

# **SHELTER FROM THE STORM?**

## **GALVESTON COUNTY'S REFUSAL TO EVACUATE DETAINEES AND INMATES AT ITS JAIL DURING HURRICANE IKE**

The Texas Civil Rights Project's  
2009 Human Rights Report



Tribune's Washington Bureau: The Swamp, Hurricane Ike alarm recalls Katrina, (2008).  
[http://blogs.trb.com/news/politics/blog/assets\\_c/2008/09/Hurricane%20Ike%20satellite%20image%20small-thumb-425x318.jpg](http://blogs.trb.com/news/politics/blog/assets_c/2008/09/Hurricane%20Ike%20satellite%20image%20small-thumb-425x318.jpg)

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## **Executive Summary**

As Hurricane Ike barreled towards Galveston Island in September 2008, city and county authorities ordered mandatory evacuations, and warned anyone remaining on the island faced “certain death.” Despite this peril, Galveston County intentionally chose not to evacuate the approximately 1,000 people imprisoned in the Galveston County Jail. This decision caused immense human suffering in the jail, though fortunately not the untimely deaths of any prisoners, as occurred when Hurricane Katrina devastated the Orleans Parish Prison just three years earlier. The physical structure of the jail survived the storm, but Galveston’s decimated infrastructure was unable to provide basic human necessities like water and sanitation to the prisoners in the weeks following Ike’s landfall.

The County’s refusal to evacuate the jail is especially shocking because most people imprisoned in the jail are pre-trial detainees who have not been convicted of any crime, or people who have only committed minor offenses. Virtually all the pre-trial detainees would have been eligible to make bail and be released from the jail. Had the County chosen to do so, personal recognizance bonds could have been issued to these prisoners to allow them to get out of Ike’s path with their families. In shocking contrast, the Texas Department of Criminal Justice evacuated almost 7,000 convicted prisoners in State prisons located in neighboring counties, including many prisoners guilty of committing violent felonies. In short, the majority of the people in the Galveston County jail who felt Ike’s fury remained in the jail because of their poverty, not the nature of their alleged offenses.

Galveston County’s shocking decision to not evacuate the jail shows the County’s attitude towards prisoners. When the County decided to evacuate the island “to alleviate the suffering of the people,” it did not consider the human beings in the jail “people.”

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## Human Rights Report

### *Shelter from the Storm? Galveston County's Refusal to Evacuate Detainees and Inmates at Its Jail During Hurricane Ike*

#### Introduction

On September 10, 2008, as Hurricane Ike gained strength offshore, County Judge James D. Yarbrough issued an order, declaring a state of disaster for Galveston County<sup>1</sup>: “Extraordinary measures must be taken to alleviate the suffering of the people.”<sup>2</sup> In turned out, however, that the County was concerned with the suffering of only some of its people – not the approximately one thousand detainees and inmates it confined in its jail.

That same day, the County issued a mandatory evacuation order for the western part of Galveston Island, because Hurricane Ike “threatens the life and safety of persons” in Galveston County.<sup>3</sup> Mayor Lyda Ann Thomas extended application of the mandatory evacuation order to the whole island.<sup>4</sup> The National Weather Service warned those on the Gulf-facing side of the island not planning to evacuate faced “certain death.”<sup>5</sup>

Based on the projected path and category of Hurricane Ike, the Texas Department of Criminal Justice (TDCJ) began staging resources for the evacuation of thirteen units on Monday morning, September 9, four days before Ike made landfall.<sup>6</sup> Besides evacuating eight state prison facilities, TDCJ evacuated one Texas Youth Commission facility in Beaumont, two halfway

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<sup>1</sup> James D. Yarbrough, County Judge of Galveston County, Texas, *Declaration of Local State of Disaster for the County of Galveston, Texas Due to Hurricane Ike* (Sept. 10, 2008).

<sup>2</sup> *Id.*

<sup>3</sup> James D. Yarbrough, County Judge of Galveston County, Texas, *Order of Mandatory Evacuation from Areas of Galveston County, Texas Due to Hurricane Ike* (Sept. 10, 2008).

<sup>4</sup> Khou.com, *Galveston Braces for Possible Hit from Ike*, Sept. 12, 2008, [http://www.khou.com/topstories/stories/khou080911\\_tnt\\_houston\\_ike\\_general.659ae065.html](http://www.khou.com/topstories/stories/khou080911_tnt_houston_ike_general.659ae065.html)

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

houses, a transitional treatment center, and “high risk” parolees.<sup>7</sup> The eight prison facilities housed prisoners of all custody levels — high-risk prisoners in Administrative Segregation down to prisoners in Trusty Camps (low-risk, good behavior) and those needing medical treatment were brought to different prison facilities out of harm’s way.<sup>8</sup> County jails on the other hand, such as the Galveston County Jail, house only those convicted of a minor crime or those who could not make bond after their arrest and have not been convicted of anything.<sup>9</sup>



Nathaniel Quarterman, Texas Department of Criminal Justice, Response to Hurricane Ike: September 2008 (2008).

By noon the day before Ike’s landfall, all state prison facilities in the projected path of Hurricane Ike were evacuated, ensuring that 6,995 convicted prisoners were safe from Ike’s wrath.<sup>10</sup> Many of these facilities were much further inland than the Galveston County Jail.<sup>11</sup>

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*; TEX. DEP’T OF CRIMINAL JUSTICE, OFFENDER ORIENTATION HANDBOOK, 5-6, (Nov. 2004).

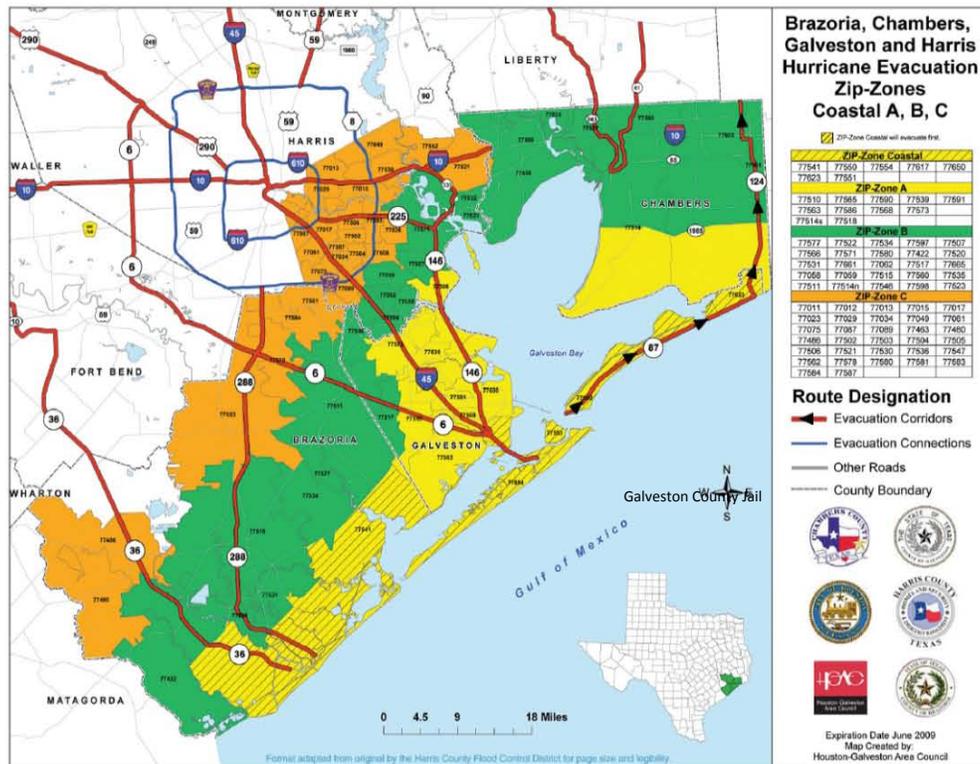
<sup>9</sup> See Telephone Interview with Denise Y. Forteson, Galveston County Jail Inmate during Hurricane Ike, (Aug. 4, 2009).

<sup>10</sup> Nathaniel Quarterman, Dir., Corr. Inst. Div., Tex. Dep’t of Criminal Justice, Presentation to the Tex. Bd. of Criminal Justice (Dec. 2, 2008).

<sup>11</sup> *Id.*

Even though the jail lies well within the zone identified for immediate evacuation, now-former Sheriff Gean Leonard opted not to evacuate more than one thousand men and women in his custody at the jail.<sup>12</sup> The Sheriff later explained his decision was based on the newly-constructed building's purported ability to withstand a Category Five Hurricane; a decision made with no regard for the conditions the detainees and inmates would have to endure after the storm,<sup>13</sup> which were severe.

Heeding Judge Yarbrough's warning, the rest of the island sought shelter with friends and family in neighboring cities in the days that preceded the storm. What follows, however, are the stories of those whom the County deliberately and callously left behind in jail, at their peril.



