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## Engaging the Legal Academy in Disaster Response

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## Engaging the Legal Academy in Disaster Response

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### I. INTRODUCTION

More than six years ago, volunteer lawyers, law students, and law faculty from the Gulf Coast and around the country provided assistance to communities devastated by Hurricanes Katrina and Rita and the systemic failures of their own government. The volunteers provided much-needed support at a time when existing legal institutions were completely overwhelmed. Through their participation, the law students learned important firsthand lessons about the lack of equality in society, the possibility of redress through law, and the limitations of law.<sup>1</sup>

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<sup>1</sup> See generally Austin Sarat & Javier Lezaun, *Introduction: The Challenge of Catastrophe in Law and Politics* to CATASTROPHE: LAW, POLITICS, AND THE

Disasters present challenges and opportunities for law schools and other academic institutions with social justice missions because they expose poverty, racism, and inequality.<sup>2</sup> Whether the disaster is a flood, hurricane, fire, tornado, or riot, preexisting social inequality and vulnerability will affect how severe and how lasting the damage will be. Accordingly, the study of disasters can serve as a lens for a broader inquiry into social injustice, an inquiry that the legal academy is obliged to make as part of its educational mission. In particular, as the most recent Carnegie Report observes, law schools have room to improve in providing more direct experiential learning that incorporates an ethical framework for legal practice.<sup>3</sup> Disasters can offer a useful context for the type of dynamic, social justice-oriented learning advocated by the Carnegie Report.<sup>4</sup>

This article focuses upon three models of law school engagement—a disaster law clinic, a course on disaster law, and a student-led initiative featuring non-credit, pro bono placements. Each model offers a conceptual approach for integrating community-based, justice-oriented initiatives into academic and clinical teaching. Diverse in method, the models discussed here provided assistance to those most affected by pre- and post-Katrina failures and offered rich learning opportunities for students. Taken as

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HUMANITARIAN IMPULSE 3 (Austin Sarat & Javier Lezaun eds., Univ. of Mass. Press 2009) [hereinafter Sarat & Lezaun] (“[D]isasters . . . make the plight of vulnerable and underprivileged groups strikingly visible, by manifesting inequality in the rawest, most unadulterated way.”).

<sup>2</sup> See Jim Chen, *Law Among the Ruins*, in *LAW AND RECOVERY FROM DISASTER: HURRICANE KATRINA* 4 (Robin Paul Malloy ed., 2009) (“[D]ifferences in living conditions, wealth, and political power . . . the poorest, often black, victims of Katrina [were particularly] susceptible to disproportionate loss during the storm.” Recovery for these individuals is made more difficult because “[m]aterial resources available . . . in more affluent communities may simply not exist in poorer communities.”).

<sup>3</sup> WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* 25 (2007).

<sup>4</sup> Indeed, to turn away from the needs of communities after disaster would model the opposite trait: an indifference to the needs of the vulnerable.

templates for a more permanent model of engagement in the area of post-disaster law and social justice, these models demonstrate that the legal academy can meet its service obligation to the community while training lawyers to better appreciate the central tenets of their calling: to seek justice and to serve others.<sup>5</sup>

These three models do not exhaust the ways in which the academy might collaborate with public interest law offices, local bar associations, or other advocates to assist in disaster recovery efforts. For instance, Susan Waysdorf and Laurie Morin created a “service-learning model,” which combines coursework and a spring break service week grounded in the pedagogy of teaching social justice in the context of “disorienting moments.”<sup>6</sup> In the aftermath of the devastating January 12, 2010, earthquake in Haiti, JoNel Newman and Melissa Gibson Swain developed a service delivery addition to their clinic at the University of Miami, which completed 150 temporary protected status applications (many with fee waivers) for Haitians living in the United States.<sup>7</sup> This project reinforced the important role that lawyers and law students have as first responders in addressing the aftereffects of a disaster.<sup>8</sup>

In Part II, Professor Davida Finger describes her work with the Katrina Clinic at Loyola University New Orleans College of Law. Created in the wake of the 2005 hurricanes, the clinic provided an avenue for student

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<sup>5</sup> See Sarat & Lezaun, *supra* note 1.

<sup>6</sup> Laurie Morin & Susan Waysdorf, *The Service-Learning Model in the Law School Curriculum: Expanding Opportunities for the Ethical-Social Apprenticeship* 27, 28 (unpublished manuscript) (on file at [http://www.nyls.edu/user\\_files/1/3/4/15/1009/THE\\_SERVICE\\_LEARNING\\_MODEL\\_IN\\_THE\\_LAW\\_SCHOOL\\_CURRICULUM0901101.pdf](http://www.nyls.edu/user_files/1/3/4/15/1009/THE_SERVICE_LEARNING_MODEL_IN_THE_LAW_SCHOOL_CURRICULUM0901101.pdf)) (citing Fran Quigley, *Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics*, 2 *CLINICAL L. REV.* 37, 38–46 (1995)).

<sup>7</sup> JoNel Newman & Melissa Swain, *Helping Haiti in the Wake of Disaster: Law Students as First Responders* 37 (Univ. of Miami Legal Studies Research Paper No. 2011-02, Feb. 1, 2011), available at <http://ssrn.com/abstract=1753103>.

<sup>8</sup> *Id.* at 47–48.

volunteers from around the country to assist individuals with hurricane-related civil legal issues. In Part III, Law Clinic Staff Attorney Laila Hlass recounts her experience as a cofounder of the Student Hurricane Network, a national network of law students that recruited and placed an estimated 5,500 law students in pro bono positions in hurricane-affected regions along the Gulf Coast. In Part IV, Professor and Associate Dean Rachel Van Cleave describes her Katrina and Disaster Law Seminar at Golden Gate University School of Law, which matched students with Gulf Coast advocates seeking research support for their work. In Part V, Associate Dean Anne Hornsby demonstrates the ongoing relevance of the models of engagement described in this article, chronicling her efforts in spearheading the creation of a legal assistance project through the law clinic at the University of Alabama School of Law, to address the needs of Tuscaloosa residents after a devastating tornado traveled through the city in April 2011.

## II. THE KATRINA CLINIC

One major curricular change at Loyola University New Orleans College of Law following the 2005 Gulf Coast hurricanes was the creation of the Katrina Clinic. The Katrina Clinic serves as one example of a post-disaster clinical model. In the legal academy, law school clinics are in a particularly good position to provide post-disaster legal services to vulnerable people who have the hardest time recovering from disaster.

Law clinics have a duty to “respond to the legal services needs of the communities in which they operate.”<sup>9</sup> In addition, law clinics are likely to have significant experience lawyering for particularly vulnerable individuals and communities, which usually have the greatest difficulty with disaster recovery.

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<sup>9</sup> ROY STUCKEY, BEST PRACTICES FOR LEGAL EDUCATION: A VISION AND A ROAD MAP 197 (Clinical Legal Educ. Ass’n 2007), *available at* [http://clea.memberlodge.org/Resources/Documents/best\\_practices-05.pdf](http://clea.memberlodge.org/Resources/Documents/best_practices-05.pdf).

The Katrina Clinic originated in the fall of 2005, when the entire Loyola University New Orleans College of Law was displaced to Houston, Texas; the University of Houston Law Center hosted the law clinic while Loyola was displaced. Law clinic students and faculty, in association with Lone Star Legal Aid and the University of Houston, worked in Disaster Relief Centers to assist those displaced by Hurricane Katrina who had temporarily settled in Houston. Loyola students and clinical faculty, with support from the administration, provided critical legal and informational resources, especially for low-income individuals served by the law clinic. Bill Quigley, the law clinic director, explained that, after “discovering that over 100,000 people from New Orleans were relocated . . . to Houston, we switched from a litigation driven clinic . . . to a Katrina Legal Advice Clinic. Our themes . . . have been flexibility, creativity, solidarity, and patience. . . . We will carry the concerns of our clients and neighbors for the rest of our lives.”<sup>10</sup> The goal, in the words of Professor Cheryl Buchert, “was to involve the entire law school and train non-clinical law students to be part of a Katrina Team to enable us to continue our relief efforts for years to come.”<sup>11</sup> While in Houston, law students assisted over a thousand people in face-to-face meetings or phone interviews at one of the Houston hotline centers.

The law school returned to its New Orleans campus in spring of 2006. For the next three years, the Katrina Clinic operated from the Loyola University New Orleans College of Law as a part of the law clinic.<sup>12</sup> The

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<sup>10</sup> William P. Quigley, *Clinic in the Aftermath of Hurricane Katrina*, 1 JUST. J. LOYOLA L. CLINIC 1 (Fall 2005).

