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Community Demand for Change and Accountability: A History of Court Watch NOLA, New Orleans' Community Courtwatching Program

Simone Levine

Without strong watchdog institutions, impunity becomes the very foundation upon which systems of corruptions are built.

—Rigoberta Menchu Tum, Nobel Prize Laureate

The criminal justice system, like any other system, is run by insiders: prosecutors, judges, deputy sheriffs, police, clerks, private defense, and public defenders. But system outsiders—victims, witnesses, criminal defendants, and the community in general—have the power to demand respect from that same system and to demand that the system work for them. System insiders have no monopoly on the knowledge and the power to shape the criminal justice system. In the words of the legal scholar and now judge Bibas Stephanos:

A great gulf divides insiders and outsiders in the criminal justice system. The insiders who run the criminal justice system—judges, police, and especially prosecutors—have information, power, and self-interests that greatly influence the criminal justice system's process and outcomes. Outsiders—crime victims, bystanders, and most of the general public—find the system frustratingly opaque, insular, and unconcerned with proper retribution. . . . The gulf clouds the law's deterrent and expressive messages, as well as its efficacy in healing victims; it impairs trust in and the legitimacy of the law. . . . The most promising solutions are to inform crime victims and other affected locals better and to give them larger roles in criminal justice.¹

But once community members educate themselves, they are able to harness the system and make themselves a group that, in order to function, the system must interact with respectfully, constitutionally, and with deference.

Court Watch NOLA believes the criminal justice system has gone astray. Some system insiders believe we are too conservative. Other system insiders believe we are too progressive. The truth is that Court Watch NOLA is neither. Court Watch NOLA is just you and I. We are community, we are New Orleanians. And we know that the criminal justice system has gone astray because it is no longer listening to us, the community: a community that has been victimized, a community that has witnessed, a community that has been arrested.

What is Court Watch NOLA not? Court Watch NOLA is not afraid. Court Watch NOLA is not afraid of confronting public officials who do not represent the community's interest. The outgoing special agent in charge of the FBI for Louisiana, Jeff Sallet, said of corruption in Louisiana: "People don't want to give up corrupt public officials, often because they're afraid of the consequences."² Court Watch NOLA is not willing to stand by corrupt public officials because of a previous alliance or friendship, societal standing, or some desire of future favor. Court Watch

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NOLA is not concerned with being attacked by public officials who refuse to listen to the community and who continue to work according to outdated standards with their eyes closed and their fingers in their ears. The only fear Court Watch NOLA holds is not sufficiently educating voters to ensure that we have political representatives that will hear and represent our voice.

Court Watch NOLA was created (for the second time) in 2007. We are thirteen years old, and with that many years under our belt, we are one of the longest-standing courtwatching programs in the country.³ We are not participatory defense. We do not advocate for the defense, nor do we try to ensure that any one defense attorney does a better job of defending the interests of her or his client. We are not participatory prosecution. We will not argue that someone should get the maximum amount of prison time. We are objective, and we never take positions on individual cases. Instead, we look at trends in the data we collect as court watchers in open court. If we examine individual cases, it is only for the larger purpose of looking at the aggregate trend.

We are Court Watch NOLA. We are normal community members like you, and we began to monitor criminal court because we wanted to take the court back from system insiders. We wanted to make sure that the courts are accountable to us, to people who vote (and to those who are barred from doing so), to people who demonstrate, to those held hostage by the criminal court system. We are more than a hundred people a year who go into court. Sometimes we are described as an army of yellow clipboards. And everything changes when we are in court. Judges, prosecutors, defense attorneys, and police all act differently when we walk into court with our yellow clipboards. We are outsiders to the criminal justice system, and the system was not created to support outsiders, to listen to outsiders, or to meet the needs of outsiders. Most of us do not understand the insider language, and frankly, we are not meant to understand that language. But increasingly we are being heard, and the language is starting to change. It has not been without a fight.

This article outlines the history of Court Watch NOLA, New Orleans' long-standing court-monitoring program and premier criminal court watchdog group. It outlines the data that Court Watch NOLA's court watchers first collected and the criminal justice atmosphere (national and local) that allowed Court Watch NOLA to mature, change, and grow. This article outlines the reforms the community demanded after Hurricane Katrina and the reforms demanded by New Orleanians today.

The Beginning and the Storm

Court Watch NOLA started in the chaos that was the aftermath of Hurricane Katrina, one of the waves of reform groups created during this period to change the way New Orleans' public officials would serve the city. Court Watch NOLA joined the Office of the Independent Police Monitor,⁴ the Office of the Inspector General,⁵ the Crime Coalition,⁶ and others to bring accountability to the larger government systems of New Orleans. For many of these new organizations, the New Orleans criminal justice system was the target of change. A common refrain after the storm was, "Katrina sort of ripped off the Band-Aid—it removed the pretension that the system was working."⁷

Many things changed with Hurricane Katrina. The damage caused by Katrina was sizeable. The criminal court took in twelve feet of water, badly damaging case files and evidence stored in the basement.⁸ In the end, only 10 percent of evidence was lost. But it took between five hundred thousand dollars and one million dollars and a full year to restore all the evidence that had been flooded in the basement of the Orleans Parish Criminal District Court.⁹

Orleans Parish sheriff Marlin Gusman did not evacuate inmates from the Orleans Parish Prison before the storm, explaining that he could never have persuaded other sheriffs to house thousands of inmates.¹⁰ The Orleans Parish Prison building was not badly damaged during the storm, but like the Criminal District Court building, Orleans Parish Prison was flooded after the storm when the levees broke.¹¹ Sewage began to back up and emergency generators were destroyed, causing the prison to lose lights and air circulation in ninety-degree weather.¹² Without the use of the generators, the electronic cells could no longer be opened or closed.¹³ When the water rose chest-deep on the first floor, guards engaged in “vertical evacuation,” forcing inmates who faced traffic and other minor offenses into cells on the higher floors with those who faced murder and rape charges.¹⁴ When the Louisiana Department of Corrections arrived with boats, it carried inmates to an elevated overpass on the nearby interstate and ferried prisoners day and night to other jails around the state.¹⁵ Many of the inmates who were caught in the flooding in Orleans Parish Prison and later evacuated to jails across the state of Louisiana faced only minor misdemeanor and traffic offenses.¹⁶ Later, when Orleans Parish court officials attempted to find these inmates to start court proceedings, they often failed.¹⁷ Sheriffs could provide no proper records for these inmates because “they just poured out of those flooded jails.”¹⁸ It was reported that eight thousand detainees awaited proceedings without courts, trials, or lawyers for up to a year.¹⁹ Inmates languished for months in local jails “doing Katrina time,” serving long past their sentences without ever receiving a judicial hearing.²⁰ Louisiana courts suspended habeas corpus for six months.²¹

The storm had a devastating effect on the District Attorney’s Office building, with the first floor taking on three to four feet of water.²² Flooding caused the destruction of many records, and the District Attorney’s Office was unable to return to its building for many years.²³ Prosecutors first worked from home and later at three tables in a downtown hotel before moving into a nightclub, where they remained until May 2006.²⁴ When the tax base of the city collapsed, the District Attorney’s Office laid off approximately fifty employees, including all investigators. At one point, it could not even pay its phone bill.²⁵

