or 7%
possession of crack cocaine and curfew and "other" offenses	53 or 6%
resisting arrest and distribution of crack cocaine	47 or 5%
murder (out of the 169 total for the year)	3 or 0.003%
armed robbery	12 or 0.013%
gun possession	38 or 0.04%

While the numbers for the first quarter of 2007 seem to be on the increase based on the number of arrests reported petitions that have been filed in court, we do not have the arrest data from the police department by which to give percentages similar to those for 2006. Other pieces of demographic information which the committee might find interesting is that African- American youth are 98% of youth arrested in New Orleans, whites are 1% and Asian youth are 0.002%. The breakdown by sex for African-American youth is 76% male and 22% female. Further, our best information indicates that youth between the ages of 15 and 17 are responsible for most of the delinquent behavior committed by youth in our city.

I would be remiss if I did not say that, as we worry about delinquent youth we must also be concerned about those youth, who most times through no fault of their own, find themselves in foster care. Youth growing up in foster care face a broad range of challenges and are at high risk for delinquent behavior. It is well documented that many adult prisoners have a history of childhood abuse and neglect.

Given all of the above, here are the important take aways for this subcommittee, the progress that has been made in the juvenile area could not have been made without the support of the federal government and we will more than likely need support for some time in the future. We have come a long way in bringing stakeholders together (capitalizing on the juvenile reform efforts in the state, where we can) and assessing our needs but we are just beginning the dialogue of how our system should operate. We are looking to the National Council of Juvenile and Family Court Judges Delinquency Resource Guidelines (attached) and the eight (8) core strategies of the Annie E. Casey's Juvenile Detention Alternative Initiatives (attached) to provide much of the blueprint for how we will work in the future. As we continue to work to build a better, more responsive system there are some crucial issues that we must address, i.e. data collection, disproportionate minority contact, continued meaningful collaboration, alternatives to incarceration, developing a continuum of care as well as addressing the conditions of confinement.

Our programs are good but under funded. As we are trying to live and work in post Katrina New Orleans, many of our social services are not back in place. Our programs are at capacity with a smaller caseload overall. There are too few programs on the continuum of care that should be in place in any community to help ensure that its youth population has the best chance of becoming healthy, productive adults and contributing citizens; we are lacking services for families in communities, particularly mental health and substance abuse.

As we work hard to improve the system, protect the community and to hold juveniles accountable we must not forget that "we worry about what a child will become tomorrow, yet we forget he is someone today." (Staci Tauscher)

Thank you.