

A Statement from the Caught in the Net Legislative Advocacy Working Group

Statement of Concerns about Effects of Katrina on Women Involved in the Criminal Justice System and their Families October 1, 2005

For the past few weeks, the world has been riveted by the images coming from the Gulf Coast in the aftermath of Hurricane Katrina. The physical destruction of the region and loss of life has been staggering. Most compelling and shocking have been the images of people too poor to evacuate before the storm, stranded in a city underwater, sweltering in the 90+ degree heat, desperate for the basic necessities – food, water, shelter – trying to keep themselves and their children and elderly family members alive. What the images failed to show is a hidden problem plaguing many of the Katrina survivors. Among the almost 1 million people left homeless by Katrina are thousands struggling with drug addiction and alcoholism, some of whom have never been in treatment but many of whom have been torn from recovery programs. Louisiana has been identified as one of the top 20 states in America where a treatment gap exists between those who need treatment and those who receive it. In New Orleans, where nearly a third of the population lives in poverty and the majority of the poor are black, addiction is a major problem among the very group left behind to face the hurricane. That nearly half of the men arrested in the city in recent years have tested positive for cocaine, according to the National Institute on Drug Abuse, is only one indicator of the problem's extent. As advocates for women who are drug addicted, locked up or formerly incarcerated, we are compelled to remind the public that people who were trying to get their lives together before Katrina shouldn't be ignored now that their support systems have been destroyed. We want to ensure that all those in need of help receive it, especially people already leading difficult and marginal lives before Katrina hit. We call on state and federal officials to recognize and address the different needs and assistance required by all women and men, immigrants (documented and undocumented) and citizens, adults, children and senior citizens. It is critical that peoples' differences be addressed to ensure the most appropriate remedies are in place to assist all Katrina survivors to successfully rebuild their lives and reach their full potential.

The authors of this statement are representatives of national and state advocacy organizations that promote broad reforms of our nation's criminal justice system and punitive drug policy. We came together for the purpose of focusing policymakers' and lawmakers' attention on the specific effects of America's criminal justice system and drug policy on women and their families. This document, therefore, highlights some of our specific concerns regarding the response of relief and governmental agencies to these women and their families as well as other vulnerable populations.

Proposals for Action and Responses:

- Issue an Executive Order declaring a moratorium on enforcement of federal policies that discriminate against persons otherwise eligible for disaster relief because of a prior felony conviction or immigration status (e.g. restrictions on access to public housing, food stamps, TANF benefits).
- The federal government should encourage states to declare a moratorium on sanctions imposed on Katrina evacuees for failure to comply with pre-trial reporting or appearance requirements as well as probation or parole reporting requirements.
- The Congressional committees investigating Katrina emergency protocols should include criminal justice and drug treatment issues as an area for further investigation and planning.
- Include access to drug treatment and criminal justice issues in future legislation allocating federal- and state-level disaster relief for Katrina victims.
- Allocate some portion of the current disaster relief budget for restoring supportive services to those with histories of criminal justice involvement as well as those previously in drug treatment programs.
- Declare publicly that immigrants, regardless of their legal status, will be provided with emergency relief services and that information collected from them will not be turned over to law enforcement.

Areas of Concern and Investigation:

- **The criminal justice response to foraging for food and other survival necessities**

According to a report filed by Agence France Press, some 271 persons have been arrested and detained at the temporary jail established in the city's bus station, dubbed "Camp Greyhound". Some 206 men and 47 women are detained on state felony charges – mostly for "looting" – while eight men and two women were booked on more minor misdemeanors. Another eight men have been charged with serious federal offenses, most weapons related, and one has been charged with rape.¹

There have been numerous media reports alleging widespread "looting" in New Orleans and Biloxi, MS. Most of the arrests by local law enforcement, the National Guard and other deputized troops have been targeted at persons believed to have engaged in "looting". Many of the early reports indicate that first responders viewed this activity as driven by the emergency situation people found themselves in after the storm hit, the levees broke and the city flooded. There was little to no commercial activity in the city. Most of the residents in the hardest hit part of New Orleans did not have bank accounts, cars or assets and lived from check to check. Because Katrina hit at the end of the month, many had little to no available cash on hand. As it became clear that provisions were not available at the Superdome or the Convention Center, many relied on their own ability to forage or otherwise locate and acquire food, medicine and essential supplies.