The Orleans Indigent Defender Program, funded primarily by the revenue from traffic tickets (and already extremely underfunded before the storm), laid off twenty-five of its thirty-five attorneys for budgetary reasons.²⁶ Slowly, key reformers dedicated untold time to help represent the thousands of defendants stranded across the state and rebuilt the Public Defender’s Office into a system that began to approach the standards of constitutional representation.²⁷

Post-Katrina and the Community Response

Hurricane Katrina struck New Orleans on August 29, 2005.²⁸ The United States has rarely experienced such a rapid and complete collapse of local law enforcement, a district attorney’s office, the indigent defense system, jails, and criminal courts.²⁹ The first criminal bench trial was held more than eight months after the storm, on March 31, 2006.³⁰ The first jury trial was held more than ten months after the storm, on June 5, 2006.³¹ During the subsequent four months, approximately fifteen jury trials were held, despite the existence of three thousand pending cases.³² A year after the storm, prison officials, public defenders, and law school clinic students continued to locate hundreds of inmates who had seen neither a lawyer nor a judge since the storm.³³ The criminal courthouse did not reopen until June 1, 2006.³⁴ Before that, judges presided over cases at Hunt Correctional Facility or the New Orleans Greyhound Bus Station (equipped as a jail) until December 2005 and then for a short while in the federal courthouse.³⁵

Crime in New Orleans went up, and while some city officials argued that the crime *rate* had not increased—since the lower post-Katrina population made the per capita crime rate much larger than the same number of crimes would have at pre-Katrina population levels—the New Orleans community grew angry and frustrated with the lack of official response to crime.³⁶ Mayor Ray Nagin, New Orleans’ third African American mayor, publicly responded that most of the crime was “black on black crime.”³⁷ Nagin’s response was widely seen as a bid for the return of tourism dollars and an attempt by the mayor to hide his head in the sand.³⁸ Reports of gang activity based on turf wars and drugs became widespread, increasing the general fear of the city’s residents.³⁹ While some in law enforcement were careful to point out that this criminal activity did not involve traditional gangs,⁴⁰ such finite points were lost on the general population.⁴¹ Witness intimidation was frequently cited as both a cause for the continuation of violent crime and a rationale for unsuccessful prosecutions.⁴² By the end of 2016, New Orleans was the nation’s homicide capital, according to FBI statistics, with 63.5 slayings per 100,000 residents, an increase over other contenders such as Gary, Indiana, and Detroit.⁴³

In early June 2006, in what would later be known as the Central City massacre, five teenagers were shot dead; the killings were the worst the city had seen in a decade.⁴⁴ Killed were Marquis Hunter, age nineteen; his brother, Arsenio “Lil Man” Hunter, age sixteen; Warren “Luv” Simeon, age seventeen; Iraum Taylor, age nineteen; and Reggie “Putty” Dantzler, age nineteen.⁴⁵ The Central City massacre led Governor Kathleen Blanco, at the request of Mayor Nagin, to order the National Guard and the State Police into the City of New Orleans.⁴⁶ In July 2006, District Attorney Eddie Jordan arrested Michael Anderson for the quintuple murder but in October 2007 dismissed the charges (without telling the victim’s family beforehand), explaining that the evidence was contradictory and that their star witness could not be found.⁴⁷ This move led to more discontent against the already very unpopular African American district attorney, and Jordan quickly reindicted Michael Anderson after the New Orleans Police Department “found” the star witness that the district attorney supposedly failed to locate.⁴⁸ When the next district attorney, Leon Cannizzaro, who was white, was elected by majorities of both black and white voters,⁴⁹ he made history by securing the death penalty against Michael Anderson, New Orleans’ first death penalty in twelve years.⁵⁰ The fact that District Attorney Cannizzaro had efficiently and effectively prosecuted and returned a verdict in this high-profile case during his first eight months in office provided relief to many New Orleanians, both white and black.⁵¹ Only later in 2010, when the case against Anderson was overturned, did it come to light that District Attorney Cannizzaro’s office had not turned over key evidence to either the court or the defense.⁵² In 2016, the US Attorney’s Office stated in a federal court filing that the New Orleans drug kingpin Telly Hankton, not Michael Anderson, had committed the Central City massacre.⁵³ While hindsight seems to indicate that Eddie Jordan’s hesitation to prosecute Michael Anderson was appropriate, hesitation over the reliability of evidence was not welcome to New Orleanians at the time. New Orleans was being barraged by violent crime and the city’s population was infuriated.

In January 2007, an estimated five thousand people staged a historic rally against violent crime in New Orleans.⁵⁴ The participants, a diverse group, staged the largest demonstration New Orleans had seen since the civil rights era.⁵⁵ In the words of veteran news journalist Gordon Russell, “The 2007 crime rally was the most significant protest of its kind I’ve seen in 20 years as a journalist in New Orleans.” “Thousands of people attended and dozens spoke. It was a completely citizen-driven event—in fact, public officials mostly weren’t given a chance to speak.”⁵⁶ The rally was organized by the victim-rights group Silence Is Violence⁵⁷ after two prominent New Orleanians were shot and killed. Dinerral Shavers, an African American drummer for the Hot 8 Brass Band,

who was a father and a high school teacher, was shot to death while driving in the 6th Ward with his family.⁵⁸ Helen Hill, a white Canadian filmmaker who had moved to New Orleans after the storm, was killed in her home in Faubourg Marigny. Her husband, who was also shot while hiding in the bathroom holding the couple's baby, survived.⁵⁹ Public anger exploded over these high-profile murders. New Orleans had already seen nine killings in the first eight days of the year.⁶⁰ The crowd marched to City Hall and called for the resignations of Mayor Nagin, District Attorney Eddie Jordan, and Police Superintendent Warren Riley.⁶¹ Glen David Andrews, prominent trombonist for the Hot 8 Brass Band, spoke at the rally and thundered at Mayor Nagin, "Get on your job"⁶² but also admitted to the thousands in the crowd that as an African American man, he was "scared to death of the police."⁶³ Andrews had reason to be scared of the New Orleans Police Department. Later that fall he was arrested by the police for simply marching in a memorial second line; the criminal charges were dropped only months later.⁶⁴

Two years after the January 2007 demonstration against violent crime, Silence Is Violence held another rally "to express their disgust over the continuing violence in New Orleans, the nation's most murderous city."⁶⁵ The names of all the people murdered in the city in the past year were read out loud.⁶⁶ Rather than calling for the resignations of any public officials, the demonstration's organizers announced that the newly elected district attorney, Leon Cannizzaro, would be among those gathering on the steps of City Hall.⁶⁷ The organizers asked "citizens to pause and ponder the city's seemingly intractable crime problem, then make a personal effort to improve the community."⁶⁸ The tone had changed by 2008, and community outrage at some public officials had diminished.