<sup>11</sup> Letter from Cheryl Buchert, Clinical Professor, Loyola Univ. New Orleans Coll. of Law to Davida Finger, Assistant Clinical Professor, Loyola Univ. New Orleans Coll. of Law (Oct. 3, 2011) (on file with author Davida Finger).

<sup>12</sup> In April 2006, a recent Loyola New Orleans law school graduate, Bradley Black, was hired to work with the Katrina clinic. A second attorney, Davida Finger, began in January 2007. The Loyola law clinic is known as the Stuart H. Smith Law Clinic and Center for Social Justice.

Katrina Clinic's mission was to provide information, communicate on behalf of, and give legal assistance to individuals on hurricane-related legal civil issues. Over the years that the Katrina Clinic operated at Loyola, law students handled hundreds of individual cases with faculty supervision. The law students also worked on various aspects of class action and impact litigation on post-disaster issues for low-income people. Law students were able to engage with displaced residents, hear their stories, document barriers and hardships, and lay the groundwork for advocacy and litigation.

Loyola law students had the option to use time spent volunteering with the Katrina Clinic to fulfill the law school's pro bono or skills-credit requirements, and some used the opportunity to complete independent study projects. Even as local students coped with their own post-disaster challenges, they were able to volunteer for long periods of time. Indeed, dozens of Loyola students volunteered with the Katrina Clinic for multiple semesters during law school, allowing local students to build relationships with their clients. Local students' participation in large numbers helped to sustain the Katrina Clinic over time.

The Katrina Clinic bolstered its capacity by serving as a volunteer placement site for hundreds of visiting law students from around the country. Some took advantage of the opportunity to satisfy academic requirements at their home law schools.<sup>13</sup> Visiting law students typically participated for single week periods over various school breaks, with some students returning for multiple visits. The Katrina Clinic coordinated closely with the Student Hurricane Network (SHN) to provide opportunities for volunteer placement and hosted orientations for visiting SHN law students.<sup>14</sup> Over the relatively short period of time that most non-local

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<sup>13</sup> See *infra* Part III.

<sup>14</sup> See *infra* Part III.

students were able to volunteer on-site in hurricane-impacted communities, the total number of people strained local capacity.

The informational and advocacy needs in hurricane-impacted communities were massive. Families, neighborhoods, communities, and other pre-hurricane sources of communication and support were scattered and shattered. Thus, upon returning to New Orleans, one of the initial goals of the Katrina Clinic was to distribute timely and accurate information about a myriad of disaster-assistance issues. Law students worked with the Katrina Clinic in several different ways to accomplish this.

Following Hurricane Katrina, low-income people received financial housing assistance from the Federal Emergency Management Agency (FEMA), the government agency tasked with providing disaster assistance.<sup>15</sup> By speaking with hundreds of evacuees, the Katrina Clinic, in partnership with attorneys from around the country, learned that evacuees faced termination of this assistance without the benefit of adequate notice of the termination and without an opportunity for a pre-termination hearing. As a result, evacuees lost their means to pay rent, to prevent utility shut-offs, or to otherwise secure safe shelter.<sup>16</sup> Students assisted in talking with FEMA grant recipients, gathering extensive information regarding problems with FEMA's rental assistance program, and documenting difficulties with FEMA's recoupment practices. Eventually, a class action lawsuit challenged both the termination of rental assistance and FEMA's widespread recoupment practices. The suit resulted in a settlement of \$2.65 million on behalf of those who were wrongfully terminated from rental assistance.<sup>17</sup> The influx of law student volunteers bolstered this litigation

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<sup>15</sup> Disaster Relief Act of 1974, Pub. L. No. 93-288, § 408, 102 Stat. 4702, *amended by* Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5174 (2006).

<sup>16</sup> *See* Complaint, Introduction, *Ridgely v. Federal Emergency Management Agency*, 512 F.3d 727 (No. 07-2146), 2007 WL 459268.

<sup>17</sup> *See* Opinion, *Ridgely v. Federal Emergency Management Agency*, (No. 07-2146), 2010 WL 5140833.



effort as students were available to assist with client interviews, callbacks, and administrative appeals to FEMA.<sup>18</sup>

During recovery efforts, displaced people also faced a possible blanket deadline for filing insurance claims. The Katrina Clinic, through student volunteer efforts, provided information about claim deadlines at public meetings, in the newspaper, and on local TV news and radio programs in Orleans and Lafourche Parishes, Louisiana, and in Houston, Texas. In cooperation with other legal services providers, the Katrina Clinic compiled insurance packets with information on negotiating with insurance companies, engaging with the state-sponsored mediation program, and filing a pro se form included in the packet. The clinic provided over six hundred packets, and the Orleans Parish Clerk of Court's Office distributed pro se forms as well. Ultimately, the Louisiana Supreme Court extended the period for filing claims.<sup>19</sup> The Katrina Clinic filed an amicus curiae brief with the court on behalf of the State Attorney General's Office in that matter. As it had done with the first insurance filing date, the clinic drafted pro se insurance packets and made those documents widely available in order to help community members meet the extended insurance claim filing deadline. Law students assisted with all of these efforts and also provided

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<sup>18</sup> In 2011, FEMA again started recouping funds from those who received assistance following Hurricanes Katrina and Rita, including several of the class representatives in the *Ridgely v. FEMA* case. *Hurricane Katrina Victims Fight FEMA Repayments 6 Years After Receiving Aid*, NOLA.COM (Dec. 28, 2011, 2:00PM), [http://www.nola.com/katrina/index.ssf/2011/12/hurricane\\_katrina\\_victims\\_figh.html](http://www.nola.com/katrina/index.ssf/2011/12/hurricane_katrina_victims_figh.html). The Community Justice clinic has filed administrative appeals and requests for compromise arguing against the recoupment. *See also* Complaint, *supra* note 16, at Part VII(C). Section 565 of the Disaster Assistance Recoupment Fairness Act of 2011 provides that FEMA may waive repayment in cases where the overpayment was made due to an error on the part of FEMA and through no fault of the recipient (but not in cases involving fraud). Disaster Assistance Recoupment Fairness Act of 2011, H.R. 2055, 112th Cong. (2011) (enacted Dec. 23, 2011 as Pub. L. No. 112-74).

<sup>19</sup> *State v. All Property and Casualty Ins. Carriers Authorized and Licensed to Do Bus. in State, 2006–2030* (La. 8/25/06), 937 S. 2d 313.

hands-on assistance to residents in the state-sponsored insurance mediation program.

Louisiana's Road Home Program, which was set up to disburse federal rebuilding funds, also provided extensive advocacy opportunities for students participating in the Katrina Clinic. Homeowners encountered barriers at every turn: access to program rules and their own files with grant information, lack of appeal procedures or ability to correct mistakes that led to lower grant awards,<sup>20</sup> and the underlying discriminatory grant formula that was the backbone for grant calculations by the Road Home Program.<sup>21</sup> The Katrina Clinic handled hundreds of Road Home appeals and advocated on systemic issues related to Road Home's policies and procedures. The Katrina Clinic also drafted and distributed template appeal forms to assist homeowners in completing their own appeals for wrongful grant calculations. All told, the Katrina Clinic recovered more than \$1 million in wrongfully withheld Road Home funds for homeowners. Unfortunately, many homeowners were will not able to rebuild given the vast problems with the program.

One of the most common post-disaster issues faced by residents was related to contractor fraud, which became a serious problem after the storm.<sup>22</sup> As residents struggled to return home, they faced a confusing marketplace, where both formal and informal networks of communication had been destroyed. Low-income people and the elderly, desperate to move forward with rebuilding, were particularly vulnerable to predatory rebuilding schemes. As insurance funds and federal recovery dollars began to trickle into the hands of the displaced, unscrupulous contractors—and

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<sup>20</sup> See Davida Finger, *Stranded and Squandered: Lost on the Road Home*, 7 SEATTLE J. FOR SOC. JUST. 59, 59–100 (2008).

<sup>21</sup> *Civil Rights Organizations Settle Hurricane Katrina Housing Discrimination Case Against HUD and Louisiana*, LEGAL DEF. AND EDUC. FUND (June 5, 2011), <http://www.gnofairhousing.org/news.html#roadhomesettlement2>.