Khou.com, Hurricane Help: September 2008 Archives, (2008).  
[www.khou.com/images/0808/evacuationroutemap.jpg](http://www.khou.com/images/0808/evacuationroutemap.jpg)

<sup>12</sup> E-mail from Adam Munoz, Jr., Executive Director, Texas Commission on Jail Standards, to Albert Black, et. al. (Sept. 22, 2008, 10:32 CST).

<sup>13</sup> *Id.*

## The Not-So-Calm Before the Storm

The detainees and inmates at the jail found out the mayor had issued a mandatory evacuation order and began to wonder why there was no talk of evacuating the jail.<sup>14</sup> As the storm approached, detainees and inmates and their families remained in the dark about whether or not they would be transported to safety.<sup>15</sup> As detainees and inmates' families departed the island, the jail was inundated with calls from frantic family members trying to find out what would happen to their loved ones.<sup>16</sup>

When it became clear they would not be evacuated, many detainees and inmates feared they were going to drown.<sup>17</sup> Stories they had heard of drowning prisoners in Hurricane Katrina, like the wheelchair bound man who had to be revived by CPR or the pregnant juvenile offender who was not so lucky, became vivid and imminent possibilities.<sup>18</sup> They waited in anticipation for Ike to make landfall. They felt like guinea pigs — human subjects of the County's grand experiment designed to test the limits of its new jail.<sup>19</sup> The guards even told detainees and inmates that there was talk of printing their Social Security numbers and birth dates in permanent marker on their arms so their dead bodies could be identified if they perished in the flood.<sup>20</sup>

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<sup>14</sup> Interview with Lawrence Rodriguez, Galveston County Jail Inmate during Hurricane Ike, Beaumont, Tex. (July 15, 2009); see Telephone Interview with Denise Y. Forteson, *supra* note 9.

<sup>15</sup> *Id.*; Interview with Michael Shane Smith, Galveston County Jail Inmate during Hurricane Ike, in Beaumont, Tex. (June 18, 2009).

<sup>16</sup> Interview with Lawrence Rodriguez, *supra* note 14.

<sup>17</sup> Interview with Lawrence Rodriguez, *supra* note 14; Telephone Interview with Denise Y. Forteson, *supra* note 9.

<sup>18</sup> American Civil Liberties Union's National Prison Project, *Abandoned & Abused: Orleans Parish Prison in the Wake of Hurricane Katrina* (2006).

<sup>19</sup> *Id.*; Interview with Lawrence Rodriguez, *supra* note 14.

<sup>20</sup> Interview with Leonard Rodriguez, Galveston County Jail Inmate during Hurricane Ike, in Beaumont, Tex. (July 15, 2009); Interview with Jim Brown, Galveston County Jail Inmate during Hurricane Ike, in Beaumont, Tex. (July 15, 2009).

## Ike's Fury

The Galveston County Jail houses detainees and inmates in “tanks,” which consist of six dorm rooms situated in an “L” shape around a central space.<sup>21</sup> Each dorm contains eight bunks and one toilet.<sup>22</sup> The central space has a desk with a phone for the guard on duty.<sup>23</sup> Showers and several additional toilets are also located in the central space.<sup>24</sup>

The power cut out before the hurricane made landfall — back-up generators maintained dim lighting, but did not maintain the jail’s air-conditioning.<sup>25</sup> One inmate described the sound of the storm as a “freight train” when it hit the jail.<sup>26</sup> As the wind picked up, the detainees and inmates could hear the air conditioning units ripping off and banging around the outside of the building.<sup>27</sup> In one of the dorms, an air conditioning unit left a sizeable hole in the ceiling as it tore off of the building.<sup>28</sup> Water streamed into this dorm, so the detainees and inmates placed a large outdoor garbage can underneath the stream. Within an hour, the garbage can was overflowing.<sup>29</sup>

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<sup>21</sup> Interview with Michael Shane Smith, *supra* note 15.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Interview with Lawrence Rodriguez, *supra* note 14.

<sup>25</sup> *Id.*; Telephone Interview with Denise Forteson, *supra* note 9; Interview with Lawrence Rodriguez, *supra* note 14; Interview with Mason Reginald, Galveston County Jail Inmate during Hurricane Ike, in Beaumont, Tex. (July 15, 2009).

<sup>26</sup> Interview with Jim Brown, *supra* note 20.

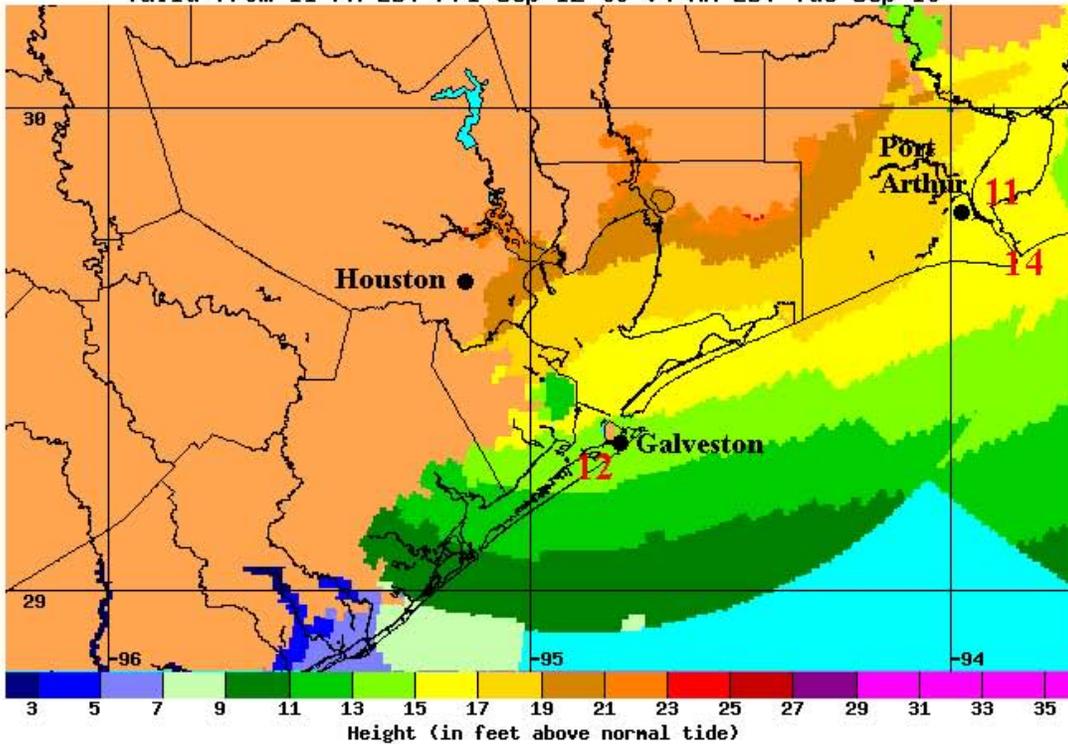
<sup>27</sup> Interview with Leonard Rodriguez, *supra* note 20; Interview with Michal Shane Smith, *supra* note 15.

<sup>28</sup> Interview with Leonard Rodriguez, *supra* note 20.

<sup>29</sup> *Id.*



Experimental Tropical Cyclone Storm Surge Exceedance  
 Heights Which Have a 10% Chance of Being Exceeded  
 Hurricane Ike (2008) Advisory 48  
 Valid from 11 PM EDT Fri Sep 12 to 04 AM EDT Tue Sep 16



Dr. Jeff Masters, Weather Underground: Wunder Blog, *Ike Makes a Direct Hit on Galveston* (Sep. 13, 2008).  
[http://www.wunderground.com/hurricane/2008/ike\\_surge\\_update.png](http://www.wunderground.com/hurricane/2008/ike_surge_update.png)

As the rain became increasingly heavy, the ceiling tiles turned brown from saturation and started falling into the units.<sup>30</sup> The ceiling, walls, and floors were soaked from rain seeping through the walls and in from the “rec yard,” a 20’ by 20’ grassy area surrounded by brick walls, adjacent to the tank.<sup>31 32</sup> One inmate saw the six-foot high water line at the County Courthouse, which is physically connected to the jail.<sup>33</sup> An apartment complex across the street had a ten-foot high water line.<sup>34</sup> The National Hurricane Center’s report confirms that the water surged

<sup>30</sup> Interview with Michael Shane Smith, *supra* note 15.

<sup>31</sup> Interview with Michael Shane Smith, *supra* note 15.

<sup>32</sup> *Id.*

<sup>33</sup> Interview with Leonard Rodriguez, *supra* note 20; see also CNN.com, *Ike Wears Itself Out Beating Up On Texas*, <http://www.cnn.com/2008/US/weather/09/13/hurricane.ike.texas/index.html> (last visited Aug. 14, 2009) (one resident reported that the County Courthouse flooded one foot).