The Movement toward Reform

This was the beginning. In 2007 New Orleans was starting to get back on its feet and try to make sense of the ruins around it. In the middle of the post-Katrina chaos, James Carter was elected to the first New Orleans City Council seated after Hurricane Katrina.⁶⁹ Carter, the second African American to serve as a New Orleans city councilman in District C, a historically diverse district, would go on to become the first African American criminal justice commissioner in New Orleans' history.⁷⁰ In 2006, and after the storm, Carter held town halls to, in his words, "better understand the problems New Orleans community faced."⁷¹ An African American woman (whose name is lost to history) approached Carter at a town hall in Algiers and proposed a community courtwatching project that would bring accountability to criminal court.⁷² The project would show the judges, the prosecution, the defense lawyers, the police, and the sheriff that they were being watched and they would be held accountable.⁷³ Carter approached Michael Cowan—a white academic who had founded Common Good, a group comprising different community organizations focused on rebuilding the city—to discuss starting a courtwatching group in New Orleans.⁷⁴ Carter had already begun working with Cowan and other leaders in the white civic and business community to coordinate the creation of the Office of the Independent Police Monitor inside the Office of the Inspector General.⁷⁵

While it always takes a community to get large-scale programs off the ground, it is indisputable that the Office of the Independent Police Monitor would never have been created had it not been for Councilmember Carter.⁷⁶ New Orleans became one of the first and remains one of the only cities with an independent office responsible for receiving community complaints of police abuse and monitoring the use of police force used against the civilian community. The Office of the Independent Police Monitor was created as part of the larger Office of the Inspector General but with independent decision-making powers.⁷⁷ The Office of the Inspector General was

created to investigate municipal agency corruption.⁷⁸ While the African American community largely supported the creation of the Office of the Independent Police Monitor, the white community supported the creation of the Inspector General's Office. Carter worked with leaders of white New Orleans, including Michael Cowan of Common Good, the Business Council, and Citizens for 1 Greater New Orleans, to ensure that the combined Inspector General/Independent Police Monitor's office was voted into the New Orleans City Charter by the people of New Orleans.

In many ways Carter was ahead of his time. As a public official, he attempted to institutionalize a method to fight the many ways the African American community, either as criminal defendants or as crime victims, suffered at the hands of the criminal justice system. Issues of inequality remained inextricably tied to the aftermath of Katrina. Orleans Parish's pre-Hurricane situation was equally bleak, however, just less obvious to the rest of the country. New Orleans' pre-Katrina population was 67 percent African American, 28 percent below the poverty line, and 22 percent without their own transportation.⁷⁹

When he came up with the concept of a courtwatching group, Carter saw the purpose of such a group as bringing accountability to the public officials of New Orleans criminal courts in two major areas:

1. the disparate treatment of African Americans in the criminal courts compared to their white counterparts, and
2. the stiffness of penalty for nonviolent compared to violent felony offenses.⁸⁰

Overall, Carter believed that the transparency provided by a courtwatching program would create a better criminal justice system, leading to a safer city for all without regard to race, color, or creed.⁸¹ These are the issues Carter remembers deliberating before speaking to Cowan about the courtwatching concept.⁸² Cowan credits Carter as the creator of the current Court Watch NOLA concept.⁸³ But Carter did not go on to play a part in coordinating the Court Watch NOLA organization, aside from speaking to the community about the concept,⁸⁴ because he saw government as having no role to play in coordinating the creation of a courtwatching program.⁸⁵

To say that Carter faced an uphill battle in putting his concepts into practice is an understatement. Carter remembers facing resistance from in the African American community in his efforts to gain legitimacy for many of his concepts,⁸⁶ though it was often the African American community that stood to gain the most from many of those ideas. Carter reached out to Cowan and other white leaders in the community with his idea of creating a courtwatching program, his objective emanating squarely from the African American community's experience, in part because Carter and Cowan had already been working together to ensure that the Office of the Independent Police Monitor and the Office of the Inspector General was successfully voted into the New Orleans City Charter.

Court Watch NOLA did not model its initial objectives on Carter's concept of examining racial inequalities and sentencing disparities between nonviolent and violent crime. Instead, just as it does now, Court Watch NOLA as a community program took its energy from where the community was the loudest and the most outraged, where the community had started to organize as a popular movement. At the time, community outrage was pitted against the upsurge of violent crime.

In New Orleans, great minds think alike even if such minds come from different worlds, backgrounds, and perspectives. While Carter was speaking to his African American constituency about a courtwatching group and conferring with Cowan, a vibrant and determined civic group, largely comprising successful white women, began to convene and ask the pivotal question of how

the community could keep the criminal courts accountable. Citizens for 1, Greater New Orleans (Citizens for 1) started as and remains today a nonpartisan, nonsectarian grassroots initiative formed to fight for the consolidation of the levee boards and assessor system after Katrina; the group's universal demand was for a government "that is open, honest, transparent and accountable."⁸⁷ The crime-victim advocate and current Court Watch NOLA advisory board member Patti Lapeyre, an early member of Citizens for 1, recounts the story of a group of Citizens for 1 members gathering information for months and bringing the courtwatching concept back to the Citizens for 1 executive board.⁸⁸

The concept of courtwatching is as old as the courts themselves. Books have been written about prominent criminal trials and the role of the community/audience that makes up the fabric of New Orleans history.⁸⁹ In fact, Court Watch NOLA had already been created (for the first time) back in the 1980s.⁹⁰ Jerome Goldman, a successful entrepreneur who became concerned about the lack of accountability of criminal court public officials and the high rate of violent crime in New Orleans, created the first Court Watch NOLA.⁹¹ Goldman approached the Metropolitan Crime Commission,⁹² one of the few organizations in 1980s New Orleans that focused on the criminal courts and the larger criminal justice system.⁹³ At the time that the first Court Watch NOLA had begun in the late 1980s, Rafael Goyeneche, a young white former assistant district attorney from District Attorney Harry Connick's office, was just starting to work at the Metropolitan Crime Commission.⁹⁴ Jerome Goldman provided the commission with the funds to create New Orleans' first formal courtwatching program.⁹⁵ But the Metropolitan Crime Commission was forced to discontinue the program eighteen months after it was created, for lack of funding.⁹⁶

The fact that two different groups believed that a courtwatching program could be created in post-Katrina New Orleans points to the confidence New Orleanians had that it would be community alone that would give courts the accountability they needed, for New Orleanians to regain confidence in the larger criminal justice system.

What is certain is that Citizens for 1 put an enormous amount of groundwork into creating Court Watch NOLA as an organization; without that groundwork, Court Watch NOLA would not have been created at that time in New Orleans. From May 2006 until February 2007, several pioneering women, including but not limited to Barbara Bush, Ann Rabin, Linda Roussel, Hope Goldman Meyer, Nicole Spangenberg, Erin Hangartner, and Zully Jiminez, came together to start meeting with criminal justice stakeholders.⁹⁷ This was the beginning of Court Watch NOLA. It is sound planning on the part of any new not for profit but especially a court watching group to meet with stakeholders before launching the concept.⁹⁸ Every week for nine months this industrious group met with various criminal court judges and others, including District Attorney Eddie Jordan and his successor, Leon Cannizzaro.⁹⁹ For twenty years, one member of the group, Zully Jiminez, had been the assistant to District Attorney Harry Connick, Eddie Jordan's immediate predecessor.¹⁰⁰ According to one Citizen for 1 member, Jiminez was the driving force behind the group's ability to meet with criminal justice stakeholders.¹⁰¹ Patti Lapeyre began attending task force meetings at the Louisiana State Supreme Court, gaining entrance through John Casbon, an early friend of Court Watch NOLA.¹⁰² Around this time, Nicole Spangenberg met with Mothers Against Drunk Driving, not to copy its model, but to understand it better.¹⁰³ Nolan Marshall, who was working for Common Good at the time, began to work with Citizens for 1 to help get Court Watch NOLA off the ground.¹⁰⁴ Together Lapeyre and Marshall wrote letters to all judges, councilmembers, and other stakeholders, informing them of the creation of Court Watch NOLA.¹⁰⁵ "Very early on," Marshall reports, "we wanted to make sure we were devising a program that was accepted by the judges, that wasn't seen as overly critical of any specific aspect of what folks were

observing. It was not supposed to be a criticism and review of only judges—we wanted to look at everyone: public defenders, prosecutors, defense attorneys. The question was how do we devise that, how do we achieve that?”¹⁰⁶