<sup>22</sup> Katrina Clinic 2007 Reports (on file with author Davida Finger).

those pretending to be contractors—were able to take advantage of an already difficult situation. Some contractors absconded with funds completely and others were unable to complete work within promised time schedules. Some residents found work done all-too-hastily, leaving shoddy structures in place where their homes had once stood. Many were forced to purchase temporary homes because rebuilding funds simply did not cover the actual price of rebuilding; difficulties arose when substandard material and agreed-upon specifications were not actually met. Under faculty supervision, students met with people experiencing a range of problems connected to these issues. They attempted to reach contractors as well as draft demand letters, in an effort to facilitate rebuilding for vulnerable homeowners. Students also participated in advocacy and mediations and assisted with the preparation of contractor- fraud cases for litigation.

Law student volunteers were also able to work on large-scale projects that required far greater numbers than could otherwise have been provided for by the existing local capacity of attorneys and law students. For example, student volunteers with the Katrina Clinic, including those placed by SHN, conducted trailer surveys throughout the City of Gretna, Louisiana. Students mapped areas that had remaining FEMA trailer parks or high concentrations of trailers, worked on developing a survey for those living in trailers, and coordinated the completion of surveys to assess the ongoing needs of residents displaced in trailers. Eventually, these surveys provided part of the background for impact litigation filed by the Katrina Clinic and New Orleans Legal Assistance Center (now Southeast Louisiana Legal Services). Specifically, this litigation addressed municipalities' efforts to remove trailers before residents had another place to live even though FEMA authorized continued trailer placement.<sup>23</sup> The Katrina Clinic

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<sup>23</sup> See Stipulation and Order of Dismissal, *Twitty v. City of Gretna*, No. 07-01198 (E.D. La. 2007); Survey, Gretna Trailer Residents (Jan. 6, 2007) (taking a poll of 92 residents in Gretna city limits) (on file with author Davida Finger). Students volunteering with

followed FEMA trailer removal issues throughout Jefferson and Orleans Parishes for an extended post-Katrina period. Visiting law students with the Katrina Clinic assisted dozens of individuals filing appeals for extensions on trailer placements in the City of Gretna and in Jefferson and Orleans Parishes.

The Katrina Clinic utilized new systems in an effort to meet some of the pressing demands of the unprecedented domestic disasters, including on-site and community-wide intake and information distribution, phone intake and consultation through a dedicated hotline, and online case management.<sup>24</sup> All of these efforts were coordinated with law clinic faculty supervision and institutional support.

The Katrina Clinic also played a role as a convener for other legal service providers by hosting gatherings for various local agencies and organizations serving low-income people. These meetings enabled collective information sharing, collaboration amongst organizations, and joint strategy on summer trainings for law students. They also provided a forum for discussion about common legal issues, including interacting with FEMA or dealing with contractor fraud and post-disaster housing issues. Additionally, the Katrina Clinic hosted public information sessions for hundreds of New Orleans residents. Students and attorneys from around the area discussed common post-Katrina problems, including contractor fraud, landlord-tenant issues, succession and property matters, and domestic violence.

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SHN went on to complete hundreds of additional trailer surveys. Lauren Bartlett & Aran Thomas McNerny, Student Hurricane Network Report on the FEMA Trailer Survey Project Conducted in March 2007, at p. 5 (on file with author Davida Finger).

<sup>24</sup> Professor Judson Mitchell at Loyola New Orleans College of Law developed an online case management system for the Katrina clinic. Remote volunteers and on-site faculty supervisors were able to work on cases together using this system even after students returned to their home institutions. The system has since been custom-tailored for law clinics; *see* CLINICCAS, <http://www.cliniccases.com> (last visited Dec. 2, 2011).

The Katrina Clinic facilitated extensive student participation in what was a deeply transformative time—the post-Katrina years in the Greater New Orleans area. Focused on serving the legal needs of low-income people in the wake of disaster, the Katrina Clinic reinforced the idea that lawyers have a special responsibility to improve the quality of justice; it also demonstrated the innovative ways that law students can learn and practice this responsibility.

The lessons learned from the Katrina Clinic contribute to a greater collective understanding of how to situate a disaster response at law schools across the nation. With the ever-present threat of disasters, particularly pronounced in the southern region in recent years, law clinics are likely to be at the forefront of post-disaster work for vulnerable and low-income communities. Ideas that have emerged from the experience of the Katrina Clinic might assist with disaster preparation at the institutional level of law schools. They may also serve as part of a framework for developing stronger partnerships between and among law schools for purposes of disaster recovery.

It is critical that legal institutions develop a plan for engaging in post-disaster work with law students. Key aspects of such a plan would include: institutional support for faculty to supervise students who want to travel to affected regions, faculty supervisors to help vet the feasibility of travel versus remote support, and the provision of pre-travel briefings, trip supervision and logistical support. An important piece for law students would center on post-trip reflection and other follow-up at their home institutions, activities that faculty supervisors would be well-situated to facilitate. Other institutional support would include funds to subsidize students' participation in disaster assistance, along with direct financial resources as ongoing support for the impacted people in the disaster area as a gesture of solidarity. Neither students nor faculty can provide meaningful assistance or support in disaster-impacted areas without a strong connection to the local community; developing relationships and partnerships serves as

important groundwork. Additionally, collaborating with faculty and practitioners who have expertise in specific areas of law has created a useful network that might provide further support to student volunteers in the post-disaster context.

Finally, to achieve meaningful participation by law students in post-disaster work, law school curricula must include a focus on race, gender, and poverty—the prime markers for social vulnerability in the aftermath of disaster. By teaching with a focus on these issues, law students will be better equipped to understand and serve those who will have the most difficult time recovering, and also the most likely to be left behind in post-disaster rebuilding efforts.

While some of the Katrina Clinic's efforts are easily quantifiable, others are simply not easily measured. Students witnessed the failures and hopes of the Gulf Coast post-disaster recovery efforts; such moments were critically important to their professional development and, for many, their growth as social justice advocates.

In 2009, the Katrina Clinic transitioned to become the Community Justice section of the Loyola Law Clinic. Nearly six years after the storms, daily emergencies persist as displaced people still continue their efforts to rebuild and return home.

### III. THE STUDENT HURRICANE NETWORK

The Student Hurricane Network, which organized an estimated 5,500 students to work in pro bono placements in the hurricane-devastated region from the winter of 2005 until its dissolution in June of 2009, grew out of a number of different organizing efforts that solidified in October 2005.<sup>25</sup>

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<sup>25</sup> Student co-founders include Anna Arceneaux and Laila Hlass of Columbia Law School; Morgan Williams of Tulane University Law School; Vanessa Spanizola of Loyola University New Orleans College of Law; Allison Korn of the University of Mississippi School of Law; and Katy Schuman and Allison Maimona of Fordham Law

Days after Katrina, law students in the Northeast formed a listserv for the Katrina Law Student Coalition, and once the fall semester began this group met and planned how best to assist the communities in affected regions. Students held fundraisers, collected supplies, staffed a hotline, and began organizing for winter pro bono trips. Law students were in touch with a group called From the Lake to the River, formed to a large extent by Tulane Law School, and by October 2005, these groups united as a result of a working group discussion at the Equal Justice Works Fair.<sup>26</sup> From there, law students became more organized nationally and eventually became known as the Student Hurricane Network (SHN). SHN used national legal listservs to inform law students, administrators, and faculty about projects. During weekly organizing conference calls, dozens of individuals scattered across the country conducted the business of SHN.

Initial projects focused on placing students in week-long volunteer positions across the Gulf South and the completion of remote research projects. During the winter of 2005, approximately 260 law students from about sixty law schools were placed in nineteen different social justice and legal services offices in Mississippi and Louisiana.<sup>27</sup> SHN conducted intakes, investigations, research, and data entry in the fields of criminal and juvenile justice, housing, immigration, employment law, and civil rights.<sup>28</sup>

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School. Administrators who were there from the beginning include Karen Lash, formerly of Equal Justice Works; Hillary Exter of Fordham Law School; Lee Branson of Harvard Law School; and Adrienne Fitzgerald, formerly of Columbia Law School.

<sup>26</sup> *Home*, FROM THE LAKE TO THE RIVER, <http://www.fromthelaketotheriver.org/> (last visited Oct. 19, 2011).

<sup>27</sup> STUDENT HURRICANE NETWORK, LAW STUDENTS WORKING WITHIN THE POST-KATRINA LEGAL LANDSCAPE: THE STUDENT HURRICANE NETWORK ANNUAL REPORT OCTOBER 2005–OCTOBER 2006 6 (Laila Hlass, Morgan Williams, Josie Beets, Laurence Spollen, Keasev Wable, Jeremy Pfetsch, & Anna Arcenaux, eds., 2006), *available at* [www.studentjustice.org/library/attachment.115811](http://www.studentjustice.org/library/attachment.115811) [hereinafter SHN ANNUAL REPORT].