<sup>34</sup> Interview with Jim Brown, *supra* note 20.

this high: “The highest inundation, of at least 10 feet, occurred on the bay side of Galveston Island.”<sup>35</sup> The detainees and inmates attribute their survival to the “grace of God”, and believe there is no way the jail, strained as it was by the impact of Ike, a Category Two Hurricane, could have withstood the Category Five Hurricane it was purportedly designed to weather.<sup>36</sup>



Nathaniel Quarterman, Texas Department of Criminal Justice, Response to Hurricane Ike: September 2008 (2008).

### **The Aftermath**

In spite of what damage it incurred, the jail building did stand against the storm. But the mandatory evacuation order was not put in place with property alone in mind. The order was designed to “alleviate the suffering of the people.”<sup>37</sup> Galveston County’s failure to evacuate caused the detainees and inmates to suffer dearly in the wake of Hurricane Ike.

<sup>35</sup> Robbie Berg, Tropical Cyclone Report: Hurricane Ike, The National Hurricane Center, AL092008 (Jan. 23, 2009).

<sup>36</sup> Interview with Lawrence Rodriguez, *supra* note 14; Tropical Cyclone Report: Hurricane Ike, *supra* note 24.

<sup>37</sup> James D. Yarbrough, *Declaration of Local State of Disaster for the County of Galveston, Texas Due to Hurricane Ike* (Sept. 10, 2008).

## *A. Sanitation*

Each “tank” contained ten commodes – one in each dorm, and another four in the central room.<sup>38</sup> Within one day of the water outage, all ten of the toilets were filled to the brim with human waste.<sup>39</sup> The stench of human excrement overwhelmed the tanks.<sup>40</sup> When FEMA issued the shower buckets a week after the storm, two buckets were placed in the day room for the 48 occupants to use as toilets.<sup>41</sup> Liquid waste was deposited directly into the buckets, which were emptied when full and returned.<sup>42</sup> The guards gave the detainees and inmates bags to spread over the mouths of the buckets for the collection of solid wastes.<sup>43</sup> The detainees and inmates were told to tie the used bags closed and throw them into the trashcan located in the tank’s central space.<sup>44</sup> The garbage can soon overflowed with bags of excrement.<sup>45</sup>

What’s more, the detainees and inmates had to line up next to this trash can to collect their daily sandwich meals, distributed in the same room.<sup>46</sup> The lack of airflow in the jail exacerbated the stench and drove many of the detainees and inmates to incessant vomiting while waiting in line for food.<sup>47</sup>

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<sup>38</sup> Interview with Leonard Rodriguez, *supra* note 20.

<sup>39</sup> *Id.*

<sup>40</sup> Interview with Michael Shane Smith, *supra* note 15.

<sup>41</sup> Interview with Leonard Rodriguez, *supra* note 20.

<sup>42</sup> *Id.*

<sup>43</sup> Interview with Ray Lazare, Galveston County Jail Inmate during Hurricane Ike, in Beaumont, Tex. (Jun3 18, 2009).

<sup>44</sup> *Id.*

<sup>45</sup> Interview with Leonard Rodriguez, *supra* note 20.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

A few weeks later, two “port-a-potties” were brought in to serve six tanks, or 288 people.<sup>48</sup> The detainees and inmates were escorted to the “port-a-potties” in large groups at the guards’ discretion, and these “port-a-potties” soon started overflowing with human excrement.<sup>49</sup> The occupant had to stand up to avoid being engulfed in human waste while other detainees and inmates banged on the door to be let in.<sup>50</sup>

As water became less scarce at the end of the third week following the storm, several detainees and inmates were assigned the task of attempting to flush the toilets by pouring water into them.<sup>51</sup> These individuals were outfitted in protective masks and clothing. The majority of detainees and inmates, however, had been sleeping every night for weeks right next to the same overflowing toilets with no protective clothing or equipment.<sup>52</sup>

## ***B. Water***

The jail’s water system did not work for two and a half weeks after the hurricane.<sup>53</sup> To quench their severe thirst, detainees and inmates drank the bit of water left flowing from the sinks immediately after the storm.<sup>54</sup> These detainees and inmates later suffered from severe diarrhea and other ailments,<sup>55</sup> aggravating the already dismal toilet situation.<sup>56</sup>

It took FEMA two days after Ike passed to supply water coolers to the jail.<sup>57</sup> Each tank received one water cooler for its 48 detainees and inmates.<sup>58</sup> Each inmate was permitted to fill

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<sup>48</sup> *Id.*

<sup>49</sup> Interview with Lawrence Rodriguez, *supra* note 14.

<sup>50</sup> Interview with Leonard Rodriguez, *supra* note 20.

<sup>51</sup> Interview with Michael Shane Smith, *supra* note 15.

<sup>52</sup> *Id.*; see Interview with Ray Lazare, *supra* note 43.

<sup>53</sup> *Id.*

<sup>54</sup> See Interview with Mason Reginald, *supra* note 25

<sup>55</sup> *Id.*

<sup>56</sup> See *supra* Part A, Sanitation.

<sup>57</sup> Interview with Michael Shane Smith, *supra* note 15.

one 6-ounce cup with water from the cooler two times a day, supplies permitting.<sup>59</sup> Once the cooler ran dry, the water was not refilled until several hours later, or, more often than not, the next day.<sup>60</sup> In the women's section of the jail, those confined in the single cell units were forgotten and received no water for the first few days after the storm, as they could not get out of their cells.<sup>61</sup> In the common areas, fights broke out over the limited water supply.<sup>62</sup>

About a week after the storm, FEMA supplied each inmate with a bucket filled with three inches of water to take a "sponge bath."<sup>63</sup> This was their only opportunity to bathe until the jail arranged for water from its supplemental supply to be pumped through the shower system.<sup>64</sup>

When running water returned, the detainees and inmates were expected to drink water from the faucets, even though no one else in the Galveston area was drinking the contaminated tap water.<sup>65</sup> Three to four weeks after Ike, a group of detainees and inmates saw bottled water being brought in and placed in coolers.<sup>66</sup> They asked for bottled water to drink and were told by the guards that the tap water was safe to drink; however, they had seen on the news that tap water was not safe to drink.<sup>67</sup> One woman was visited by her husband later that day and brought this

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<sup>58</sup> *Id.*

<sup>59</sup> Interview with Leonard Rodriguez, *supra* note 20.

<sup>60</sup> *Id.*

<sup>61</sup> Telephone Interview with Denise Forteson, *supra* note 9.

<sup>62</sup> Interview with Jim Brown, *supra* note 20.

<sup>63</sup> Interview with Michael Shane Smith, *supra* note 15.

<sup>64</sup> E-mail from Adam Munoz, Jr. to Albert Black, et. al. (September 22, 2008).

<sup>65</sup> See Robert Stanton, *To Drink or Not to Drink: Galveston's Water Supply a Hot Topic*, HOUSTON CHRONICLE, Jan. 28, 2009, [http://blogs.chron.com/galveston/health\\_safety/](http://blogs.chron.com/galveston/health_safety/) (Galveston County Health District announced the last week of January, 2009 that the water was now safe to drink).

<sup>66</sup> Telephone Interview with Denise Forteson, *supra* note 9.

<sup>67</sup> *Id.*

up to him.<sup>68</sup> He told her a guard had warned him not to drink from the faucet because it was not safe.<sup>69</sup> When the woman returned to her cell, she asked about the discrepancy, was accused of starting a riot, and placed in lockdown.<sup>70</sup>

### ***C. Food***

For weeks after Ike, meals consisted of one peanut butter and one baloney sandwich (which consisted of two pieces of bread and one thin slice of baloney), or a boiled egg and one sandwich.<sup>71</sup> Before Hurricane Ike hit, detainees and inmates were accustomed to a full meal, which included a main dish, vegetables, and a dessert.<sup>72</sup>

When the jail ran out of sandwiches, meals were a mere two pieces of canned ravioli per inmate.<sup>73</sup> Detainees and inmates were told that the kitchen could not accommodate any more significant meals until the water was potable again and bigger generators were brought in.<sup>74</sup>

On the day the Texas Commission on Jail Standards inspected the jail, the detainees and inmates were fed a substantially better meal.<sup>75</sup> The meal consisted of a tuna salad sandwich, crackers, cookies and juice.<sup>76</sup> As soon as the inspectors left, the pathetic sandwiches returned.<sup>77</sup>

### ***D. Communications***

The detainees and inmates were anxious to communicate with their loved ones. Immediately after Ike hit, all phone lines in the jail were down.<sup>78</sup> About a day and a half later,

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<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> Interview with Jim Brown, *supra* note 20; Interview with Michael Shane Smith, *supra* note 15.