The concept of courtwatching was also discussed at the second or third meeting of the New Orleans Crime Coalition, a group formed to think through how to stop violent crime.¹⁰⁷ The New Orleans Crime Coalition was beginning to look at every aspect of the criminal justice system and trying to determine how to restart the gears of the criminal justice system to combat violent crime.¹⁰⁸ At the time Court Watch NOLA was being discussed, the Crime Coalition was made up of Citizens for 1, the Metropolitan Crime Commission, Common Good, Crime Stoppers, the Police and Justice Foundation, the Business Council of New Orleans, and the Urban League.¹⁰⁹ “The whole system,” according to Cowan, “was being broken up and ripped apart at the time. We knew that we could not just look at the police department, that we needed to also look at the judges. Every part of the criminal justice system was in the hole and Court Watch NOLA was the response to the judiciary. There was a light being shed.”¹¹⁰ Carter made formal presentations to Common Good and the New Orleans Crime Coalition. In both presentations he did not refer to his specific objectives for the program or the data he envisioned the program should collect. Instead, he spoke of the overarching concepts of community accountability over the courts in an effort to ensure that the universal concept for the program was accepted by the larger (white) community that could put the courtwatching program into effect.¹¹¹

In the months before Court Watch NOLA hired its first executive director, Marshall, Cowan, and a small group of Citizens for 1 members met with Councilmember Carter and Mayor Nagin.¹¹² Lapeyre remembers hearing Mayor Nagin tell this group of mostly women that it would be “too dangerous” for volunteers to watch court and that instead he could have cameras installed in the court.¹¹³ Lapeyre responded, “No disrespect to you but this is a grassroots effort, and it’s not going to be government run.”¹¹⁴ Lapeyre and the others she was working with refused Mayor Nagin’s offer of governmental help, a rule to which the group still adheres today.¹¹⁵ Court Watch NOLA was launched in February 2007 with initial seed money provided by the Business Coalition, Citizens for 1, and Common Good.¹¹⁶

In 2007, Rafael Goyeneche also provided much-needed help in getting Court Watch NOLA off the ground.¹¹⁷ “Raffe spoke very eloquently,” Cowan reports, “about the problems that judges caused in the system, the inefficiencies that judges caused, and the need to hold these judges accountable.”¹¹⁸ In 2007, the Metropolitan Crime Commission themselves began issuing reports that examined the performance of the New Orleans criminal justice system through the police department, the District Attorney’s Office, and the judiciary.¹¹⁹ The Metropolitan Crime Commission reports continue to examine agencies through the lens of efficiency data, looking at the district attorney’s felony arrest-to-conviction rates, each felony judge’s average numbers of pending cases, the rate of backlogged cases, and median case-processing time.¹²⁰ Goyeneche was a strong force in ensuring that Court Watch NOLA exclusively examine efficiency data in the New Orleans Criminal District Court.¹²¹ Goyeneche and the Metropolitan Crime Commission mentored Court Watch NOLA as it got on its feet, providing it office space before the Court Watch NOLA board member Ellen Yellin, who is still a Court Watch NOLA board member, procured the organization its credentials as a 501(c)(3) not-for-profit organization.¹²²

Another early pioneer of Court Watch NOLA, Hope Goldman Meyer, was invited by Goyeneche to be on Court Watch NOLA’s first board of directors.¹²³ Meyer, whose father had created the courtwatching project with the Metropolitan Crime Commission in the 1980s, had already been working for months with Patti Lapeyre and Citizens for 1 to get Court Watch NOLA

off the ground.¹²⁴ Meyer, who is still an advisory board member, represents the continuum between the traditions of courtwatching in the 1980s and the project we have today.¹²⁵ She was overjoyed to be involved with the re-creation of Court Watch NOLA, stating, “It makes perfect sense to hold people in power accountable, and in New Orleans it is one of those things that needs to continue.”¹²⁶

Meyer brought the former prosecutor Lisa Jordan into the process. Lisa Jordan, who is a current advisory board member, also represents the continuum between Court Watch NOLA’s traditions and its current work. It was her idea to approach Karen Herman, with whom she had worked in Harry Connick’s District Attorney’s Office.¹²⁷ Herman became the first executive director of Court Watch NOLA and served in the first half of 2007.¹²⁸ She was an extremely active executive director, speaking on the radio, going to community groups, and recruiting as many community volunteers as possible to go into criminal court and collect data.¹²⁹

Karen Herman remembers training court watchers one-on-one¹³⁰ and Lisa Jordan remembers conducting trainings in the early days of Court Watch NOLA.¹³¹ The first class of court watchers was made up of approximately a dozen volunteers.¹³² Herman reports: “There was a real sense of community when the program started. Often it was senior citizens that had the time to sit in court during the week, and this group of early court watchers would often get breakfast in my home.”¹³³ Early court watchers were diverse and Court Watch NOLA began working with some of the volunteers Councilmember Carter had brought together from the West Bank of the Mississippi River in the Algiers section of New Orleans. According to Nolan Marshal, “We were trying to be very conscious about diversity and we got diversity from that group- it was an important part of what we’re trying to do.”¹³⁴ These early court watchers would track individual felony cases, usually violent felony or sex offense cases.¹³⁵ The early court watchers would then go back to their community and recruit their fellow community members to be part of the courtwatching experience.¹³⁶ From the beginning, court watchers have been identified by the yellow clipboards they carry with them to court.¹³⁷ Herman spoke with the head of security for the courts in the Orleans Parish Sheriff’s Office to ensure that court watchers, like court staff, attorneys, and jurors, would be allowed to bring their cell phones into court.¹³⁸ This privilege is not extended to members of the general public, witnesses, victims, and criminal defendants.¹³⁹

Andrea St. Paul Bland was Court Watch NOLA’s first board chair and served for two years.¹⁴⁰ In a recent interview, she admitted that the membership of that first board was not as diverse as its members would have liked. But, she said, “we stacked the first board of directors with former assistant district attorneys so we understood criminal court procedures.”¹⁴¹ At the time she became Court Watch NOLA’s board chair, Bland was working at Trans-Oceanic with Greg Rusovich, who would go on to become chair of the New Orleans Business Council in 2010. Because of this relationship, Bland was able to secure funding from the Business Council in the early days of Court Watch NOLA. “The Business Council,” she reports, “understood the importance of a safe city, they saw the big picture.”¹⁴²

Court Watch Nola’s Data

With the data court watchers collected, Karen Herman, assisted by Rafael Goyeneche and the Metropolitan Crime Commission, created the first court-watcher reports.¹⁴³ Without that assistance, Herman admits, she would not have been able to create the graphs and put the first reports together.¹⁴⁴ Under its first three executive directors, Herman, Graham da Ponte, and Janet Ahern, Court Watch NOLA, like the Metropolitan Crime Commission, collected data that related exclusively to efficiency, with only a limited amount of transparency data. Court watchers

collected data on whether criminal court judges arrived late to the bench and how many times and why a case was continued without disposition. Other data collected in the early days of the program included how often judges would have sidebars, the discussion between the judge and the parties conducted at the bench or in judicial chambers and outside of public earshot.