While the media and others have focused on the few individuals who made off with electronic equipment, jewelry and, in some cases, weapons, the majority of confirmed reports suggest that most of those described as "looters" were just trying to survive in an admittedly horrific situation. Most have been charged with a felony offense; it is yet unclear what types of evidence will be used to substantiate the charges. Just this year, well before Katrina, the Louisiana Supreme Court ruled the state's system of indigent defense was constitutionally inadequate and in need of major restructuring.² It is vitally important that as states restore order to the Katrina affected communities, they also restore the rule of law, with all the constitutional protections it entails.

We believe the defense of necessity with respect to charges of "looting" should be given extra consideration in this situation. Given the chaos and uncertainty of obtaining assistance from any governmental agency during the initial week of the crisis, compassion should be granted to all legitimate claims of necessity. Additionally, prosecutors and judges should carefully weigh the costs of incarceration on taxpayers, as well as on the children and families of such individuals, against whatever public safety benefits may derive from incarceration.³

- **Services for women with drug addiction and/or mental illnesses**

According to demographic data and reports by state, local and federal agencies, substance abuse was a major social and health care problem prior to the Katrina disaster. Expanding access to drug treatment and mental health services was a major concern of criminal justice and health care professionals. Even before the hurricane, Louisiana suffered a dearth of treatment options for drug and alcohol abusers.

"As many as 1,800 clogged waiting lists on any given day", said Samantha-Hope Atkins of Hope Networks, a recovery advocacy group in Baton Rouge. "Very few people realized that Louisiana had 32 medical detox beds for 4 million residents," she said. "Twenty are in [New Orleans'] Charity Hospital, which is gone."

Katrina wiped out other recovery options as well. The New Orleans area hosted dozens of 12-step meetings everyday, and the city's methadone clinics served about 1,300 patients. Some were able to find help after evacuating. The Baton Rouge Treatment Center picked up an extra 200 methadone patients, but infusions of staffers from other clinics have allowed the center to persevere despite long

¹ Officials Urge Evacuated New Orleans Probationers to Call Home, Terra Daily, Sept. 12, 2005, <http://www.terradaily.com/news/disaster-management-05zw.html> .

² See State of Louisiana v. Adrian and State of Louisiana v. Benjamin G. Tonguis (No. 04-KA-1841) (Funding for Indigent Defendants in Criminal Cases), decided April 1, 2005

³ See report on 3 FEMA Workers Arrested, Accused of Looting, Albuquerque Journal, Sept. 9, 2005. www.abqjournal.com/fjet/388550nmn-09-09-05.htm?splshotop.

lines that promise only to get longer.⁴

Charles Curie, head of the Substance Abuse and Mental Health Services Administration (SAMSHA), said the federal government has released \$600,000 to help pay for treatment for displaced people and has promised more money will be available as Congress passes additional disaster relief funds. To date it appears most first responders and service providers have attempted to meet the needs of women with substance abuse and mental health issues. Nonetheless, a major impediment is the lack of capacity to provide needed services to the majority of people who need them. Unfortunately, drug treatment services specifically designed for women are in short supply in the region, especially programs that allow women to remain with their children during treatment. Given the family disruptions caused by Katrina, women may be even more reluctant to access services if it means separation from their children and loved ones.

- **Allocation of resources for addressing the long-term effects of Katrina on displaced women and families with drug addiction, mental health and related problems**

Aside from the \$600,000 specifically allocated to provide drug treatment for Katrina survivors, it is not clear if there have been additional funds set aside for this purpose. Treatment providers, criminal justice advocates and local elected officials should include support for the ongoing needs of survivors with substance abuse and/or mental health issues, as well as those in need of other supportive services, in their long-term funding plans.