<sup>72</sup> Telephone Interview with Denise Forteson, *supra* note 9.

<sup>73</sup> Interview with Michael Shane Smith, *supra* note 15.

<sup>74</sup> *Id.*

<sup>75</sup> Interview with Lawrence Rodriguez, *supra* note 14; see Interview with Jim Brown, *supra* note 20.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

the guards' phones located on desks in the central spaces of the tanks were functioning; the pay phones available to the prisoners, however, remained out of order for some time.<sup>79</sup>

Detainees and inmates were not permitted to use the guards' phones, beyond one occasion.<sup>80</sup> To help curb rumors circulating throughout the displaced community that detainees and inmates did not make it through the storm, detainees and inmates were each allowed one phone call.<sup>81</sup> Each inmate could provide guards with one family member's telephone number, whom the guard would then call for the inmate.<sup>82</sup> The calls were monitored; if certain things were said about the conditions the detainees and inmates were enduring, the guards would end the call immediately.<sup>83</sup> Some detainees and inmates only had the option of having guards call a family member for them to report that the inmate was still alive.<sup>84</sup>

Detainees in county jails need access to telephones in order to speak with their lawyers and contact bondsmen, regardless of whether they should be able to speak with their families. When the phone system went down at the Galveston County Jail, it ensured the County would be responsible for keeping more people in the deplorable conditions in the jail for longer periods of time because these detainees were unable to use the normal avenues to make bail and be released from custody.

### ***E. Guard/Detainee/Inmate Dynamics***

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<sup>78</sup> Interview with Michael Shane Smith, *supra* note 15.

<sup>79</sup> *Id.*; Interview with James Carl Willis, Galveston County Jail Inmate during Hurricane Ike, in Beaumont, Tex. (June 18, 2009).

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*; Telephone Interview with Denise Forteson, *supra* note 9.

<sup>82</sup> Interview with Lawrence Rodriguez, *supra* note 14.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

Emotions ran high after the storm. Guards often left the facility to assess damage to their own properties, and found the jail to be the only place they had to return.<sup>85</sup> Their grief was often taken out on detainees and inmates.<sup>86</sup>

Before detainees and inmates were allowed their phone call, some had jumped over the guard desk to use the phone while the few remaining guards were desperately attempting to communicate with their families.<sup>87</sup> When the guards got wind of this, a group of ten to twelve guards confronted one tank of detainees and inmates.<sup>88</sup> The guards, no longer in uniform, heatedly informed detainees and inmates they were under strict orders to use the “bean bag gun” to keep order and threatened to lock detainees and inmates in their individual cells if they continued to use the phone.<sup>89</sup>

One inmate, described by his peers as quiet and non-confrontational, peacefully told the group of guards to calm down.<sup>90</sup> In response, the guards tackled him, “wrapped him up,” handcuffed him and escorted him out of the dorm.<sup>91</sup> A witness reported seeing them punching the inmate in the head as they walked him down the hall away from the unit.<sup>92</sup> The inmate was later returned to the dorm with a loosely-wrapped broken wrist.<sup>93</sup>

## ***F. Health***

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<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> Interview with Michael Shane Smith, *supra* note 15; *see also* Interview with James Carl Willis, *supra* note 79.

<sup>88</sup> Interview with Michael Shane Smith, *supra* note 15.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

Worms squirmed through the shower drains and clouds of gnats infested the jail.<sup>94</sup> Ceiling tiles covered in mold from the rain were left festering for months after the storm.<sup>95</sup> The stench of human excrement, body odor, and menstrual blood from the women's dorms permeated the jail.<sup>96</sup>

Most of the medical personnel left the jail before the storm hit.<sup>97</sup> Only one or two staff members with any medical training on hand during and after the storm.<sup>98</sup> Diabetic detainees and inmates were not getting their insulin, and other medications were in short supply.<sup>99</sup>

One inmate had a dizzy spell and slipped on the wet floor while trying to right himself.<sup>100</sup> He hit his head hard on a bed frame and lost consciousness.<sup>101</sup> It took a while for the guards to revive this inmate.<sup>102</sup> When he finally came to, he was provided with a Band-Aid for the gash on his head and a peanut butter sandwich.<sup>103</sup>

The guards told a man complaining of severe chest pain to lie down and place a cool cloth over his head.<sup>104</sup>

A diabetic inmate started having a seizure after going days without insulin and was revived by a cellmate who fed him some stashed candy.<sup>105</sup>

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<sup>94</sup> Interview with Leonard Rodriguez, *supra* note 20.

<sup>95</sup> Telephone Interview with Denise Forteson, *supra* note 9.

<sup>96</sup> *Id.*

<sup>97</sup> Interview with Leonard Rodriguez, *supra* note 20.

<sup>98</sup> *Id.*; Telephone Interview with Denise Forteson, *supra* note 9; see Interview with Michael Shane Smith, *supra* note 15; Interview with James Carl Willis, *supra* note 79.

<sup>99</sup> Interview with Jim Brown, *supra* note 20.

<sup>100</sup> Interview with Michael Shane Smith, *supra* note 15.

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> Interview with James Carl Willis, *supra* note 79.

One inmate drank the dangerous contaminated water from the faucet after the storm and became quite ill.<sup>106</sup> His face swelled, his skin broke out in a painful red rash, and he started vomiting what little food he had been given to eat.<sup>107</sup> He could not keep anything down for at least four days.<sup>108</sup> On the one occasion, when detainees and inmates were given an opportunity to wash themselves, he did so, but the water left a terrible burning sensation on his skin.<sup>109</sup>

Another inmate found herself unable to urinate, and was sent to the infirmary only because she was pregnant.<sup>110</sup> She was given prescription medication for a urinary tract infection and was required to use a catheter.<sup>111</sup> Because she had so little water to drink, it was painful for her to take the antibiotics, which further dehydrated her.<sup>112</sup> The infirmary placed an order for a pitcher of water to be left at the deputy's desk for her when she was to take her medicine, but this order was never followed.<sup>113</sup> Without water, she was forced to stop taking the antibiotics and suffered extreme pain from the infection and the catheter.<sup>114</sup>

### **Response**

Both before and after Hurricane Ike, the Texas Commission on Jail Standards (TCJS) received many phone calls from concerned state representatives and citizens.<sup>115</sup> TCJS was asked to evacuate the Galveston County Jail detainees and inmates. However, TCJS does “not have

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<sup>105</sup> Interview with Jim Brown, *supra* note 20.

<sup>106</sup> Interview with Mason Reginald, *supra* note 25.

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

<sup>110</sup> Telephone Interview with Denise Forteson, *supra* note 9.

<sup>111</sup> *Id.*

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> E-mail from Adam Munoz, Jr., *supra* note 12.

any authority to order that detainees and inmates be moved according to the [County's] mandatory evacuation order;"<sup>116</sup> even though TCJS's duty is to promulgate "rules and procedures ... for the custody, care and treatment of detainees and inmates."<sup>117</sup> Four days after the storm and after receiving a substantial amount of calls concerning the Jail's conditions, TCJS finally decided to visit the jail.

Before TCJS's visit, the Galveston County Jail remained in constant contact with TCJS, assuring them all was well, and that the "living conditions [were] substantially more reasonable than the City of Galveston and Galveston County."<sup>118</sup>

After TCJS visited the jail, they determined that the detainees and inmates were not subject to any "deplorable conditions."<sup>119</sup> TCJS' observations of the jail seemed to contradict numerous observations of the detainees and inmates — likely because the conditions during the visit were covered up for this single day.<sup>120</sup>

Generally, TCJS is a weak regulatory body. For example, it cited serious deficiencies at the Dallas County Jail for years before changes were made at that facility. Even then, it was the U.S. Department of Justice, not TCJS, which required the most sweeping changes. TCJS is understaffed and unable to require immediate action—such as commanding Sheriff Leonard to evacuate the jail.

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<sup>116</sup> *Id.*

<sup>117</sup> 37 Tex. Admin. Code §251.1 (1997) (Tex. Comm'n on Jail Standards, Authority).

<sup>118</sup> E-mail from Adam Munoz, Jr., *supra* note 12. Living conditions in the City of Galveston and Galveston County were by no means normal at this time.

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*; *see supra* "The Aftermath."