At the beginning of the program, Court Watch NOLA directed its court watchers to collect only efficiency data because of the difficulty and often the failure of the court system to function. Additionally, in its early days, Court Watch NOLA operated under the close guidance of the Metropolitan Crime Commission, which largely limited itself (and still does) to examining efficiency issues in the Orleans Parish Criminal Courts.

In the early days of the program, Karen Herman always asked court watchers what data they wanted to collect.¹⁴⁵ In recalling the early days of the program, Karen Herman remembered the large rallies and the outrage over the violent crime in the city.¹⁴⁶ I talked with Karen Herman and Court Watch NOLA's second board chair Kirk Gasperecz, who still serves on the board today, about the Central City massacre, the arrest of Michael Anderson, and the later reports that it was Telly Hankton and not Michael Anderson who was responsible for the Central City massacre.¹⁴⁷ In the early days of the program, the community was pushing for the violent crime problem to be fixed; the collective consciousness was not centered on ending the increasing number of wrongful convictions in Orleans Parish. In fact, at this juncture, the community had largely not yet been educated on the incidence of wrongful conviction. This was the environment that Court Watch NOLA was born into: a community that was so angry and disgusted that it gathered in the streets by the thousands to speak out against violent crime, a community so used to inaction that the community embraced the few elected officials who did act.

Until 2012, Court Watch NOLA remained committed to collecting only efficiency data and data relating to the occurrence of sidebars in court. Though Court Watch NOLA's first mission and objectives statement is lost to history, by 2009, executive director Graham daPonte had identified as Court Watch NOLA's core objective: "to promote efficiency within the Criminal Court system through monitoring cases involving violent crimes and other cases which are significant in indicating the efficiency of the system, and to bring accountability and transparency to proceedings within Orleans Parish Criminal District Court."¹⁴⁸

While objectivity is not the focus of all court watcher programs, a court watching program that does prioritize objectivity should measure and compare court performance according to national best practices. Judicial think tanks now agree that remaining objective does not necessarily mean a court watcher group should examine only efficiency and case processing data. Back in 2007, best practices involved examining mainly this type of information. And while judicial think tanks were also talking about novel concepts, such as drug courts, and new problem-solving courts, such as domestic violence court, they were not offering many standards other than efficiency by which day-to-day court practices in felony court could be measured.

In 2003, the National Association for Court Management published its "Core Competency Curriculum Guidelines."¹⁴⁹ In 2005, the National Center for State Courts published "Court Tools."¹⁵⁰ These two best practices related to efficiency and state court caseload management.¹⁵¹ In 2011, Richard Van Duizend and colleagues published *Model Time Standards for State Trial Courts*,¹⁵² which became a widely used tool for courts.¹⁵³ In 2009, David Steelman published "Model Continuance Policy," relating to when and how a case should be delayed.¹⁵⁴

By 2012, this national best-practices trend started to change, with more diverse think tanks offering different standards and concepts by which courts could improve and by which the public could hold courts accountable. Some of the core standards that had already been developed around

efficiency and caseload management expanded to consider more diverse and layered perspectives. The National Association for Court Management, for example, explains the expansion of its best practice standards as follows:

Based on a field of court administration that has become increasingly professionalized and diverse, (the National Association of Court Management) NACM reviewed and revised the competencies over a three-year period from 2012 [to] 2015, through the financial support of the State Justice Institute (SJI). The end product, the Core, represents the multitude of changes that have occurred in the profession and is intended to be forward-looking to encourage not only competencies for professionals working in the field of court administration but also to promote excellence in the administration of justice.¹⁵⁵

While the National Center for State Courts' "Court Tools" now includes standards that relate to access and fairness, ensuring fairness around financial obligations imposed by the court, these standards were adopted only later.¹⁵⁶ Back when "Court Tools" was first developed in 2005, the best practice standards offered to the courts and the public to assess the courts related primarily to efficiency: clearance rates, time to disposition, age of active pending caseload, trial date certainty, and reliability and integrity of case files.¹⁵⁷ These older best practice standards created by the National Center for State Courts are the concepts that most directly relate to the data to which Court Watch NOLA traditionally limited itself. These standards are still in use on the National Center for State Courts website, but unlike fifteen years ago, they are no longer the only standards in use.

David Steelman, vice president of the National Center for State Courts, is one of the most prolific writers of judicial efficiency and caseload management literature in the country. In 2011, after working at the center for almost two decades,¹⁵⁸ he published the results of his study on the appropriateness of the Metropolitan Crime Commission's judicial efficiency reports in New Orleans.¹⁵⁹ In my interview with him by phone, he admitted that his views on court best practices have evolved:

I have shifted my focus from efficiency to judicial accountability in other areas. When we look only at judicial efficiency, we miss the critical bottom line. An analysis of courts that only includes efficiency standards creates holes in the resources we collectively have available to us to determine judicial and court accountability. How do we know justice is being done? How do we ensure fair outcomes are reached with the resources we have? If you are a person of color, you often end up on the short end of the stick when it comes to outcomes, even when you measure cases apples to apples. How does an efficiency-only analysis cover any of these real questions?¹⁶⁰

Like the national judicial think tanks in their reports of best practices, Court Watch NOLA also began to evolve in the data it collected. When its fourth executive director, Brad Cousins, took over the organization in 2012, he began studying the newest best practices lauded in the national think tanks and in 2014 introduced court watchers (and court stakeholders: the judges, prosecutors, defense, sheriff deputies, clerks of court and police) to the concepts of procedural fairness.¹⁶¹ Procedural fairness is an evidence-based practice that requires judges to pay attention to creating fair outcomes and tailor their actions, language, and responses to the public's expectations of providing a fair process. There are four basic expectations in procedural fairness: the ability of a party to participate in the case by expressing their viewpoint; neutrality of the judge; respectful treatment of a person's rights; and the care and sincerity that authorities show in trying to help the litigants.¹⁶² In 2013, the year before Court Watch NOLA was implementing procedural fairness

concepts into its data collection, the Conference of Chief Justices and the Conference of State Court Administrators jointly adopted a resolution encouraging state court leaders to promote the implementation of procedural fairness principles.¹⁶³ I asked former executive director Cousins what had changed at the time Court Watch NOLA began to collect data on procedural fairness, and he replied, “I think that nationally and locally the criminal justice system was starting to be seen differently at that point, starting to be seen more holistically.”¹⁶⁴