- **Status of women on parole or probation**

When Katrina hit there were approximately 13,900 persons in New Orleans on probation or parole.⁵ Louisiana prison officials have issued a directive urging parolees and probationers to contact authorities and tell them where they are. Officials are working with other states to establish supervision plans for those displaced. People will not be penalized for leaving the immediate area or state, but will be penalized if they fail to come forward. Pam Laborde, spokesperson for the Louisiana Department of Corrections said, "If we find you, you are going to go back to jail. Just because people had to evacuate doesn't mean that they escape their responsibilities as far as supervision."

Women on probation or parole with children or other dependent family members should not be penalized for failure to report to the appropriate authorities. Additionally, every effort should be made to ensure that they are provided appropriate support services.

- **Impact on children in foster care in the Katrina impact zone**

Many women in the criminal justice system have children in foster care. Because of the disruptions caused by Katrina many women may have difficulty locating their children and even more difficulty maintaining regular contact with them. To date, the following information has been provided by the Departments of Social Services in Louisiana and Mississippi regarding children in their foster care systems:

- ❖ Mississippi has not been able to find all of their foster families as of September 7, 2005.
- ❖ Mississippi stated that as long as the foster family is able to secure a suitable living environment, the children have been allowed to remain. If not, other options have to be explored for the children.
- ❖ Louisiana states that some foster children were evacuated with their foster parents, while others were not. Louisiana further states that social workers are doing the best they can to keep track of foster children and their placements and families.
- ❖ Louisiana and Mississippi will be working with other states in finding needed homes, but they cannot place children in unlicensed homes. Adoption of Hurricane Katrina orphans will not be a possibility for many months, as agencies will work to locate family first. Many families have been separated. It may take several months before we know which children have extended family ready to take them in and which children need an adoption placement.

⁴ Storm chaos cuts help for addicts, Recovery programs, clinics jammed by patients set adrift, Chicago Tribune, Sept. 9, 2005.

⁵ Officials Urge Evacuated New Orleans Probationers to Call Home, Terra Daily, Sept. 12, 2005, www.terradaily.com/news/disaster-management-05zw.html

It is vitally important that all efforts are made to locate missing children and reunite them with their families. Children in foster care should be identified as quickly as possible, and plans should be developed to ensure visitation and regular contact with their parents, especially if they are in treatment or behind bars. States should postpone the initiation of termination of parental rights proceedings under the Adoption and Safe Families Act in cases involving Katrina survivors. Many children have been permanently damaged by their experiences in the aftermath of Katrina, losing their parents will only add to the tragedy and harm.

- **Women who were detained or incarcerated at the time Katrina hit**

According to recent news reports there were approximately 8,000 inmates in correctional facilities in the Greater New Orleans area who had to be relocated when Hurricane Katrina hit. While we do not know how many of the 8,000 inmates are women, this number includes about 500 women who were transferred to the Louisiana State Penitentiary at Angola, the all-male maximum security prison. This is the first time women have ever been housed at Angola; most of the women brought to Angola came from the Orleans Parish Prison (OPP), which is the local jail. Many of these women were initially jailed for minor offenses, as exemplified by a woman interviewed by Louisiana defense attorney Phyllis Mann.

“I met another woman who had failed to pay a fine. She was also arrested on August 16th, and because she failed to pay a fine, is sitting in a maximum security prison. We don’t know when we’re going to be able get these women out of jail. There was another woman who was arrested for sleeping by the ferry. She has a \$600 bond, and she’s been in jail since August 3rd. But because the records for people who are arrested in Orleans Parish are maintained by the Orleans Parish Sheriff, until those records can be reconstructed, we can’t get these women out of jail.”⁶

Most have little to no information regarding the whereabouts of their children or family members. Several hotlines have been setup by state agencies and service organizations to help people track down incarcerated adults and juveniles who were evacuated. According to Louisiana Department of Corrections spokeswoman Pam Laborde, over the next few days, the state will set free 163 inmates who were scheduled to be released. State officials are trying to contact families to arrange for someone to pick them up. Those without a ride will get \$10 and a bus ticket to a point in Louisiana, Alabama, Mississippi, Texas, Arkansas or Tennessee.