The TCJS report stated “great thought and diligence” had gone into Sheriff Leonard’s decision not to evacuate the jail detainees and inmates.<sup>121</sup> However, when asked multiple times to produce any documentation of the “great thought and diligence” behind his decision, the Sheriff’s office did not respond.<sup>122</sup>

### **The Fallout**

As she waited for the hurricane to hit, Denise Forteson, three and a half months pregnant, thought of the stories she had heard about the detainees and inmates stuck in the Orleans Parish Prison during Hurricane Katrina.<sup>123</sup> She felt sure she and her baby would not survive.<sup>124</sup>

Leonard Rodriguez wondered how it was that the stray dogs and cats in the animal shelter just down the street were evacuated to safer ground, when more than one-thousand human beings a few blocks away were left at the mercy of the storm.<sup>125</sup>

Jim Brown prayed he would see his mother again.<sup>126</sup>

The detainees and inmates were men and women with lives and loved ones. Many had not even been convicted of a crime. If they had been able to pay a bond, they would have been allowed to leave the jail and return for trial. Yet these individuals were left alone in the path of a deadly hurricane as part of an experiment designed to test the strength of Galveston County’s new facility. Officially, Sheriff Leonard predicted, the jail building withstood the storm, but, if one asks the more than 1,000 men and women housed at the jail during Hurricane Ike, this building most definitely did not withstand Ike’s aftermath.

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<sup>121</sup> E-mail from Adam Munoz, Jr. to Albert Black, et. al. (September 22, 2008).

<sup>122</sup> Attempts to contact the Sheriff’s office for information resulted in being passed off to different offices in Galveston County and Galveston City.

<sup>123</sup> Telephone Interview with Denise Forteson, *supra* note 9.

<sup>124</sup> *Id.*

<sup>125</sup> Interview with Leonard Rodriguez, *supra* note 20.

<sup>126</sup> Interview with Jim Brown, *supra* note 20.



## **APPENDIX**

### **Interview with James Carl Willis**

Galveston County Jail Inmate during Hurricane Ike, in Beaumont, Tex. (June 18, 2009).

### **Interview with Jim Brown**

Galveston County Jail Inmate during Hurricane Ike, in Beaumont, Tex. (July 15, 2009).

### **Interview with Lawrence Rodriguez**

Galveston County Jail Inmate during Hurricane Ike, in Beaumont, Tex. (July 15, 2009)

### **Interview with Leonard Rodriguez**

Galveston County Jail Inmate during Hurricane Ike, in Beaumont, Tex. (July 15, 2009);

### **Interview with Mason Reginald**

Galveston County Jail Inmate during Hurricane Ike, in Beaumont, Tex. (July 15, 2009).

### **Interview with Michael Shane Smith**

Galveston County Jail Inmate during Hurricane Ike, in Beaumont, Tex. (June 18, 2009)

### **Interview with Ray Lazare**

Galveston County Jail Inmate during Hurricane Ike, in Beaumont, Tex. (June 18, 2009).

### **Interview with Denise Y. Forteson**

Galveston County Jail Inmate during Hurricane Ike, via Telephone, (Aug. 4, 2009).

## **Interview with Mr. James Carl Willis**

Interviewed by Cathryn Ibarra on June 18, 2009

*Mr. Willis is currently an inmate at TDCJ's Gist Unit in Beaumont. He was incarcerated at the Galveston County Jail during Hurricane Ike.*

Mr. Willis explained there was nothing for the detainees and inmates to drink for the first two days after the storm hit. The power and water systems were down for three to four weeks during which time the detainees and inmates did not receive a single hot meal. They were fed baloney sandwiches and dried foods, and tried to make the carton of milk or orange juice issued at the beginning of the day last as long as possible because of the shortage of drinking water. The jail was still running on generators by the time he left in early spring.

Mr. Willis stayed on his bunk as much as possible after the storm to avoid stepping in the two inches of water and sewage from the overflowing toilets that covered the floors of his tank. Some of his cell-mates tried to clean it up, but were not successful given the lack of cleaning supplies. The detainees and inmates had to share buckets to bathe with and were not able to take a real shower for a month.

After the storm, the detainees and inmates were not permitted to call their families until an officer by the name of Ms. Massey put her job on the line by making calls for the detainees and inmates. Until that point, inmates had been jumping over the guard's desk in the central area of the tank to use the only working phone in the jail when the guards were away from the tank.

While some medical personnel remained at the jail, they were not fully equipped to deal with the health problems that arose. While Mr. Willis did not personally have any medical issues, one of his cell mates experienced bad heart problems. He was told there was nothing the guards could do for him, and that he should lie down with a cool cloth over his head.

During this time, many of the inmates were riled up, and Mr. Willis believes that the small incidents that did take place could easily have erupted into bigger, more dangerous riots.

## **Interview with Mr. Jim Brown**

Interviewed by Robin O'Neil on July 15, 2009

*Mr. Brown is currently an inmate at TDCJ's Gist Unit in Beaumont. He was incarcerated at the Galveston County Jail during Hurricane Ike.*

Mr. Brown started our interview by providing me with the full name and TDCJ number of James Smith, one of the detainees and inmates involved in filing suit against the Galveston County Jail, who received a threatening letter from Sheriff Gene Leonard asking him to sign an affidavit describing the conditions of the jail as being much better than they actually were and telling him to drop the suit or suffer legal repercussions.

Mr. Brown confirmed the guards were discussing marking each inmate with their name and social security number to help identify their bodies if the jail flooded and they drowned. He told me the storm sounded like a freight train when it rolled through. He explained it caused the walls to shake and tiles to fall in from the ceiling. He does not believe the jail would have withstood the storm had it been even slightly worse. He told me the buildings down the street from the jail were inundated with 10 feet of water. He believes God was the only reason the detainees and inmates made it through the storm.

By the second or third day after the storm, the toilets had filled up and the detainees and inmates were given buckets to collect their waste. They bagged up their feces and threw them away in a garbage can. Fights broke out over the limited supply of water. They were given peanut butter or baloney sandwiches to eat for every meal except when the inspectors came, at which time they were given a tuna sandwich and some cookies and crackers. Over a week after the storm, the detainees and inmates received a bucket with a little bit of water in it for taking a "shower".

Brown was confined in what he described as a "diabetic tank". None of the detainees and inmates in his cell were receiving the insulin they needed and there was no medical staff available to treat sick detainees and inmates. Mr. Brown told me one of his diabetic cell mates went into a seizure after not receiving insulin, but Mr. Brown gave the man some candy he had stashed before the storm, and succeeded in reviving him. Brown is not sure what would have happened had he not been able to give the ill man the candy to raise his blood sugar.

Brown also explained Jill Rickoff, a well known Galveston attorney, who at one point was considering taking the inmates' case, tried to visit the detainees and inmates at the jail shortly after the storm. She was not permitted to enter the premises because of the condition the facility was in.

## **Interview with Mr. Lawrence Rodriguez**

Interviewed by Robin O'Neil on July 15, 2009

*Mr. Rodriguez is currently an inmate at TDCJ's Gist Unit in Beaumont. He was incarcerated at the Galveston County Jail during Hurricane Ike.*

Mr. Rodriguez arrived at the Galveston County Jail about a month before Hurricane Ike hit. He took copious notes on the conditions during and after the hurricane in a notebook currently in his wife's possession. He volunteered a copy of the notes, so I sent him a stamped envelope addressed to the Austin office for him to send one in. While he could not remember the exact dates various utilities were restored and conditions improved, he felt confident the information included in his notes would help clarify the timing of events. At the time, Rodriguez lived in a dorm with seven other detainees and inmates in a tank that consisted of five other dorms positioned in an "L" shape around a central area where the guards' desk, showers, and toilets were located.

He told me the detainees and inmates found out the mayor had issued a mandatory evacuation order, and wondered why there was no talk of the jail's evacuation plan. When it became clear they were not going to be evacuated, many of the detainees and inmates feared they were going to drown. When the hurricane hit, it ripped the air conditioning units and in some areas, parts of the roof, off the building. When the power went out, a back-up generator maintained some lighting as well as the facility's computer system. The guards' phones situated on the desks in the central areas of the dorms were also functional almost immediately after the storm. Water seeped in through the ceilings and walls, but the jail itself did not flood. Rodriguez told me an apartment complex two blocks away from the jail was inundated with 10 feet of water. He believes he and the other detainees and inmates were spared "by the grace of God".

The storm completely disabled the water and sewage systems. The toilets in each dorm and in the central area began to fill up with urine. When they overflowed, the detainees and inmates started using buckets to collect their waste. In spite of their efforts to cut the smell, the stench was overwhelming. Rodriguez said many of the detainees and inmates were sickened by the smell. Many experienced vomiting, and one of his dorm-mates came down with a fever that lasted several days. No one was provided medical care. By the second or third week after the storm, porta-potties were brought in to replace the buckets. They were situated in the hallway between tanks, and the detainees and inmates were only permitted to use them when the guards would escort them in groups at their discretion. The sewage system was not back to normal until late October.

Once FEMA brought in water coolers, the detainees and inmates were permitted to fill a 6-8oz cup with water two times a day, supplies permitting. After two weeks passed, their drinking water rations increased to three times per day. They were given a bucket containing a small amount of water for them to wash with one week after the storm. The detainees and inmates ate two sandwiches at every meal until early October. On the day the inspectors arrived from the Texas Commission on Jail Standards, the detainees and inmates were served a much nicer meal, including a tuna salad sandwich, crackers, cookies and juice. As soon as the inspectors left, the meals returned to sandwiches alone. The detainees and inmates were instructed not to speak to the inspectors.