Court Watch NOLA’S Recent Progress and Remaining Challenges

In the summer of 2015, I became the fifth executive director of Court Watch NOLA. A lot had changed since the program was created. The first executive director, Karen Herman, had already been a sitting judge for seven years.¹⁶⁵ Hurricane Katrina’s ten-year anniversary was around the corner. Vera New Orleans’ Pretrial Services Program, which sought to objectively assess the risk of pretrial release for criminal defendants, was being widely debated, challenged, opposed, and changed. Later it would be adopted by the Orleans Parish Criminal District Court.¹⁶⁶ After a laudable amount of healthy public dialogue, the New Orleans Police Department had been placed under and largely benefited from the most extensive consent decree ever written in the United States.¹⁶⁷ Between 2011 and 2013, while the police department was under the consent decree, it was revealed that the department had routinely failed to investigate hundreds of reported sex crimes.¹⁶⁸ The Orleans Parish Sheriff’s Office, after various deaths and suicides in its jail,¹⁶⁹ was also placed under a consent decree¹⁷⁰ but with significantly less progress to report. Orleans Parish became the parish or county with the highest recorded wrongful conviction rate per capita of any county or parish in the country with a population greater than three hundred thousand.¹⁷¹ Louisiana became the highest state incarcerator per capita in the country,¹⁷² and had the second highest female homicide rate in the country.¹⁷³ On a national level, President Barack Obama became the first sitting president to visit a federal prison.¹⁷⁴ President Obama commuted the sentences of more people than the previous ten presidents combined, allowed incarcerated people to once again receive Pell Grants to pursue college degrees, issued an executive order “banning the box” on federal job applications, released new Housing and Urban Development guidelines stating that denial of housing on the basis of a criminal record would be considered a violation of the Fair Housing Act, and banned solitary confinement of juveniles in federal prisons.¹⁷⁵ President Obama’s White House issued a white paper that criticized the inequities and inefficiencies of fines, fees, and bail.¹⁷⁶ In 2011, the US Department of Education issued a letter to universities recommending various methods intended to reduce incidents of sexual assault on campuses, in response to charges that schools had poorly supported women who complained of sexual assault.¹⁷⁷ By 2015, five states had legalized recreational marijuana and twenty-four states had legalized medical marijuana;¹⁷⁸ by the time of writing this paper, many of these numbers have changed once again. The #Me Too movement emanating from the sexual abuse allegations against Harvey Weinstein demanded that the community regard sexual assault and sexual harassment with a degree of seriousness it had previously not.¹⁷⁹

Why are all of these changes in our criminal justice system important and why do I list them? These changes are important not just because they have impacted those most affected by the criminal justice system. These changes are important because as a community both locally and nationally, we have fought for them. As we have made changes to the criminal justice system, we have evolved in our understanding. While we have debated and fought for these changes, we have also changed. We have pushed our public officials to embrace and make these changes to the criminal justice system. Public officials who had not heard the drumbeat of progress and did not

understood the best practice standards created by learned experts in the field have been replaced or soon will be. Both Republican and Democratic public officials have made changes related to reducing incarceration and improving the treatment of crime victims. New Orleanians have engaged in this dialogue, and fewer now are willing to be kept in the dark on criminal justice issues. New Orleans is absolutely engaged in the criminal justice conversation and we have the right to be proud of that accomplishment.

Court Watch NOLA still collects data on efficiency in criminal district court, still seeing efficiency, case processing, and the time the public must wait to receive their day in court as important data on which to report. But, as the national best practice standards dictate, we collect other data that paints a larger picture of the practices seen in the New Orleans criminal courts. Thus, Court Watch NOLA has come full circle back to some of the original concepts Councilmember James Carter envisioned for the group.

In 2016, with funding from a grant awarded by a local foundation, Baptist Community Ministries, Court Watch NOLA began to monitor bail hearings in New Orleans Magistrate Court. In doing so, Court Watch NOLA became the first and only group recording data in magistrate court, such as the amount of bail set, the number of conditions required of the defendant before he or she is released pretrial, the demographics of the defendant, and whether the bail hearing was conducted without legal counsel (among other data collected). Again with the help of Baptist Community Ministries, Court Watch NOLA began to monitor New Orleans Municipal (misdemeanor) Court to ensure that criminal defendants had legal counsel during their court appearances. In New Orleans Municipal Court, court watchers also collect data on the number of fines and fees assessed by the court on criminal defendants. Having been informed by the Innocence Project of New Orleans that one of the consistent factors observed in wrongful conviction cases is the lack of scientific or hard evidence, Court Watch NOLA began collecting data on the frequency hard or scientific data is used to prosecute criminal cases. The group also collected data on victim rights and witness intimidation in all three courts, whether victims were present, how they were being treated by the stakeholders in Criminal District Court, and whether there were allegations of witness intimidation.

All of this data was supported by best practices on the national level. The National Center for State Courts had already featured the “Model Pre-Trial Services Implementation Kit” on its website, as well as various court best practice guides relating to creating bias-free environments.¹⁸⁰ President Donald Trump’s Department of Justice was providing jurisdictions with grant money to ensure that the constitutional right to counsel was ensured, and where it was not ensured, that it was assessed and was implemented at the local and state levels.¹⁸¹ Right-to-counsel standards were created and are listed on the American Bar Association website. Finally, the movement for victim rights had become a practical revolution. In November 2018, voters in five states decided on ballot-initiated victim-rights amendments.¹⁸² The National Center for State Courts, the Center for Court Innovation, and the American Bar Association all list best practice standards relating to victim rights on their websites.¹⁸³

On March 7, 2017, Court Watch NOLA founding board member and victim rights advocate Patti Lapeyre and I wrote a letter to the editor of the *New Orleans Advocate*, decrying the unequal treatment some crime victims receive in the New Orleans criminal courts if they do not know the right people or if their perpetrator happens to know the right people.¹⁸⁴ In its 2016 report, Court Watch NOLA had reported that 73 percent of crime victims in police reports were African American and 60 percent of crime victims were women.¹⁸⁵

Also, in 2016, Court Watch NOLA approached District Attorney Cannizzaro along with crime victim advocates Mary Claire Landry and Eva Lessinger to ask the District Attorney's Office to no longer request that sex crime and domestic violence survivors if they did not appear in court to testify against their perpetrators. Though for years crime survivors and their advocates had been begging District Attorney Cannizzaro behind closed doors to end the policy of incarcerating crime survivors for failure to testify,¹⁸⁶ he had continued to incarcerate crime survivors. When confronted with Court Watch NOLA's and victim advocates' opposition to this practice in 2016, Cannizzaro had politely but firmly refused to cease the practice. Several months later, after giving notice to Cannizzaro and his office, Court Watch NOLA published the (minimum) number of crime survivors Cannizzaro had pushed to incarcerate for failure to prosecute, including a rape crime survivor who had been incarcerated for nine days for failure to testify against the man who had raped her.¹⁸⁷ Also at this time, it was revealed that Cannizzaro had been signing documents that threatened jail time and fines for those victims and witnesses who did not cooperate with his office and calling such documents subpoenas,¹⁸⁸ when in reality, only judges (and certainly not prosecutors) can sign subpoenas in Louisiana.¹⁸⁹

This news was first published in New Orleans by *The Lens*,¹⁹⁰ went international with the *BBC*,¹⁹¹ and finally hit all major national print publications including the *New York Times*,¹⁹² the *Washington Post*,¹⁹³ the *Miami Herald*,¹⁹⁴ and the *Full Frontal Show with Samantha Bee*.¹⁹⁵ As a result of Court Watch NOLA's releasing its data and the ensuing news coverage, four separate civil rights lawsuits¹⁹⁶ and two city council resolutions¹⁹⁷ have been brought against Cannizzaro. After the revelation of Cannizzaro's incarceration of crime survivors, 48 percent of white voters and 43 percent of black voters responded to a poll with an unfavorable opinion of Cannizzaro.¹⁹⁸