<sup>28</sup> *See id.*

Initially, SHN provided for almost all needs of the students—placement, housing, transportation, orientation, social planning, and on-call support for law students throughout the students' volunteer week. Finding housing in New Orleans and southern Mississippi over the winter of 2005 was incredibly challenging due to the housing shortage caused by the flooding.<sup>29</sup> Churches opened up their doors and FEMA donated one hundred cots to SHN's cause. During the week, SHN mediated conflicts or found alternative placements if students had serious problems, such as dealing with political differences in the organizational missions, lack of supervision, disinterest in a project, or perceived safety concerns. SHN also held orientation sessions at the beginning of each week to educate volunteers about the physical geography of the area and to provide some cultural orientation while local social justice attorneys spoke about the legal and justice needs of the community. Often, SHN planned an end-of-the-week party or other event during the week of service where students could both enjoy the local culture and reflect on their experiences together. At the conclusion of the week, students were encouraged to relay their experiences—and the dire needs of the Gulf South region—upon returning to their home law schools.

SHN served as a liaison, counting the number of volunteers local organizations wanted, then recruiting and placing students with organizations, all the while providing support to students at every stage. After the winter of 2005, the demand for volunteers was still high and interest in volunteering was growing. Due to this increased interest from law students around the country, SHN moved away from the individual arrangement of each volunteer's trip and instead compiled resources to

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<sup>29</sup> See Susan Saulny, *New Orleans Hurt by Acute Rental Shortage*, N.Y. TIMES (Dec. 3, 2007), <http://www.nytimes.com/2007/12/03/us/nationalspecial/03renters.html>; Scott Horsley, *Dearth of New Orleans Housing Stymies Businesses*, NPR (Oct. 13, 2005), <http://www.npr.org/templates/story/story.php?storyId=4957799>.



provide structural support to schools so that students could organize their own trips.<sup>30</sup> To facilitate their efforts, SHN created a handbook on how to raise funds, organize trips, and anticipate issues upon arrival.<sup>31</sup> SHN also found a financial sponsor and raised funds nationally to provide administrative support for projects.<sup>32</sup> SHN continued to operate as the liaison between legal organizations and volunteers in order to ensure that the legal organizations received the number of volunteers they wanted, while also preventing them from being inundated by calls from hundreds of law schools seeking volunteer placements. Finally, SHN provided local knowledge and valuable institutional support to participating schools.<sup>33</sup>

SHN's model was effective because in the immediate aftermath of the disasters, large numbers of students were useful, en masse, in expanding the capacity of local lawyers. Thus, students engaged in fact-finding on the ground by conducting surveys and listening to people's stories.<sup>34</sup>

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<sup>30</sup> We required schools to have "institutional liaisons" to organize their school trips. See STUDENT HURRICANE NETWORK AND THE ROLE OF THE INSTITUTIONAL LIAISON (July 2007), <http://www.studentjustice.org/library/attachment.127764>. Schools organized themselves in a variety of different ways, as described in a survey that SHN conducted of its chapters. SHN CHAPTERS SURVEY, available at <http://www.studentjustice.org/library/attachment.128719>.

<sup>31</sup> There were various incarnations of the trip handbooks. For the 2008 version, see ALL NEW SHN TRIPS PLANNING HANDBOOK (2008), available at <http://www.studentjustice.org/library/attachment.116287>. For the 2009 version see SHN TRIPS PLANNING HANDBOOK (2009), available at <http://www.studentjustice.org/library/attachment.141567> [hereinafter TRIPS PLANNING HANDBOOKS].

<sup>32</sup> SHN ANNUAL REPORT, *supra* note 27, at 34.

<sup>33</sup> See TRIPS PLANNING HANDBOOKS *supra* note 31.

<sup>34</sup> Bonnie Allen et al., *Community Recovery Lawyering: Hard-Learned Lessons from Post-Katrina Mississippi*, 4 DEPAUL J. FOR SOC. JUST. 97, 111 (2010) ("The law students who traveled to the Mississippi Gulf Coast became key players on MCJ's [Mississippi Center for Justice] community lawyering team assembled in Katrina recovery efforts. . . . The clinics also enabled MCJ to identify legal issues of broad impact as they emerged such as the lack of available handicap-accessible FEMA trailers, procedurally deficient efforts to recoup FEMA benefits, local community barriers to participation in the MEMA

Sometimes, these investigations served as the basis for lawsuits. For example, students worked with criminal defense attorneys Phyllis Mann and Julie Kilborn to document the whereabouts of Louisiana incarcerated persons lost in the system after they were disbursed from the flooded Orleans Parish Prison, and then helped them to file habeas petitions.<sup>35</sup> Students placed at the ACLU of Louisiana read letters from incarcerated persons that ultimately supported litigation later filed against the sheriff regarding their treatment.<sup>36</sup>

During trips in 2005 and 2006, many students also worked on housing-related projects. Approximately one hundred students worked with the People's Hurricane Relief Fund and the Association of Community Organizations for Reform Now (ACORN) to help build a case against the city, which was attempting to bulldoze homes in the Ninth Ward without proper advance notice to homeowners.<sup>37</sup> Students photographed homes, researched property ownership, and tried to notify homeowners.<sup>38</sup> Students also engaged in civil disobedience by standing in front of bulldozers to stop wrongful demolitions of homes. On January 13, 2006, lawyers were able to obtain an injunction to stop widespread bulldozing without proper notice to homeowners.<sup>39</sup> As Sara Jackson of the University of California, Los Angeles wrote, "This was a very strange role to be in—we were doing the work that the city should have been doing, letting people know the state of

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[Mississippi Emergency Management Agency] cottage purchase program, and contractor fraud.").

<sup>35</sup> See *After Katrina, Where Have All the Prisoners Gone?*, DEMOCRACY NOW (Sept. 13, 2005), [http://www.democracynow.org/2005/9/13/after\\_katrina\\_where\\_have\\_all\\_the](http://www.democracynow.org/2005/9/13/after_katrina_where_have_all_the).

<sup>36</sup> See *Morgan v. Hubert*, No. 08-30388, 2009 WL 1884605 (5th Cir. July 1, 2009).

<sup>37</sup> SHN ANNUAL REPORT, *supra* note 27, at 15, 19.

<sup>38</sup> See *UCLA Law Students Provide Legal Assistance in New Orleans*, UCLA SCH. OF LAW, <http://www.law.ucla.edu/news-media/Pages/News.aspx?NewsID=84> (last visited Oct. 19, 2011).

<sup>39</sup> See Consent Decree and Final Judgment, *Kirk v. City of New Orleans*, No. 06-0024, (E.D. La. Jan. 13, 2006); see also Davida Finger, *Post-Hurricane Demolition in the City of New Orleans: When is a House No Longer a Home?*, 53 LOY. L. REV. 891 (2007).

their homes and possessions, and that they may be destroyed without notice.”<sup>40</sup> Another example of a large investigation was when the Advancement Project used about fifty students to interview dozens of construction workers and helped produce a report detailing abuses against these workers.<sup>41</sup> More than 700 workers were eventually interviewed through the help of student volunteers. The results of these interviews revealed how some workers were pushed out and others were subjected to extreme exploitation as a result of government policy and businesses’ actions.

In addition to larger fact-finding projects initiated by legal organizations, students also completed administrative work to support organizations struggling to cope with the massive volume of needs. Students worked with the Juvenile Justice Project of Louisiana to help the Juvenile Courts prepare for the courts’ reopening.<sup>42</sup> There were thousands of open cases with outstanding warrants for juveniles that should have been closed but remained open due to staff shortages and the courts’ failure to process them.<sup>43</sup> The court itself actually required assistance to close most of these open cases so that the youths could go on with their lives without the fear of being arrested.<sup>44</sup>

In the spring of 2006, SHN helped to place over 700 law students in Louisiana, Mississippi, Texas, Georgia, and Florida.<sup>45</sup> In addition to staffing projects at nonprofits, SHN also helped to organize investigations. In conjunction with attorneys at the National Association for the Advancement

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<sup>40</sup> SHN ANNUAL REPORT, *supra* note 27, at 19, 20.

<sup>41</sup> See Judith Browne-Dianis et al., *And Injustice for All: Workers’ Lives in the Reconstruction of New Orleans*, ADVANCEMENT PROJECT, available at <http://www.advancementproject.org/sites/default/files/publications/workersreport.pdf>.

<sup>42</sup> SHN ANNUAL REPORT, *supra* note 27, at 9.