Essentially “dumping” women on the streets with just \$10 and a bus ticket out of town will leave many newly released women vulnerable to various types of exploitation. Corrections officials should be required to develop discharge plans for incarcerated women and men prior to release, especially for people who lived in Katrina impact zones.

The women who were sent to Angola should be processed as quickly as possible to determine the appropriate length of sentence. Those who will remain behind bars should be transferred to correctional facilities designed for women, where necessary health care and services are available.

- **Impact on undocumented immigrants and families**

Undocumented immigrants, including those detained pending deportation as well as those fearing deportation, are also feeling the devastating impact of Katrina. For instance, many of the currently detained undocumented men and women are being held for minor non-violent offenses, including overstaying their visas, as exemplified by a woman interviewed by Louisiana defense attorney Phyllis Mann.

“And among the women being held there I met with a 49-year-old woman who was a citizen of Jamaica and had been arrested on August 16th for having overstayed her visa, but before her deportation could occur, the hurricane came, and so now it has been almost a month and she would happily return to Jamaica.”

As mentioned above, many undocumented women are being held in Angola, the maximum security prison for men. Prison and immigration officials must find suitable detention facilities for undocumented people and take special care of the divergent needs of men and women in their charge.

⁶ Interview with Phyllis Mann by Amy Goodman of Democracy NOW: After Katrina, Where Have All the Prisoners Gone? Sep. 13, 2005. <http://www.democracynow.org/article.pl?sid=05/09/13/1352415>.

Efforts should be made to facilitate undocumented peoples' contact with their families as well as with legal representatives and interpreters.

Estimates by the Pew Hispanic Center set the number of undocumented immigrants in Louisiana, Mississippi and Alabama at between 20,000 and 35,000. Domestic consulates of Latin American nations are trying to locate citizens affected by Katrina; they are worried undocumented immigrants may not seek help for fear of being deported. Tens of thousands of Latin Americans, most from Mexico and Honduras, were living in the New Orleans area prior to the hurricane.

The Department of Homeland Security (DHS) has stopped short of reassuring undocumented immigrants victimized by Hurricane Katrina that they can seek help from relief agencies without fear of arrest, a promise the federal government made after the Sept. 11th attacks. DHS spokeswoman Joanna Gonzalez refused to directly answer repeated questions about whether the agency can assure undocumented immigrants that their information would not be turned over to law enforcement agencies when they seek help.⁷

Mexican President Vicente Fox urged Mexicans to seek help from emergency officials during a televised address on Friday, September 2nd, in both Spanish and English. Fox stated that his government had reached an agreement with U.S. authorities and that "those who were not documented at the time will not be subject to any pressure or persecution whatsoever." Officials had no reports of any Mexican deaths, but 87 citizens were reported missing, said Mexican Foreign Secretary Luis Ernesto Derbez.

However, many, mindful of their long and dangerous voyage to the United States, have ignored Fox's advice, choosing to work with local churches or within tight-knit, Spanish-speaking communities. According to a recent report, some sneak into shelters at night and then slip out in the morning, praying they won't be noticed. Others avoid government help altogether, preferring to ride out the chaos and destruction alone. "You feel destroyed because you're left with nothing and have to start all over again," said Zamora, 40, who arrived in New Orleans three years ago to work odd jobs. Some immigrants have stayed in flooded homes and apartments to protect their belongings, knowing they will not be eligible for most federal aid.

In some cases, the decision to stay put has been fatal. Four roommates – three Mexicans and a Honduran – decided to ride out the storm in their trailer in Marrero, LA. They were asphyxiated by a faulty generator after the storm passed.