Cannizzaro's treatment of crime victims has stubbornly remained in the news for over four years,¹⁹⁹ despite Cannizzaro's personal criticism of whomever raises the subject. Cannizzaro's endorsement of candidates running for election, often as judges, used to result in a win at the polls.²⁰⁰ But since his public refusal to stop incarcerating crime victims, three out of four electoral candidates he has endorsed²⁰¹ have lost their election;²⁰² this group includes the front runner in the 2017 mayoral election and a talented and popular judge who lost once Cannizzaro endorsed her,²⁰³ despite her having more money in her war chest than her opponents.²⁰⁴ In one of the biggest demonstrations relating to criminal justice seen since 2007, approximately a hundred people gathered in front of the New Orleans Criminal District Court, led in song by the popular singer and New Orleans resident Ani DiFranco, to protest Cannizzaro's treatment of crime victims.²⁰⁵ A few days later a smaller group, made up of crime victims, gathered to protest in front of the District Attorney's Office, only to be mocked on Twitter by the District Attorney Office's public information officer.²⁰⁶ In 2019, the State of Louisiana passed legislation making it more difficult for a Louisiana district attorney to incarcerate sex crime and domestic violence survivors for failure to testify against their aggressors.²⁰⁷ Throughout the Louisiana state legislative process, I was consistently told that Cannizzaro's office was the only District Attorney's Office in Louisiana that incarcerates sex crime survivors and domestic violence survivors. Finally, in a twist of irony, the director of Silence Is Violence became a plaintiff in one of the civil rights suits against Cannizzaro because of his persistent threat that he would incarcerate her for her work with crime survivors.²⁰⁸ In 2007, Silence Is Violence had organized the biggest criminal justice rally New Orleans had seen in fifty years²⁰⁹ that in many ways led to the election of Cannizzaro as district attorney. A year later the group promoted Cannizzaro at a rally on the steps of City Hall at their rally.²¹⁰

For the work that Court Watch NOLA has done advocating for victims' rights standards, Cannizzaro has publicly attacked the organization and me, in my role as executive director, several

times. For example, in a press conference Cannizzaro called, he said that I had “betrayed Court Watch NOLA’s rich history as an objective and unbiased watchdog.”²¹¹ As a sign that times have changed and that the community will continue to demand change, the editorial board of the one media outlet that reported on the press conference responded swiftly and without solicitation from Court Watch NOLA, stating:

In a press conference after the council meeting, Mr. Cannizzaro blasted Court Watch NOLA as an “anti-law enforcement, anti-prosecution, anti-public safety group.” That isn’t true. Court Watch NOLA, which was created shortly after Hurricane Katrina, is made up of volunteers who donate their time to watch court proceedings and make sure the justice system is ethical, transparent and professional. . . . He should just agree not to lock up another victim of sexual assault or domestic violence, rather than attempting to discredit the organization urging him to do the right thing.²¹²

Since Court Watch NOLA released its report first identifying the problematic process of incarcerating crime survivors to compel them to testify, Court Watch NOLA has produced other reports that made national news. One such report reveals a criminal court judge who required criminal defendants to wear ankle monitors, sometimes for up to a year, steering them to use his campaign contributor’s ankle-monitoring company, which charges criminal defendants ten dollars a day for the use of the monitors. Compounding the injustice, that same judge threatened defendants with jail if they did not pay his campaign contributor the money they could not afford to pay for the ankle monitors the judge required them to wear.²¹³ Court Watch NOLA has also reported that the Orleans Parish Sheriff’s Office records confidential attorney-client phone calls, providing the recordings to the prosecution, which uses them in their case-in-chief against the defendants.²¹⁴ When Court Watch NOLA asked the Orleans Parish sheriff to stop recording confidential attorney-client phone calls, the sheriff replied that the his office had always made such recordings and he saw no reason to change this practice.²¹⁵

While we still have a long way to go in changing the practices of some criminal justice stakeholders, Court Watch NOLA has made an immense amount of progress, most readily seen in the degree of public discourse and the community’s level of education on criminal justice issues in New Orleans and outside of our city. Court Watch NOLA has worked with thirty-three different groups around the country that wanted to start programs, resulting in six successfully launched courtwatching programs. In New Orleans, Court Watch NOLA has educated thousands of court watchers. Court watchers are diverse in every sense of the word. They are black, white, Hispanic, Asian, old, young, rich, poor, angry, naive, optimistic, pessimistic, and previously impacted. Court Watch NOLA has taught students who will become our future prosecutors, police captains, sheriffs, defense attorneys, and judges about national best practice standards and the importance of public perception and public confidence in the criminal courts. The insiders to the system—the judges, prosecutors, defense attorneys, police, and deputy sheriffs—now read our reports in a way they never have done before. When these insiders, the institutional stakeholders, change their practices to comport with best practices, Court Watch NOLA commends them, as it has commended the chief of police and the chief judge of Criminal District Court, among others. Those who refuse to follow national best practices and those who believe that assessment of our courts should be based on efficiency and caseload management standards alone do not see the handwriting on the wall. The public continues to educate itself, and those who do not listen to the public will face defeat at the polls. History waits for no one. The community will continue to demand accountability and criminal justice reform from our public officials. Change will come on

the community's time, history rolling over those who do not listen to the community's call for change.

Notes

¹ Stephanos Bibas, "Transparency and Participation," *New York University Law Review* 81 (2006): 911, 916.

² Emily Lane, "Public Corruption in Louisiana "Can't Get Much Worse," Says Outgoing FBI New Orleans Director," *nola.com*, November 3, 2017,

https://www.nola.com/crime/2017/11/public_corruption_fbi_new_orle.html.

³ The only courtwatching group known to the author that is longer-lived than Court Watch NOLA, though it is run by an umbrella organization not initially affiliated with the court watching group, is WATCH. Founded in 1992, WATCH is a court-monitoring and judicial policy nonprofit located in Minneapolis, Minnesota. WATCH works to make the justice system more responsive to crimes of violence against women and children, focusing on greater safety for victims of violence and greater accountability for violent offenders. For more about WATCH, visit their website at <http://watchmn.org/> (last visited June 30, 2019).

⁴ See the New Orleans Independent Police Monitor website at <https://nolaipm.gov/> (last visited June 30, 2019).

⁵ See the New Orleans Office of the Inspector General website at <http://www.nolaoig.gov/> (last visited June 30, 2019).

⁶ See Lilian Warner, "The Power of the Citizen Voice from Mourning to Rage . . . to Hope through Action Gambit," Citizens for 1 Greater New Orleans (video transcription), <https://docplayer.net/40685480-The-power-of-the-citizen-voice-from-mourning-to-rage-to-hope-through-action.html> (last visited June 30, 2019). (The New Orleans Crime Coalition was formed in 2007 by the Business Council of New Orleans; Citizens for 1 Greater New Orleans was a founding member and serves on the Executive Committee.)

⁷ "Justice System Struggles in New Orleans," *NBCNews.com*, June 24, 2006,

http://www.nbcnews.com/id/13525692/ns/us_news-katrina_the_long_road_back/t/justice-system-struggles-new-orleans/#.XRA-WIjYpPY.

⁸ Joseph Paterson, Ira Sommers, Deborah Baskin, and Donald Johnson, "The Role and Impact of Forensic Evidence in the Criminal Justice Process," National Institute of Justice, report # 2006-DN-BX-0094, June 10, 2010,

<https://www.ncjrs.gov/pdffiles1/nij/grants/231977.pdf>.

⁹ Calvin Johnson, telephone interview with the author, May 30, 2019; follow-up text messages, June 21, 2019.

¹⁰ Brandon Garrett and Tania Tetlow, "Criminal Justice Collapse: The Constitution after Hurricane Katrina," *Duke Law Journal* 56 (2006): 128, 136–138,

<https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1296&context=dj>.

¹¹ *Ibid.*, 137.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*, 138.