Four days after the storm the detainees and inmates were permitted to make one phone call from the guards' phones in an effort to try and contact their families. However, if certain

things were said about the conditions the detainees and inmates were enduring, the guards would end the call immediately. Some detainees and inmates were only given the option of having the guards call a family member for them to report the inmate was still alive. An inmate told him later that his family called the jail to check on him and was told the detainees and inmates had been evacuated.

Emotions ran high after the storm, as the guards, who often left the facility to assess the damage to their own properties, found they had no place but the jail to return to. They often came back to take out their grief on the detainees and inmates. The detainees and inmates, however, were not allowed to go into the rec yard to get some fresh air until over a week after the storm. Rodriguez confirmed Mr. Smith's story about the group of 14-15 guards in civilian clothes clamoring at the detainees and inmates in a neighboring tank. Rodriguez explained the confrontations in his dorm were not as bad as in other areas of the facility since most of the people in his cell were older and not trying to fight the system, a dynamic which facilitated a more civilized environment. He told me he heard some of the guards quit because they did not receive time and a half pay for staying during the hurricane as promised, and others were interested in filing suit against the county as many of the detainees and inmates later did.

Rodriguez believes the detainees and inmates "were used as guinea pigs to test the new jail" which was purportedly built to withstand a category 5 hurricane. He pointed out these categories are measured in terms of the strength and speed of the wind involved, not the flooding they can cause. Judging by the strain placed on the building during Ike, he told me he feels sure that if the storm had been even slightly stronger, the jail would not have held up.

## **Interview with Mr. Leonard Rodriguez**

Interviewed by Robin O'Neil on July 15, 2009

*Mr. Rodriguez is currently an inmate at TDCJ's Gist Unit in Beaumont. He was incarcerated at the Galveston County Jail during Hurricane Ike.*

Mr. Rodriguez was quite animated in telling me about the conditions he endured while incarcerated at the Galveston County Jail during Hurricane Ike. Shortly before the storm, a guard by the name of Officer Schwartz told the detainees and inmates there was talk of printing their social security numbers and birth dates in permanent marker on their arms so their dead bodies could be identified if the jail flooded and they drowned. Rodriguez said it was possible the guard was making a cruel joke, but if that was the case, it certainly was not obvious to him. The detainees and inmates I spoke with after Mr. Rodriguez told me they too had heard this might happen, which indicates officials' knowledge of the risk.

When the toilets in the tank filled up after the storm, the detainees and inmates were given buckets to use. The guards handed out bags to the detainees and inmates and instructed them to empty their bowels into the bags by spreading them over the mouths of the buckets. The detainees and inmates were to then tie the bags closed and throw them into the trash can in the central area around which the dorms were situated. The detainees and inmates had to line up next to the trash can, which was soon overflowing with bags of excrement, to collect their daily sandwich meals which were distributed in the same room. The lack of air flow exacerbated the stench and drove many of the detainees and inmates to incessant vomiting. A few weeks later, two porta potties were brought in to serve six of the pods (I understand one "pod" consists of six dorms housing eight people each, so there are 48 people per pod, meaning these two porta potties were being used by 288 people). The detainees and inmates were escorted to the porta potties in large groups, and they too soon started overflowing with human excrement. While other detainees and inmates banged on the door to be let in, the lucky occupant had to stand up to avoid being engulfed in human waste.

Rodriguez told me he installs HVAC units for a living, and the AC units that were being ripped off the roof of the jail during the storm were "package units" which are quite large. In his dorm there was a sizable hole in the ceiling where Ike tore the AC unit off of the roof. Water started coming into the dorm, so the detainees and inmates placed a large garbage can underneath the leak and within an hour it was full. Some of the detainees and inmates continued to drink the water after the storm, and as a result, contracted severe diarrhea which exacerbated the toilet situation. After finding out the water was not potable, the detainees and inmates had to wait for FEMA and the Red Cross to arrive with water coolers. One cooler was provided to each pod housing 48 detainees and inmates. Each inmate was permitted to fill up one small cup of water. Once the cooler ran out, there was no more water until either later that evening, or more often than not, the next day. Rodriguez confirmed the detainees and inmates received a slightly better meal the day the inspectors came, though they did not come to his cell block.

Rodriguez remembers most of the guards being pretty sympathetic to the prisoners since they were all in the same boat. Some of them were as angry about the decision not to evacuate as the detainees and inmates, and would occasionally arrange for extra food for select detainees and inmates. He remembers the names of the following guards who were present during the hurricane: Alvarez, Schwartz, and (Donna) Cleagar. Rodriguez said at least two guards were fired for not showing up to work during the hurricane, even though it was supposedly a voluntary arrangement, but he does not remember their names. There were only one or two medical staff

members on hand to serve the entire population of the jail. Diabetics were not getting their insulin, and other medications were in short supply. Worms squirmed through the shower drains and clouds of gnats infested the jail.

Rodriguez told me shortly after things had settled down a bit, the detainees and inmates were ordered to go to the courthouse (connected to the jail) to start cleaning up. The water marks at the courthouse indicated the flood there had risen to six feet. In fact, several cases against the detainees and inmates had to be dropped because evidence that had been housed in the courthouse was lost in the flood. Rodriguez does not believe the jail would have held up against the storm had it been even slightly stronger. He also took issue with the fact that the animal shelter down the street was evacuated, but the detainees and inmates were not. He told me an inmate by the name of James Smith who filed suit against the county, recently received a letter from Gean Leonard, the Galveston County Sherriff, telling him to drop the suit and sign an affidavit affirming the conditions at the jail during the hurricane were far better than they actually were, or suffer legal repercussions.

## **Interview with Mr. Mason Reginald**

Interviewed by Robin O'Neil on July 15, 2009

*Mr. Reginald is currently an inmate at TDCJ's Gist Unit in Beaumont. He was incarcerated at the Galveston County Jail during Hurricane Ike.*

Mr. Reginald was incarcerated at the Galveston County Jail about six months before the storm hit. Reginald told me after the storm passed, the detainees and inmates were told the water was safe to drink. Mr. Reginald drank the water from the faucet, and that same day became quite ill. His face swelled, his skin broke out in a painful red rash, and he started vomiting what little food the detainees and inmates were given to eat. He could not keep anything down for at least four days. On the few occasions the detainees and inmates were given an opportunity to wash themselves, the water would burn his skin horribly.

Reginald believes there were no more than 4 medical personnel on hand for the entire population of the jail during the aftermath of the hurricane. He was attended to by a nurse within a few days of becoming sick. The nurse told him he had had an allergic reaction, but she would not say to what. She provided him with some medication for his stomach, and something else for his skin, but the medicine did not last as long as his symptoms. The pills she provided lasted about five days. Reginald told me his skin and stomach were not the same for 7 months. He still has little red spots on his skin from the rash, but that is the only remaining evidence of his illness.

Mr. Reginald told me he and the other detainees and inmates were fed cereal until the end of September. Reginald feels the guards were intercepting more than their share of the food and water sent by FEMA and other organizations. The generators powered some of the lights, but were not powerful enough to keep the AC going. After the toilets filled up, the detainees and inmates started using a bucket that was intended to serve all 48 people inside his pod. The detainees and inmates were not permitted to go outside for fresh air until the end of September. Reginald further told me officials had to close certain parts of the jail because there was so much water damage. Having been denied access to the phone, about a month after the storm Reginald jumped over the guards' desk to use their phone to contact his family.

Fights broke out among the detainees and inmates and between guards and detainees and inmates. Reginald told me Mayor Thomas of Galveston arranged for the release of about 100 detainees and inmates who had either become really sick or had been severely beaten by guards after the storm. He remembered the name of only one of these detainees and inmates — one Larry Smith (no TDCJ number)—who purportedly was freed because he had been beaten up by two guards in the aftermath of the storm. Reginald told me George Grimes, one of the detainees and inmates I was supposed to interview, was released the Tuesday before I arrived at Gist for the interviews. He too, was beaten by officials in after the hurricane. Mr. Reginald himself is set for release on July 26<sup>th</sup>.