<sup>43</sup> *Id.*

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

<sup>45</sup> *Id.* at 6.

of Colored People's (NAACP), Legal Defense Fund, and People for the American Way, SHN organized a multistate voter education initiative geared toward displaced residents in Louisiana, Texas, and Georgia in advance of the special spring election.<sup>46</sup> In conjunction with Tulane and Loyola law clinics and the Orleans Public Defender's office, SHN created Project Triage to catalogue the status of about 4,000–5,000 prisoners who lacked legal representation.<sup>47</sup> Approximately fifty-five students reviewed docket sheets and tracked defendants by creating a database indicating the statuses of criminal detainees in various sections of the statewide Louisiana court system.<sup>48</sup>

All told, SHN trips would not have transpired without the enormous structural support provided by law schools, faculty, and administrators—not to mention the work of local host organizations to meet students' needs. Administrators and faculty often joined in conference calls, traveled to the Gulf Coast, participated in projects, and helped advocate for school funding and other in-kind donations. Administrators also frequently helped organize events after trips to help students reflect on and report back to their law school communities about their experiences. While schools did not often provide academic credit, some allowed students to obtain pro bono hours for their participation.

One of the most vital roles that faculty served in this student-led initiative was that of a supervisor. SHN initiated several projects on its own or in collaboration with other organizations that relied on faculty and attorney support. One example was Project Gideon, which brought over 150 students and faculty from across the country to New Orleans from December 2006 to

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<sup>46</sup> *Id.* at 29–31.

<sup>47</sup> Douglas L. Colbert, *Professional Responsibility in Crisis*, 51 HOW. L. J. 677, 736, 737 (2008); SHN ANNUAL REPORT, *supra* note 27, at 10.

<sup>48</sup> Immeasurable help was provided by Judges Zainey and Berrigan in New Orleans, who lent their courtrooms for use by the students.

January 2007.<sup>49</sup> Led by Tulane Law Professor Pamela Metzger and coordinated by SHN students, the project sent teams of students and faculty into Orleans Parish Prison and other Louisiana correctional facilities where pre-trial clients of the Orleans Public Defender's office were being held.<sup>50</sup> The teams interviewed clients and created files for Orleans Public Defenders, who were understaffed and overburdened. By doing this needed legwork, students made it possible for a few inmates to be immediately released and hundreds more to have adequate representation. Student Mary Anne Mendenhall of Brooklyn Law School wrote the following in a blog that her team created to document their experiences: "It's just a matter of identifying people who should be released. There is no disagreement about their existence—all that keeps running through my head is, 'Six months, and there still is no plan.'"<sup>51</sup>

SHN trips continued through the spring of 2009, when, with input from local attorneys who guided students on the changing legal needs of the community, the board student leaders decided that it was time to dissolve. By June 2009, when SHN was disbanded, it had placed an estimated 5,500 student volunteers in the hurricane-affected region.<sup>52</sup>

Student participants, administrators, faculty, and the legal community gave overwhelmingly positive feedback to SHN.<sup>53</sup> It succeeded in its goals

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<sup>49</sup> STUDENT HURRICANE NETWORK, *STUDENT HURRICANE NETWORK: LAW STUDENTS WORKING FOR JUSTICE IN THE GULF COAST* 3, available at [www.studentjustice.org/library/attachment.127157](http://www.studentjustice.org/library/attachment.127157). [hereinafter *LAW STUDENTS WORKING*]; Sandhya Bathija, *A 'Big Easy' Mission That Won't Be So Easy*, *NAT'L L. J.* 15 (Dec. 11, 2006), <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=900005468837&slreturn=1>; Colbert, *supra* note 47, at 739.

<sup>50</sup> *LAW STUDENTS WORKING*, *supra* note 49, at 3.

<sup>51</sup> SHN ANNUAL REPORT, *supra* note 27, at 3.

<sup>52</sup> *SHN Dissolution Announcement*, *STUDENT HURRICANE NETWORK*, <http://www.studentjustice.org> (last updated Aug. 12, 2010).

<sup>53</sup> In a 2007 web survey designed by SHN, thirty students responded from twenty-four different schools; students overwhelmingly reported that they were happy for the

of providing legal assistance to under-resourced organizations during a time of crisis and in a way that did not overburden these organizations. It also achieved the goals of working in solidarity with the people of the Gulf Coast, providing practical educational experiences for students about post-disaster legal issues and their social justice implications in the Gulf South. SHN completed a tremendous amount of work, largely directed by local organizations, which enabled these groups to access law student volunteers. Dozens of schools notified SHN about their report-back events, and students routinely shared that their volunteer experiences had been eye-opening and life-changing.

SHN faced many challenges and disappointments as well. In post-disaster regions, housing and other basic necessities are hard to come by. During the 2005 trips, electricity was spotty and there were serious concerns about placing additional strains on the community when all housing space was needed by returning residents.<sup>54</sup> Furthermore, students could only provide limited assistance over the course of their week-long placements, and projects could not always meaningfully accommodate large numbers of short-term volunteers.

Another challenge centered on meeting law students' expectations. At times, students were very demanding, requesting placements with specific organizations or placements in specific locations. However, SHN's priority was focused on placing volunteers where assistance was most needed. The greatest challenges centered on providing adequate supervision for law students, which was overwhelming at times for host organizations. Moreover, quality control of the law students' work was difficult. The limited orientation for students included cultural and anti-racism training, but, given time constraints, these sessions were not always sufficient.

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opportunity for pro bono placements and found the work meaningful, worthwhile, and rewarding. SHN STUDENT SURVEY (Mar. 21–29, 2007) (on file with author Laila Hlass).

<sup>54</sup> See Saulny, *supra* note 29; Horsley, *supra* note 29.

Lastly, as an all-volunteer organization with student members scattered across the country, SHN faced all sorts of logistical obstacles. It was challenging to build and maintain relationships and complete tasks when members were an ever-changing cast of full-time, volunteer law students.

Yet, SHN's legacy lives on. Thousands of law students responded to the disaster in the Gulf Coast, while attorneys and law firms, by and large, did not respond on the same scale.<sup>55</sup> Students have reported that this experience was one of the more important in their legal education; more than a dozen SHN alumni began careers in the disaster arena after law school.<sup>56</sup> SHN has left its mark, most importantly, through the connections that it helped create between law school administrators and individual organizations, as these relationships are ongoing and continue to bring dozens of law students to the region to perform recovery work. Furthermore, SHN serves as a useful model for students who want to respond in a meaningful way to future disasters. The success of SHN not only shows law students that it is possible to make a difference in the face of chaos, poverty, and injustice, but it will also hopefully inspire them to actually do so.

#### IV. THE KATRINA AND DISASTER LAW SEMINAR

Inspiration for developing the Katrina Seminar came from then-first-year student, Candace Chen. After the devastation in the Gulf Coast, Ms. Chen

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<sup>55</sup> Lisa Lerer, *O Lawyer, Where Art Thou? How law firms are failing New Orleans*, SLATE (July 6, 2007), <http://www.slate.com/id/2169850/>.

<sup>56</sup> SHN alumni who moved to the region after law school include Morgan Williams of the Greater New Orleans Fair Housing Action Center; Alice Reiner of NO/Aids Task Force; Lauren Bartlett of Southeast Louisiana Legal Services; Sean Zehtab of the Judge Advocate General; Josie Beets of Legal Assistance at Fort Polk; Jonathan Rhodes of the Louisiana State Bar, Access to Justice Committee; Grainne O'Neal, formerly of the Orleans Public Defender; Amanda Golob of Southeast Louisiana Legal Services; Joshua Holmes of AIDS Law; Allison Korn of National Advocates for Pregnant Women; Annette Hollowell, formerly of Mississippi Center for Justice; Laura Settlemyer of the New Orleans City Attorney's Office; and Gwynne Kizer Mashon of Southeast Louisiana Legal Services.

started to organize a group of Golden Gate University School of Law students to travel to New Orleans during their spring break in March 2006. After learning of Ms. Chen's volunteer experience, this author realized that the School of Law could support such student efforts by offering a seminar course focusing on legal issues surrounding the disaster and submitted a new course proposal.