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ *Ibid.*

²² *The Katrina Impact on Crime and the Criminal Justice System in New Orleans: Hearing before the Subcommittee on Crime, Terrorism, and Homeland Security*, 110th Cong. (2007), <https://www.govinfo.gov/content/pkg/CHRG-110hhrg34527/html/CHRG-110hhrg34527.htm>.

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ Garrett and Tetlow, "Criminal Justice Collapse."

²⁶ *Ibid.*, 147.

²⁷ *Ibid.*, 148.

²⁸ "Hurricane Katrina Coverage for Central Alabama," National Weather Service, August 29, 2005,

https://www.weather.gov/bmx/event_katrina2005.

²⁹ Garrett and Tetlow, "Criminal Justice Collapse."

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.,” 146.

³⁶ See statement of Oliver Thomas in *Katrina Impact on Crime* (“Now, we’ve seen some disputes over the impact of crime statistics. We’ve heard that modeled one way or another, with generous population assumptions, our crime is relatively stable. We’ve heard that modeled other ways, assuming a smaller population, that crime has risen drastically. But none of that matters to people who live here. We are tired of hearing interpretations and assumptions. Whatever crime we have is too much, and whatever solutions we are putting in place can’t be done fast enough”); Laura Maggi and Gwen Filosa, “Enough! Thousands March to Protest the City’s Alarming Murder Rate Officials Reviled in Public Show of Mass Outrage,” *New Orleans Times-Picayune*, January 12, 2007 (“Before this week, Riley had sought to downplay the rising murder rate as an exaggeration, arguing that the per capita rate of killings had been inflated by faulty population statistics. But in just the last six months of 2006, after much of the city’s current population had returned, murderers killed 106 people. If the population is 230,000, an optimistic estimate, that means the city has seen a rate of 90 killings per 100,000 people since July, a frighteningly high rate that clearly would make New Orleans the nation’s murder capital”).

³⁷ “2007 Brings More Crime to New Orleans,” *Los Angeles Times*, January 5, 2007,

<https://www.latimes.com/archives/la-xpm-2007-jan-05-na-briefs5.1-story.html>.

³⁸ Ibid.

³⁹ See statement of the Honorable William J. Jefferson in *Katrina Impact on Crime*.

⁴⁰ See Question and Answer with Jim Lettin in *ibid*.

⁴¹ See statement of the Honorable Robert C. Scott in *ibid*.

⁴² See statements of District Attorney Eddie Jordan and US attorney Jim Lettin in *ibid*. (Jordan: “And, finally, the most important item that we think that Congress can help us with is an expanded Victim Witness Assistance program. We need funding for this program because of the very real fear that many victims of violent crime have in the city of New Orleans; victims and of course, family members and witnesses of violent crime as well.” Lettin: “The community won’t cooperate because if I finger you as that violent felon I know in a few days you’re back on the streets and I become the next victim, and I don’t want that.”)

⁴³ Miguel Bustillo, “Violent Crime Engulfs New Orleans,” *Seattle Times*,” August 3, 2007,

<https://www.seattletimes.com/nation-world/violent-crime-engulfs-new-orleans/>.

⁴⁴ John Simerman, “Shrouded in Secrecy, New Orleans Man in ‘Central City Massacre’ Has Major Sentence Reduced,” *Advocate*, July 21, 2018, https://braiservices.newscyclecloud.com/cmo_bra-c-cmdb-01/subscriber/web/startoffers.html.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Gwen Filosa, “Black Voters Boosted Cannizzaro into Office: Former Judge’s 62 Percent Win Bested Capitelli in DA Runoff,” *Times-Picayune*, November 6, 2008. (“Cannizzaro, a retired judge who has run successfully for office since 1986, was the runaway favorite in neighborhoods that have a 75 percent or higher percentage of registered black voters—beating Capitelli by a nearly 3-to-1 margin.”)

⁵⁰ Gwen Filosa, “Central City Massacre Verdict Challenged after Released of Contradictory Evidence,” *Times-Picayune*, February 27, 2010, https://www.nola.com/news/crime_police/article_860d32c8-b5ef-5473-93c1-1e078d88c435.html.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Lauren Gill, “Notorious Jailhouse Informant Case Resurfaces as New Orleans D.A. Race Nears,” *The Appeal*, May 24, 2019, <https://theappeal.org/notorious-jailhouse-informant-case-resurfaces-as-new-orleans-da-race-nears/>.

⁵⁴ Jason Berry, “Hot 8 Fights for the Big Easy,” *Los Angeles Times*, January 21, 2007,

<https://www.latimes.com/archives/la-xpm-2007-jan-21-op-berry21-story.html>.

⁵⁵ Maggi and Filosa, “Enough!”

⁵⁶ Gordon Russell, e-mail message to the author, June 19, 2019.

⁵⁷ See the Silence Is Violence website at <http://silenceisviolence.org/> (last visited June 30, 2019).

⁵⁸ Gill, “Notorious Jailhouse Informant.”

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² Ibid.

⁶³ Karen Dalton-Beninato, “Free at Last: Second Liners Released from Charges,” HuffPost, February 21, 2008, https://www.huffpost.com/entry/free-at-last-second-liner_b_87912?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQA-AAF18MB8knljtZEoyJKnrIIJgtER6zjKemINou-bqLNkkIfwsy-ucGxOJGwBM0o9c3J5_Q1hohAgJxhcGLoATnhzY8TJgLoC2QZ0yNY4XbOXXXIbvKXBNAcaUZMJ0dg1SOHs3-XsDDWv9e0dxcS0Xy7-SxmRq1eV55p2HK9bEOC.

⁶⁴ Ibid.

⁶⁵ Valerie Faciane, “Citizens Take to the Streets Today against New Orleans Crime,” nola.com, January 9, 2009, https://www.nola.com/news/article_7dde93a9-3040-5166-9aca-fb921824addf.html.

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ For a biography of James Carter, see Carter & McKee, LLC <https://cartermckeelawfirm.com/jamescarter.html>.

⁷⁰ Ibid.

⁷¹ James Carter, telephone interview with the author, June 3, 2019.

⁷² Ibid.

⁷³ Ibid.

⁷⁴ For a biography of Michael Cowan, see “Michael A. Cowan: Professor Emeritus,” Loyola University, New Orleans, <http://cnh.loyno.edu/lim/bios/michael-cowan>.

⁷⁵ James Carter, telephone interview with the author, June 26, 2019.

⁷⁶ Michelle Krupa, “Mayor Mitch Landrieu Names Former Councilman James Carter ‘Crime Commissioner,’” nola.com, April 28, 2011, https://braiservices.newscyclecloud.com/cmo_bra-c-cmdb-01/subscriber/web/startoffers.html.

⁷⁷ New Orleans, La., Code §2-1121 (2017).

⁷⁸ New Orleans, La., Code §2-1120 (2017).

⁷⁹ Garrett and Tetlow, “Criminal Justice Collapse,” 133.

⁸⁰ Carter interview, June 3, 2019.

⁸¹ James Carter, e-mail message to the author, July 6, 2019.

⁸² Carter interview, June 26, 2019.

⁸³ Michael Cowan, telephone interview with the author, June 3, 2019.

⁸⁴ James Carter, telephone interview with the author, June 9, 2019.

⁸⁵ Carter to the author, July 6, 2019.

⁸⁶ Carter interview, June 3, 2019.

⁸⁷ Warner, “Power of the Citizen Voice.”

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