## **Interview with Mr. Michael Shane Smith**

Interviewed by Robin O'Neil on June 18, 2009

*Mr. Smith is currently an inmate at TDCJ's Gist Unit in Beaumont. He was incarcerated at the Galveston County Jail during Hurricane Ike.*

Mr. Smith was incarcerated at the Galveston County Jail two to three weeks before Hurricane Ike hit. As September 12<sup>th</sup> neared, the guards told the detainees and inmates the sheriff had decided they would not be evacuated because the newly built facility was designed to withstand a category four hurricane. The detainees and inmates were told they would be moved only if Ike reached category four levels, or someone [in the jail] died. In the days preceding the hurricane, Mr. Smith was permitted to call his mother and fiancé to let them know he would not be evacuated. Mr. Smith's loved ones later told him they heard an announcement on the news as the hurricane struck Galveston that the County Jail had been evacuated, causing greater confusion. Mr. Smith heard the guards were being offered significant amounts of money to weather the storm in the holding cells with the detainees and inmates, but noted most of the staff had cleared out by the 11<sup>th</sup>. He believes there were around ten guards on lockdown with the detainees and inmates during the storm.

Mr. Smith described the facility as a tank with six dorm rooms each housing eight detainees and inmates surrounding a common "day room" which contained a desk and phone for the guard on duty. The "rec yard" consisted of a 20 X 20 grassy area surrounded by brick walls, adjacent to the tank. The power cut out before the hurricane hit, but back-up generators maintained dim lighting. As the wind picked up, the detainees and inmates could hear the air conditioning units ripping off and banging around the outside of the building. As the rain became increasingly heavy, the ceiling tiles turned brown from saturation and started falling into the units. The ceiling, walls, and floors were wet from the broken air conditioning units and heavy rain seeping through the walls, and in from the rec yard, but at no point did water start rushing into the jail. By the time it reached land, Ike had been reduced to a category two hurricane. Mr. Smith wondered how the facility, strained as it seemed during the storm, would have withstood the category four hurricane it was purportedly designed to withstand.

For two and a half weeks after the hurricane, there was no water or power. Two days went by before FEMA arrived with water coolers. The day room in Mr. Smith's area was supplied with one water cooler designed to serve all 48 detainees and inmates. He described the drinking water as dirty and containing sand. The water would usually run out by lunch time and would not be resupplied until late evening. FEMA sent a truck to the unit every two to three days with more drinking water. A week and a half after the storm, FEMA supplied the detainees and inmates a bucket filled with three inches of water to take a "sponge bath". This was their only opportunity to bathe in the two and a half week period following the hurricane before the water came back on.

The detainees and inmates were served one peanut butter and one baloney sandwich (which consisted of two pieces of bread and one thin slice of baloney), or a boiled egg and one sandwich for most meals. There were times the meal consisted of merely two pieces of canned ravioli per inmate. The kitchen could not accommodate any more significant meals until three to four weeks after the hurricane when the water was potable again and bigger generators were brought in.

Each dorm contained one commode for the eight detainees and inmates' use. The day room contained an additional four. All ten of the toilets were filled to the brim within a day after

the water stopped working. The overwhelming stench of human excrement was exacerbated by the heat and humidity. When FEMA issued the shower buckets a week and a half after the storm, two were placed in the day room for the 48 occupants to use as toilets. When the buckets filled up they were emptied and brought back to the day room. As water became less scarce toward the end of the three week period following the storm, several detainees and inmates were assigned to attempt to flush the toilets by pouring water into them. These detainees and inmates were outfitted in protective masks and clothing. Mr. Smith expressed concern about the fact he was sleeping every night next to an overflowing toilet in his unit with no protective clothing.

All phones were out at the unit in the immediate aftermath of the storm. About a day and a half later, the guards' phone, which was located behind the desk in the day room, was functioning but the detainees and inmates' phones were not. Apparently the two were operated by different companies, one of which had its phone system up and running more quickly than the other. In the aftermath of the storm, the detainees and inmates were anxious to communicate with their loved ones. They were not permitted to use the guard's phone behind the desk, but in their desperation started jumping over the desk and using the phone when the few guards who had remained at the unit through the storm were away [Mr. Smith suspected many of the guards were leaving the jail to assess the damage at their own properties]. When the guards got wind of the detainees and inmates' activity, they came in a group of seven to nine to confront the detainees and inmates about it. The guards, no longer in uniform, heatedly informed the detainees and inmates they were under strict orders to use the "bean bag gun" to keep order and threatened to lock the detainees and inmates in their individual cells if they continued to use the phone. Mr. Smith believes the guards were tired of being in charge of the jail, disturbed by their own loss, and were looking for a fight. One of Smith's fellow detainees and inmates, who he described as quiet and non-confrontational, calmly told the group of guards to calm down. In response, the guards tackled him, "wrapped him up", handcuffed him and escorted him out of the dorm. Smith said he could see them punching him in the head as they walked him down the hall away from the unit. The inmate returned to the dorm later with a loosely wrapped broken wrist. Smith does not remember the name of this man. At the end of the week following the storm, the guards set up a calling system to let the families of the detainees and inmates know they had survived the storm. Each inmate could provide the guard on duty the telephone number of one family member which the guard would then call for the inmate.

Another inmate in Mr. Smith's unit had a dizzy spell and slipped on the wet floor while trying to right himself. He hit his head hard on the bed frame and lost consciousness. He was not responsive to the guards who tried to revive him. Most of the medical personnel left the jail before the storm hit. There were only one or two staff members with any medical expertise on hand as far as Mr. Smith could tell, and virtually no medical supplies. One of them successfully revived the unconscious inmate and provided him a Band-Aid for the gash on his head and a peanut butter sandwich. Smith also reported detainees and inmates who regularly took medication were not receiving it. Three weeks after the storm the state sent an inspector to the jail. Mr. Smith said when the detainees and inmates told the inspector how unprepared they felt the county jail was for Ike, the official's response was "at least you had something to eat".

## **Interview with Mr. Ray Lazare**

Interviewed by Cathryn Ibarra on June 18, 2009

*Mr. Lazare is currently an inmate at TDCJ's Gist Unit in Beaumont. He was incarcerated at the Galveston County Jail during Hurricane Ike.*

Mr. Lazare reported that none of the detainees and inmates were permitted to contact family or friends to let them know they would not be evacuated. When the storm hit, the power, plumbing, and water systems at the jail immediately went out. Although the jail did not flood, everything was wet. The walls and ceilings leaked, soaking the bunks and floors.

Within the first few days after the storm hit, there was no drinkable water. Starting three days after the storm hit, each tank was supplied with one five gallon container of drinking water every 10 to 12 hours to be shared between the 48 inhabitants. Meals for weeks after the hurricane consisted of dry sandwiches.

About a week after the storm passed, the detainees and inmates were given one 50 gallon trash container full of water and one dip bucket for bathing. The detainees and inmates passed the dip bucket from person to person with no sanitation procedures in between them. Two weeks passed before the detainees and inmates were able to take a real shower.

The detainees and inmates continued to use the toilets until they backed up. The toilets overflowed onto the floor, and the stench of human excrement filled the air. When the toilets stopped working, each tank was given one to two buckets to use as toilets. They would place plastic bags in the buckets to catch the waste products and then those bags would have to be placed into larger trash bags for disposal. The detainees and inmates were not able to wash their hands after handling the feces. Both detainees and inmates and officials were charged with "packing" human waste. They were given protective gear to wear for this purpose, but the detainees and inmates were living with it every day, so the protective measures taken for waste "packing" did not do much good. The generators were not powerful enough to provide sufficient air circulation to curb the smell of excrement and body odor. The overwhelming odor and constant presence of human waste caused eye and skin irritation. Porta-potties were later brought in for the detainees and inmates to use.

About a week after the storm, the detainees and inmates were permitted to contact the outside world. Calls made were closely monitored by officials. The detainees and inmates had to limit their conversations to a brief statement that they made it through the storm. When the Texas Commission on Jail Standards inspectors visited the jail, the detainees and inmates were instructed to be careful about what they said to the inspectors about the conditions at the jail.

Mr. Lazare felt trapped like an animal, with nowhere to go and no real answers.

## **Interview with Ms. Denise Yvette Forteson**

Interviewed by Leanne Heine on August 4, 2009

*Ms. Forteson is currently trying to rebuild her life post-Ike and post-incarceration. She was incarcerated at the Galveston County Jail during Hurricane Ike.*

Galveston County Jail incarcerated Ms. Forteson on September 9, 2008, 3 days before Hurricane Ike, for a charge of injury to a child by omission. Her bond amount was \$25,000. During her imprisonment, Ms. Forteson was 3.5 months pregnant. Her case was eventually dismissed, and she was released on April 7, 2009. Ms. Forteson's home was destroyed during Ike, and she is currently trying to find a job.

Ms. Forteson explained that the pre-Ike conditions at the Galveston County Jail were decent for a jail. There was running water, and air conditioning. The meals were decent, including vegetables and a dessert in addition to the main meal. The medical staff had (and after conditions returned to normal) a staff of about 6-7 at all times, including doctors.