During the time that Ms. Chen was figuring out the logistics of the volunteer spring break trip, this author was working on an article considering themes in August Wilson's play, *The Piano Lesson*,<sup>57</sup> and asserting that parallel issues were exposed by the broken levees in New Orleans after Hurricane Katrina hit.<sup>58</sup> The article explores the complexity of intangible property and personhood interests in heritage, culture, and history of the descendants of former slaves and compares these to similarly complex interests in post-Katrina New Orleans. One theme discussed in the article is that by not fulfilling promises of "forty acres and a mule" after slavery, the government abandoned the freed slaves, who were left with no choice but to either become sharecroppers or leave the South to seek paid work in the North. Those who were part of the Great Migration<sup>59</sup> often left behind family, friends, culture, and community. After New Orleans flooded, tens of thousands of residents who had been dispersed throughout the United States faced one obstacle after another in rebuilding their homes, lives, and communities—particularly those who had lived in the Lower Ninth Ward, one of the poorest neighborhoods in New Orleans. Specifically, the article contends that, as a country, we failed the former slaves and their descendants, warning that our response after the breached

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<sup>57</sup> AUGUST WILSON, *THE PIANO LESSON* (Penguin Group 1990).

<sup>58</sup> Rachel A. Van Cleave, *Property Lessons in August Wilson's The Piano Lesson and the Wake of Hurricane Katrina*, 43 CAL. W. L. REV. 97 (2006).

<sup>59</sup> See, e.g., KIM PEREIRA, *AUGUST WILSON AND THE AFRICAN-AMERICAN ODYSSEY* 87 (1995).



levees risks an equally deep and long-lasting failure. Jazz trumpeter and New Orleans native Wynton Marsalis put it best when he described the situation in the Gulf Coast after Katrina as a “signature moment” in our nation’s history.<sup>60</sup> That is, the country’s response, both immediate and long-term, would define us as a people.

To both inform the law school community about conditions in New Orleans as well as to encourage students to organize another volunteer trip during March of 2007, the students presented their work at a panel entitled “For the Common Good.” The students on the panel showed pictures they had taken, talked about the survivors they had met, and offered poignant reflections on their week in New Orleans. Physical activities included gutting homes to prepare for rebuilding, as well as counting crayons in a school that had flooded to support claims for reimbursement money. Students also completed legal research to defend people who were charged with littering after they had placed their protest placards down during a brief respite. This presentation had the desired effect; other students organized another volunteer trip for March of 2007.

Research for the article about Katrina and *The Piano Lesson* revealed a wide variety of legal issues that Katrina and its aftermath raised for people in the Gulf Coast. The themes explored in that article shaped the Katrina Seminar by using the disaster to raise awareness of what I call “little Katrinas everywhere”: the tenant living in uninhabitable conditions, the housing project declared uninhabitable so it can be demolished, the brutal impact of grinding poverty on the ability of children to obtain an education, the inhumanity of hyper-incarceration. These and other injustices existed before Katrina, both in New Orleans and across the United States. Yet, the Katrina disaster magnified them a thousand-fold, revealing the shameful consequences of persistent neglect. One goal of the seminar is to use the

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<sup>60</sup> Act IV, WHEN THE LEVEES BROKE: A REQUIEM IN FOUR ACTS (HBO Video 2006).

disaster lens to encourage students to be aware of everyday injustices and to work with—and advocate on behalf of—those who are most vulnerable.

The course proposal asserted that the aftermath of Katrina exposed poverty, racism, injustice, and inequality—and that addressing these issues in a classroom setting would be beneficial to our students and to the legal community. In addition, the course would appeal to students with a variety of interests, from insurance law to animal rights. The description of the course also included a legal research and writing component that would focus on topics identified by advocates in the Gulf Coast, thus also benefitting the larger legal community. The proposal also included a component in which students would present their research to the entire Golden Gate University community as a way to inform others.

The Katrina Seminar was approved for the spring of 2007 semester; support from legal professionals and scholars helped establish the seminar's foundation. Jim Chen and Daniel Farber had recently published *Disaster Law: Katrina and Beyond*,<sup>61</sup> which was assigned to the students. A number of public interest attorneys in the Gulf Coast were enlisted to suggest topics for student research that would also be helpful to the lawyers. Michele Benedetto Neitz, a colleague, introduced this author to the Mississippi Center for Justice's Karen Lash,<sup>62</sup> who happened to be traveling to San Francisco during the first few weeks of the seminar. Not only did Ms. Lash speak to the class about her experiences in Mississippi after Hurricane Katrina, but she also crafted a number of research topics that students could work on and that would be helpful to the lawyers at the Mississippi Center for Justice. Her presentation served as additional motivation for students to

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<sup>61</sup> DANIEL A. FARBER, ET AL., *DISASTER LAW AND POLICY* (2d ed. 2010).

<sup>62</sup> Karen Lash works at the Mississippi Center for Justice. She is a former Associate Dean of the University of Southern California Gould School of Law and is currently a consultant for law schools, nonprofits, and government agencies building community partnerships.

work on the topics, which mostly related to landlord/tenant law in Mississippi and Louisiana.

The seminar has changed somewhat every time it has been offered. The topics in the spring of 2007 focused on landlord/tenant issues. Students focused on issues such as problems with laws that allow landlords to post eviction notices—particularly when tenants have not been able to return to their homes—and the landlord’s duty to preserve the tenant’s possessions. Students also wrote about problems with disaster response for people with physical or psychiatric disabilities. The capabilities of the seminar changed significantly during the spring 2008 semester with the incorporation of ResearchLink, which was created by the American Constitutional Society (ACS).<sup>63</sup> ResearchLink’s website accepts research topics from public interest lawyers and posts them online. Law students can select topics and work on them for academic credit with the supervision of a faculty member. As the ResearchLink website states:

By connecting law students and faculty with the research needs of public interest organizations and advocates, ACS ResearchLink has become an invaluable resource for the public interest community, while also enhancing the relevance and influence of student academic scholarship. The project leverages previously untapped resources to generate and share new ideas about important legal issues, while engaging the next generation of lawyers in addressing vital law and policy issues that will shape the future of our country and facilitates a triangle among the law student, the faculty member and the lawyer posting the topic.<sup>64</sup>

The Golden Gate University faculty member teaching the Katrina & Disaster Law Seminar agreed to supervise the research and writing project, evaluate the work for academic credit, and certify that the student earned a

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<sup>63</sup> *ACS Research Link*, AM. CONSTITUTION SOC’Y FOR LAW AND POLICY, <http://www.researchlink.acslaw.org> (last visited Dec. 2, 2011).

<sup>64</sup> *Id.*

passing grade. In other words, by using ResearchLink, faculty commit to do what they already do when they supervise or require student research papers. The public interest lawyers who post the topics agree to serve as a resource for students. Each student is able to speak with the public interest lawyer by phone on at least two occasions to have specific questions answered by the attorney. The student commits to completing the project and submitting the final product to the professor for a grade, to the public interest lawyer who posted the topic, and to ResearchLink, which will consider publishing the finished product on its website so that it is available to other advocates.

When ACS launched this website, the task of obtaining topics for students that would be useful to practicing lawyers became much easier. These projects focused primarily on the Federal Emergency Management Agency (FEMA). Specifically, students researched and wrote about the following topics: FEMA's attempts to recoup money that it claimed had been paid out incorrectly, due process issues arising from FEMA's denials of assistance, barriers to FEMA assistance for people with low English proficiency, reduction of FEMA assistance when survivors purchased the trailers issued to them by FEMA, and how a number of contractors hired by FEMA to assess damages conducted mere "drive-by inspections" of damaged homes and property. Students also worked on projects examining the feasibility of requiring landlords to accept housing vouchers for rent and drafted a primer on Louisiana inheritance laws, which out-of-state attorneys could use to help survivors establish title in their applications for money from "The Road Home" program.<sup>65</sup>

Discussions with my fellow panelists and those who attended the December 2010 Society of American Law Teachers (SALT) Teaching

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<sup>65</sup> See Navneet Singh, *Suggested Policy Changes to the Louisiana Legislature for Establishing Clear Title*, AM. CONSTITUTION SOC'Y FOR LAW AND POLICY (July 2008).

Conference gave rise to the idea of changing the focus for the spring 2011 seminar to examine issues before disaster hits, rather than after. One model for this is JoNel Newman's work at the University of Miami.<sup>66</sup> Professor Newman suggested that students could organize materials to inform volunteer lawyers how to help a disaster survivor apply for emergency food stamps or FEMA housing assistance. Subcommittees of the California Bar Association and the Bar Association of San Francisco had ideas for other possible topics. While the California Bar had just begun to implement a plan to update its 1997 Disaster Manual, it was too early in the process to design topics for students this semester. These topics, however, may be possible for the fall 2011 term.

Most recently, in spring of 2011, students worked on a variety of issues: FEMA's single household rule as it might apply to single-room-occupancy housing, how the Ninth Circuit might resolve the issues differently in *Ridgely v. Federal Emergency Management Agency*,<sup>67</sup> post-disaster plans for foster children in California, how to apply for emergency food stamps after a disaster, challenges immigrants face when seeking assistance after a disaster, and the one topic from ACS about contractor fraud in Mississippi.