Jorge Vitanza, Honduras' vice consul to New Orleans, said his staff has been scouring refugee centers and Hispanic neighborhoods to see how many of the 150,000 Hondurans living in Louisiana need help. Of the 9,600 Salvadorans in the affected area, only 40 have gone to shelters, said Margarita de Escobar, vice minister for Salvadorans living abroad. About 40,000 Mexicans live in Louisiana and roughly 90 have been reported missing, said Juan Bosco Marti, director-general for North America at the Mexican Foreign Relations Department. As of September 6th, Mexican consular officials helped 297 Mexicans displaced by the hurricane, repatriating 21 to Mexico at their request. But Marti said most Mexicans fleeing the destruction have sought shelter with extended family rather than seeking government aid. About half of Louisiana's 30,000 Vietnamese – many of whom fled war in their homeland decades ago – have taken refuge in churches or with friends and family in Houston, which also has a large Vietnamese population.

At a Baton Rouge camp, Hector Padilla, 49, a Honduran carpenter who lived in New Orleans, said many immigrants were talking of raids by immigration authorities. Although Padilla said he had papers, he still was nervous. "There is always fear when you aren't a U.S. citizen," he said. "There is always fear they will get you."⁸ This fear is particularly acute for women, who may fear deportation and separation from their children.

It is essential that DHS make clear it will not turn over information received from Katrina survivors seeking help to law enforcement agencies and immigration authorities. This information should be widely disseminated throughout the country, with special targeting to the affected communities in the

⁷ Illegals hit by Katrina Worry, CBS News, Sept. 10, 2005.

<http://www.cbsnews.com/stories/2005/09/10/katrina/printable832574.shtml>

⁸ Fearing Deportation, Illegal Immigrants Avoid Hurricane Help, Sept.9, 2005 www.komonews.com/katrina/story.asp?ID=39083

Katrina zone. Immigration officials should also suspend arrest and detention of immigrants who have overstayed their visa due to Katrina.

- **Impact on juveniles and families**

“Nearly 250 male and female detainees were evacuated from detention centers in Jefferson, Orleans, Plaquemines and St. Tammany parishes to the Jetson Youth Center in Baker in the days before and after Katrina hit,” said Simon Gonsoulin, the Deputy Secretary of the Office of Youth Development. After their families were notified, most of the youth – who are between 12 and 20 years old – were sent to various secure and non-secure facilities throughout the state or released to their families but contacting the relatives of 25 of the youths has proven more difficult, according to Gonsoulin. Officials have released telephone numbers and website addresses and have even begun to go from shelter to shelter attempting to locate family members. Because roughly 40 percent all youth incarcerated in Louisiana have been diagnosed with serious mental problems, counselors have been placed on-call to deal with pre-existing conditions and any that may have arisen because of the storm.

We are particularly concerned about the status of young women who were in juvenile detention facilities when Katrina hit or who were arrested subsequently. Girls who are detained are often those who are at risk for a variety of reasons, including trauma caused by sexual abuse and mental illness. Many are substance abusers, and some are already mothers. Katrina is likely to exacerbate these problems because of dislocations that affect children even more dramatically than adults, given their developmental status. Moreover, the disruption of the school year is likely to make these problems worse for those who are at risk, but not yet in the delinquency system. Decisions about how to treat such children if they offend should take into account Katrina’s effects, such as whether the child is suffering from post-traumatic stress disorder. Transfers to adult court should be particularly scrutinized for those who have been affected by Katrina. Similarly, involvement of girls as minor participants in crime or foraging in the immediate aftermath of Katrina should be evaluated in light of possible separation from their families.

We are worried about the effect that Katrina will have on school opportunities in the delinquency system. To deprive children of one of the best ways to escape from poverty and criminal involvement would be a massive system failure.

Endorsed by:

Break the Chains: Communities of Color and the War on Drugs
Maryland Justice Coalition
Campaign for Treatment Not Incarceration
American Civil Liberties Union Drug Law Reform Project
American Civil Liberties Union Women’s Rights Project
National Association of Drug Court Professionals
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