Ms. Forteson was housed in the women's area of the jail. Her section had four 8-person cells and 15 single cell units. During Ike, there were about 40 women in her section. Specifically, Ms. Forteson was in an 8-person cell with 5-6 other women. Up until 6 p.m. on September 12, Ms. Forteson did not know if the jail would be evacuated. She and the other prisoners kept hearing rumors from guards about whether or not they would be evacuating.

During the storm, the women heard some flapping coming from the ceiling and something on top of the roof broke off. The roof began to leak into the building, ceiling tiles became soaked, and eventually many collapsed or molded. The mold was not cleaned up until a month or so before Ms. Forteson was released (around March 2009). The women detainees and inmates asked about this mold frequently, but the deputies always responded that it was "not their call."

When Ike hit, the lights went out almost immediately, along with the air conditioning. The back-up generators kicked in, dimly lighting the jail, but not turning back on the air conditioning. Right after the storm there was still a little bit of running faucet water, but by the next day it had run out. For the day the women were still able to use the toilets, but by the next morning, the guards brought plastic bags to cover the toilets and placed three buckets by the showers for toilet use. These buckets sat out all day, and were cleared each night.

It was about 1 week before the lights and air conditioning went back on, two weeks before there was running water, and 3 weeks before the gas was turned on (so hot showers could be taken). The jail did not return to pre-Hurricane conditions for 3 weeks.

The women at first received 2-3 sandwiches per meal, usually peanut butter and jelly. Because Ms. Forteson was pregnant, she was supposed to get double the food as the other women detainees and inmates. However, the food supply became low after a few days, and the ration was cut back to 1 sandwich each, regardless of whether a woman was pregnant or not.

For a considerable number of days, each woman received water 3 times a day, 4 ounces per serving. If someone happened to be asleep during water calls, she was out-of-luck. For the first

few days the women in the single cell units were forgotten and received no water because they could not get out of their cells. The guards finally realized this and began serving the women in the single cell units first.

A few days after Ike hit, Ms. Forteson began to have urinary problems. She was not able to urinate, and was sent to the infirmary. Only 2-3 medical staff per shift were at the jail, with no doctors. Ms. Forteson was only able to see the infirmary because she was pregnant. She was given a prescription medicine for a urinary tract infection, and had to use a catheter. Because the jail was barely giving Ms. Forteson drinking water, it was painful for her to take the antibiotics, which dehydrated her. The infirmary placed an order for a pitcher of water to be left at the deputy's desk for Ms. Forteson when she was to take her medicine, but this never happened. Therefore, Ms. Forteson was forced to stop taking her antibiotics and had extreme pain from both the infection and the catheter. The women's unit smelled not only from the mold, but also from the toilets, buckets used in replacement of the toilets, body odor, and from menstruation. About 5-6 days after Ike, the women were given 3 buckets of half-full water for bathing. The same water was used for each woman, and the buckets were not sanitized between uses.

About a day before the Texas Commission on Jail Standards came to tour the jail, the toilet buckets were removed, the actual toilets were unclogged, and port-a-potties were brought in. At the same time, the women were given the buckets for bathing. No representatives talked or asked any questions to the prisoners in Ms. Forteson's section of the jail.

After running water returned, the women still had to drink faucet water, although no one else in the Galveston area was drinking the filthy water. About 3-4 weeks after Ike, Ms. Forteson and others saw a bunch of bottled water being brought in and placed in coolers. They asked for bottled water to drink, but were told the water was safe to drink, even though the women had seen on the news that it was not safe to drink. One woman was visited by her husband later that day and brought this up to him. He told her that a guard had warned him while he was waiting that day not to drink from the faucet because it was not safe. When the woman returned to her cell, she asked about the discrepancy, was accused of "starting a riot," and was placed in lockdown.

About a week after the storm, each woman was allowed to make a phone call to her family. They had to use the deputy's phone because the detainees and inmates' phone was dead for several weeks. Ms. Forteson said the only reason they were allowed a phone call was because of rumors that the prisoners in Galveston County Jail had died, like Katrina prisoners.

Ms. Forteson had to see a jail psychiatrist about the nightmares and flashbacks she was experiencing during her sleep. She was told she has PTSD. Ms. Forteson explained she really thought she was going to die, and all the women kept thinking about what happened to the prisoners in Orleans Parish Prison during and after Katrina. Luckily, her 6-month old son is healthy, and did not experience any complications due to his mother's imprisonment during the Hurricane. Ms. Forteson and many other prisoners feel they were used as "guinea pigs" for the County to test out its new jail. Ms. Forteson would like all jails to change its policies concerning hurricane evacuations.



## About the Texas Civil Rights Project

The Texas Civil Rights Project (TCRP) promotes racial, social, and economic justice through education and litigation. TCRP strives to foster equality, secure justice, ensure diversity, and strengthen communities. Since its beginning, TCRP has achieved substantial system gains in ensuring justice for all Texans. TCRP uses education and litigation to make structural change in areas such as voting rights, police and border patrol misconduct, sex discrimination, employment bias, privacy, disability rights, grand jury discrimination, traditional civil liberties (i.e. free speech), and Title IX in secondary education.

TCRP was founded in 1990 as part of Oficina Legal del Pueblo Unido, a non-profit community-based foundation located in South Texas. Oficina Legal del Pueblo Unido, Inc., started in 1978 as a community, grassroots foundation to provide legal assistance and education, without cost, to low-income people, particularly minority persons and individuals victimized by discrimination.

TCRP began with an unpaid staff of two in the Austin Peace Building (an attorney and an office manager). Within a few months, TCRP was able to hire an attorney for its South Texas office. TCRP now has a staff of eight in Austin, and five in the Rio Grande Valley – and owns its offices in both places. TCRP also has recently opened an office in El Paso with a staff of three.

For 17 years, the Texas Civil Rights Project has been a tireless advocate for racial, social and economic equality in Texas, through its education and litigation programs.

Some of the achievements we are most proud of:

- \* Handled more than 2000 cases
- \* Published 8 Human Rights reports on issues such as hate crimes and the death penalty
- \* Compiled five “self-help” manuals
- \* Published 300 opinion editorials in Texas newspapers
- \* Given 250 speeches and talks on civil rights
- \* Conducted community and lawyer trainings for more than 22,000 persons.

The South Texas Project has worked steadfastly to extend equal rights to farm laborers and colonia residents in the Rio Grande Valley, and improve their living and working conditions.

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*History of Oficina Legal del Pueblo Unido, Inc. and The Texas Civil Rights Project, available at <http://www.texascivilrightsproject.org/about/history.htm>*

We have sued over every kind of misconduct in every part of Texas — city police, sheriff deputies, Department of Public Safety officers, and Border Patrol agents. Because of our work, jails in Hidalgo, El Paso, Henderson, Tom Green, Williamson, Travis, Bexar, Dallas, and Brown Counties do much more now in preventing inmate suicide, providing interpreters for deaf prisoners, protecting vulnerable inmates from sexual assault, administering HIV medications, and making them accessible for inmates with disabilities.

TCRP set the national model in ballot accessibility for blind voters and has led at least 17 regional compliance campaigns in Texas under the Americans with Disabilities Act (“ADA”). Thanks to the efforts of our staff, churches and courthouses in Texas are much more accessible to elderly and disabled people – and government more accountable.

We have pioneered a unique “circuit-rider” outreach program in west and south rural Texas for abused and undocumented spouses under the Violence against Women Act (VAWA).

And we have prodded the Texas Supreme Court to improve *pro bono* services for poor and low-income families in the state, 90% of whom have unmet legal needs each year.

Our Title IX educational and litigation programs on sexual harassment and equal sports opportunities have helped make rural middle schools and high schools more hospitable for young women. Our work has also opened up the prospect of athletic scholarships to college for them.

Our “Equality under the Law” campaign has addressed “benign” discrimination against African Americans and Hispanic Americans in banks, restaurants, motels, and other places of public accommodation.

Our efforts to help South Asian, Muslim, and Arab citizens, permanent residents, and students who fell victim to post September 11 discrimination have included filing a suit against a major airline, and enlisting Texas attorneys to represent, on a pro bono basis, individuals who were questioned by the FBI.

We worked with the Mexican American Legal Defense and Education Fund (MALDEF) to help create single-member school board districts in Del Valle ISD and assisted in redistricting the Texas Legislature and Texas Congressional so as to protect the voting and representational rights of minority citizens.

We are assisting the NAACP in asking the U.S. Department of Justice to withhold federal funds from the Austin Police Department until it changes its use of force practices in minority communities.

We joined with the American Jewish Congress in one of the first court cases in the country to challenge the constitutionality of government funding of a religiously orientated job-training program that used the Bible as a text and proselytized among its trainees.

We are a leading voice in raising questions about the fairness of Texas' death penalty scheme, and the possibilities of executing innocent people. So, too, are we an intrepid advocate of

traditional civil liberties, such as free speech and assembly, due process, and equal protection under the United States and Texas Constitutions.