As a complement to addressing social justice issues by means of student research papers, the seminar seeks to help students hone their writing skills. Developing effective and thoughtful writing skills is critical to becoming an effective lawyer. Therefore, the seminar devotes a significant amount of time and focus to writing. Students must periodically submit shorter assignments during the semester to ensure that they are thinking and writing

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<sup>66</sup> Newman & Swain, *supra* note 7, at 41.

<sup>67</sup> 512 F.3d 727 (5th Cir. 2008) (holding that the plaintiffs' preliminary injunction request hinged on whether they had a property interest in FEMA assistance and that the statute and regulations governing the rental assistance program were not sufficient to create a property interest).

about their topic early on.<sup>68</sup> In addition to these assignments, class time is also devoted to “paper rounds” during which students discuss their research and writing processes. Students learn about other students’ topics in greater depth than what is otherwise assigned in class readings. After both peer and instructor editing processes, students turn in their final papers to present to the Golden Gate University community.

Students have found the Katrina Seminar to be very worthwhile. Through course evaluations, students have indicated that they prefer this seminar model to the traditional model of research papers, which are read only by the professor. In addition, students seem to be particularly motivated to work on their topics because they want to create something that will be useful (thanks to the willingness of lawyers to post topics on the ACS ResearchLink). Aside from a few instances (one former student who worked for the Mississippi Center for Justice the summer after she worked on a landlord/tenant issue for the Center, and two students who had their papers published on the ACS ResearchLink), lawyers gave no direct feedback to students who had engaged in research. Rather, the primary benefits of the seminar are the heightened awareness of social justice issues that students obtain through the course, including their research—and how the presentations of their work to the law school community help to inform others about these issues.

By incorporating into the seminar the theme that “there are little Katrinas everywhere,” my hope is that students viewing social injustice through the lenses of hurricanes, earthquakes, fires, and floods will see the disastrous effects of everyday injustices such as poverty, hyper-incarceration, and inadequate access to education and health care for the most vulnerable.

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<sup>68</sup> A new component that the Katrina Seminar will now incorporate is to assign students a full-length law review article to read for class. This approach is similar to the one developed by Jacqueline D. Lipton. See Jacqueline D. Lipton, “*Ph.D. Lite*”: A New Approach to Teaching Scholarly Legal Writing, 2009 CARDOZO L. REV. 20 (2009).

These aspiring advocates can continue to have a role in changing these situations once they obtain their license to practice law.

#### V. ON THE FRONT LINE AFTER THE TUSCALOOSA TORNADOES

On April 27, 2011, Alabama was hit with sixty-two separate tornadoes that killed over 240 people.<sup>69</sup> Tuscaloosa, the home to the University of Alabama that contains over 30,000 students, including our law school, was struck by a single tornado that stayed on the ground for an unusually long distance. Within six minutes, it left a diagonal stripe of destruction just under six miles long and—in certain places—a mile and a half wide.<sup>70</sup> The university campus was spared any significant damage but our larger community was not. Fifty people died, including six university students, and many others were injured.<sup>71</sup> Twelve percent of the city was severely

<sup>69</sup> Mike Oliver, *April 27's Record Tally: 62 Tornadoes in Alabama*, THE BIRMINGHAM NEWS (Aug. 4, 2011), [http://blog.al.com/spotnews/2011/08/april\\_27s\\_record\\_tally\\_62\\_torn.html](http://blog.al.com/spotnews/2011/08/april_27s_record_tally_62_torn.html); see Press Release, State of Ala. Emergency Mgmt. Agency, *Fatality Update* (July 28, 2011), available at [http://ema.alabama.gov/filelibrary/PressRelease/NR\\_Fatality\\_update\\_July28.pdf](http://ema.alabama.gov/filelibrary/PressRelease/NR_Fatality_update_July28.pdf).

<sup>70</sup> THE UNIV. OF ALA., OFFICE OF INST. RESEARCH & ASSESSMENT, CENSUS ENROLLMENT REPORT (Fall 2010), available at [http://oira.ua.edu/d/webreports/enrollment2/Fall\\_2010/e11.html](http://oira.ua.edu/d/webreports/enrollment2/Fall_2010/e11.html) (stating that in the fall of 2010, there were 30,232 students enrolled at the University of Alabama); Tommy Stevenson, *At Large: Tornado's Aftermath Will Be Long-Lasting*, TUSCALOOSA NEWS (Aug. 7, 2011), <http://www.tuscaloosaneews.com/article/20110807/NEWS/110809855> (“In only six minutes, the monster storm ripped a 5.9-mile diagonal swatch . . . through the heart of the city.”); see also *State of the Climate: Tornadoes*, NOAA NAT'L CLIMATIC DATA CTR. (Apr. 2011), <http://www.ncdc.noaa.gov/sotc/tornadoes/2011/4> (stating that the tornado reached a width of 1.5 miles).

<sup>71</sup> Laura Metcalf, *Families Accept Degrees for Alabama Tornado Victims*, TUSCALOOSA NEWS (Aug. 7, 2011), <http://www.tuscaloosaneews.com/article/20110807/NEWS/110809814> (stating that six university students died in the storm); Stephanie Taylor, *City Raises April 27 Storm Death Toll to 50*, TUSCALOOSA NEWS (Aug. 13, 2011), <http://www.tuscaloosaneews.com/article/20110813/NEWS/110819903> (noting that earlier casualty calculations estimated Tuscaloosa's tornado-related deaths at forty-seven although later information revealed the number to be fifty).

damaged or destroyed.<sup>72</sup> This section documents my personal account of the tornado disaster, and the development of a law clinic response using models built on Katrina experiences.

Our area had been warned of the particularly dangerous conditions giving rise to the certainty of some level of severe weather and the possibility of deadly conditions. The university suspended classes in the afternoon, and fortunately many people took the warning seriously. Though this tragedy cost lives, homes, businesses, and altered many Alabamans' lives permanently, most of us are able to describe close calls and count ourselves fortunate to have been missed.

The Law Clinics were able to benefit from some of the lessons learned through the landmark work done assisting those displaced by previous disasters. We received assistance from law clinicians in the South and Southeast, including, most significantly, from our Katrina-affected neighbors. Some of our clinicians and many of our faculty who had volunteered for related disaster projects of various types were living in Tuscaloosa when we participated in a clinical program to assist Katrina relocatees. The foundation from that project was critical as we began to consider how the law school clinics might respond to the disaster. Sitting in the law school with no power—and communicating by some available landlines and texting—we began to develop a plan. We hoped to create a legal assistance project based on the model that had been successful in the Katrina effort. Basically, the project trained law students in intake processes, placed them in shelters and disaster assistance centers, and then paired them with clinic lawyers or local volunteer attorneys to handle legal matters to conclusion. Assignments to local attorneys were handled by the county bar president.

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<sup>72</sup> Robin DeMonia, *Alabama Tornadoes: Cities Turn Toward Ways to Rebuild*, AL.COM, (July 27, 2011), [http://blog.al.com/spotnews/2011/07/alabama\\_tornadoes\\_cities\\_turn.html](http://blog.al.com/spotnews/2011/07/alabama_tornadoes_cities_turn.html).



There were several challenges to applying this process in the present situation in Alabama. First of all, the law student population was hit hard itself. Students and staff here somehow managed to account for every law student within the first several hours of the tornado, and no one was seriously injured. Even so, a total of fifty-six students—over 10 percent of our law school population<sup>73</sup>—lost all of their belongings, and even some pets. Everyone knew someone close to them who was impacted. The student leadership quickly organized housing and communication links—to the extent available—and started sending out work parties twice a day. While the main campus simply cancelled the remainder of the semester, our students had not completed any graded work, and thus we could not eliminate final exams, which would be the only basis for their final assessment of their course performance. Projecting into the summer, we had no idea whether we would have the student staffing sufficient to meet the community's legal needs if we went forward.

On April 29, I contacted the Alabama State Bar volunteer lawyer coordinator to share my thoughts and hopes of creating a legal assistance response to our disaster. I was told there were plans for a conference call that afternoon with the bar and the Young Lawyers Division, which has disaster response as its mission.<sup>74</sup> She gave me the time and call-in information, and I went to our offices to review the plans from our post-Katrina efforts. There was a voicemail from Bob Kuehn, former director of our clinics and architect of our Katrina relocatee project, urging me to seize

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<sup>73</sup> See *Quick Facts*, UNIV. OF ALA. SCH. OF LAW, <http://www.law.ua.edu/admissions/quick-facts/> (last visited Oct. 21, 2011).

<sup>74</sup> In the late 1970s, the ABA Young Lawyers Division entered into a Memorandum of Understanding with FEMA to provide legal disaster services. See AMERICAN BAR ASS'N YOUNG LAWYERS DIVISION, *DISASTER LEGAL SERVICES TRAINING MANUAL* 12-16 (2011), [http://www.americanbar.org/content/dam/aba/administrative/young\\_lawyers/fema\\_manual\\_2011.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/young_lawyers/fema_manual_2011.authcheckdam.pdf).

the opportunity for the law clinics to rise to the occasion and offering to assist in any way possible. Within the hour, however, I received an e-mail and was “disinvited” to participate in the call, though I was assured that the law school would be an important part of the response as the bar and the Young Lawyers Division moved forward. The bar president was copied on the e-mail.

I called in despite the request, but held my tongue and primarily listened. The bar and Young Lawyers Division devised plans to set up a statewide hotline with a number, which would need to be publicized, and to hold clinics at various locations around the state beginning the week of May 23. I, however, felt strongly that we could be up and running in days—rather than wait—because our law school community was too eager to assist. When I shared these feelings, the bar and Young Lawyers Division suggested that I was overestimating the demand. Some participants stated, from past disaster experience, that legal needs would not develop until later in the post-disaster aftermath, and that service agencies, supplemented with assistance from volunteer lawyers on-site at day clinics, could handle much of the immediate need. I felt that I had failed to explain what the law school had to offer, and why our experiences made us well-suited to help direct the response.

Inspired by our students’ initiative in taking action rather than waiting for others, I determined that we would proceed in establishing our clinic. I had concerns that I was over-committing all of our clinic personnel, who had full-time responsibilities already, because volunteer lawyers had not yet made a commitment to our model. We were guessing both the demand and our capacity. At that point, several things began to move at once. We dug out older disaster relief manuals from Legal Services Alabama and students began to update the information. I worked to make contact with other service and volunteer organizations, both to find locations to set up our outreach and to inform these organizations that our services were available. With communications still spotty, it was difficult to even know the full

range of damage. In addition, Tuscaloosa's American Red Cross and Salvation Army shelters were destroyed, so those traditional starting points were literally no longer on the map.<sup>75</sup> Other staff members were developing procedures and processes for funneling intake interviews through assessment and case staffing, filing, and referrals—all the while fielding walk-in clients at the clinics.

On Tuesday, May 2, I contacted a local lawyer and long-time acquaintance to discuss the role of the local bar in the disaster relief efforts, still hoping for assistance in some significant capacity. After realizing that what he thought would be a one-day operation that Thursday was going to be an on-going clinic for as long as we believed it was needed, he paused, turned over to a blank page of his yellow legal pad and said, "Give me what you need from us to play your A game." What followed was a frank assessment of what we both thought possible in terms of organization and commitment from both groups.

Our new partner then took back to the bar a proposal for an ongoing, clinic-led collaboration. His leadership within the county and state bar made this possible. Nevertheless, we both had to make compromises to meet the needs of the Alabama State Bar Volunteer Lawyers Program, the limitations on the time commitment from local attorneys, and the "best practices"—perhaps somewhat unrealistic—aspirations of myself and our other clinicians.

In the meantime, we put together a training workshop agenda, dividing both substantive law and skills areas among ourselves and calling in a

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<sup>75</sup> Amanda Simmons, *Local Red Cross Chapter Moves Into New Office*, TUSCALOOSA NEWS (June 1, 2011), <http://www.tuscaloosaneews.com/article/20110601/news/110539931> (stating that the Red Cross's Tuscaloosa office was seriously damaged in April 27 tornado); Lydia Avant, *Loss of Shelter Complicates Tuscaloosa's Homeless Situation*, TUSCALOOSA NEWS (June 24, 2011), <http://www.tuscaloosaneews.com/article/20110624/news/110629810> (stating that Tuscaloosa's Salvation Army shelter was destroyed in the April 27th tornado).

volunteer young lawyer (and veteran of our first domestic violence clinic) to educate our students and us on basic FEMA processes. Seventy-four students and several staff from other areas within the law school attended.

Starting on May 5, we set up intakes at the law school clinics each morning and in three remote areas each afternoon, each staffed with at least two student volunteers, a clinic attorney, and a volunteer lawyer. From that day until June 1, we opened 205 tornado relief files, approximately the number our general civil clinic handles in a year. A little over fifty of those went to volunteer lawyers.

Within a few days of starting, it became clear to me that after our initial onslaught of clients, we would need a more controlled environment for rendering assistance. With the permission of the curriculum committee, I taught a first-time summer clinic session to continue the relief efforts. We continued to work the cases we had taken in and continued receiving new clients.

As we began our fall semester, we evaluated what to do next. Intakes were at a lull, intentionally, to give us time to regroup and begin the regular work of the fall clinics. We developed a plan to use Public Interest Institute law students and other law student volunteers to do door-to-door canvassing for unmet legal needs assessment. The SHN and the Mississippi Center for Justice assisted us in developing that plan and the appropriate survey instrument. Within a few weeks after school began, we traveled to visit with the Loyola Katrina Clinic faculty and staff to help us anticipate the future needs of our community and prepare to address them.

In hindsight, although each disaster is unique in substance and scope, I can see that there were difficult lessons we were learning that many of my colleagues could have taught us. Most importantly, there were resources of which I was not aware—and certainly could have used—and ideas and models such as those discussed in this article. There were offers of help, but difficulty in knowing what we could use. There were pre-disaster

relationships and collaborations to be built. But for the previous post-Katrina clinic here, we would have been starting more or less from scratch. I have learned that I share with many others a vision of a network response to future disasters. Law schools, and clinics in particular, play a vital or even a leadership role in partnering with our legal services providers and our colleagues at the state bar. I hope we continue to attempt to meet those challenges.

## VI. CONCLUSION

As this past year has reminded us—in Tuscaloosa, in Joplin, Missouri, and around the world<sup>76</sup>—disaster preparation and response is an ongoing responsibility. Indeed, the cover of one recent issue of the ABA Journal asks of the legal profession, “Are We Prepared?”<sup>77</sup> In this essay, we posed the same query to the legal academy and argued that the clinics, classes, and other forms of civic engagement that followed Katrina and Rita offer useful lessons for disaster preparation. More broadly, these initiatives can help law schools fulfill their longer-term commitment to social justice.<sup>78</sup> By engaging the legal academy in disaster response, we can help law students become more aware of social inequality and injustice. Moreover, the goal of engagement is not just passive education. Through hands-on experience, law students have the opportunity to become advocates for change, working toward justice even as they learn more about injustice.

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<sup>76</sup> Evan Lehmann, *Violent Storms Make 2011 ‘One for the Record Books,’ Insurance Price Hikes Under Way*, N.Y. TIMES (July 13, 2011), <http://www.nytimes.com/cwire/2011/07/13/13climatewire-violent-storms-make-2011-one-for-the-record-85707.html>.

<sup>77</sup> *Front Cover*, A.B.A. J. (July 2011), <http://www.abajournal.com/magazine/issue/2011/07/>.

<sup>78</sup> In a 2007 web survey that SHN conducted, students identified their mission with SHN as serving vulnerable communities. One student summarized the goal: “[t]o help provide legal services to underserved and underrepresented communities on the Gulf Coast post Hurricanes Katrina and Rita.” SHN STUDENT SURVEY, *supra* note 53.

The programs described in this essay provide examples of constructive engagement. For instance, when the criminal justice system in Louisiana fell apart, law students found individuals who were lost in the system and advocated for their release. When people's homes were slated for demolition, law students tracked down residents and gathered evidence to help obtain preliminary injunctions against the bulldozing. Through their direct participation, law students learned important lessons about service to clients and service to community.

The legal academy's engagement with disaster response should become permanent, both to enhance the education of future generations of law students and to serve the core social justice mission of the legal academy and profession. At the 2011 Southern Clinical Conference held in Tuscaloosa, Alabama, law faculty discussed legal academy engagement with past and current disasters and called for the development of a southern region disaster response network joining law schools together for the purposes of post-disaster advocacy.<sup>79</sup> As Anne Hornsby explained at the conference: "We are the people who know how to do it. We have the structure in place. We have the students, and we should just do it."

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<sup>79</sup> Davida Finger, Anne S. Hornsby, & JoNel Newman, SOUTHERN CLINICAL CONFERENCE, (Aug. 5, 2011), *available at* <http://www.law.ua.edu/wp-content/uploads/Southern-Clinical-Conference-Schedule-8-2011.pdf>.