



**TESTIMONY OF BARBARA R. ARNWINE,
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**UNITED STATES HOUSE OF REPRESENTATIVES SELECT
BIPARTISAN COMMITTEE TO INVESTIGATE THE
PREPARATION FOR AND RESPONSE TO HURRICANE KATRINA**

December 6, 2005

I. Introduction

Good afternoon. I am Barbara R. Arnwine, Executive Director of the Lawyers' Committee for Civil Rights Under Law ("Lawyers' Committee"). I would first like to thank Chairman Davis, Representative McKinney, and the members of the Select Committee for holding hearings on the government's response to Hurricane Katrina and, in particular, for providing the Lawyers' Committee with the opportunity to participate in this important hearing.

The Lawyers' Committee is a nonpartisan, nonprofit civil rights legal organization that has been in existence for over 40 years. It was formed in 1963 at the request of President John F. Kennedy to involve the private bar in providing legal services to address racial discrimination. The mission of the Lawyers' Committee is to secure, through the rule of law, equal justice under the law. For more than 42 years, the Lawyers' Committee has advanced racial and gender equality through a highly effective and comprehensive program involving educational opportunities, fair employment and business opportunities, community development, fair housing, environmental justice, and meaningful participation in the electoral process.

Since our inception, the Lawyers' Committee has represented communities of color, particularly African Americans, in their struggle for civil rights. Many of our cases have been against governmental entities in Mississippi, Alabama, Louisiana, and Texas challenging racial discrimination against African Americans in voting, municipal services, employment, and other matters. We have also participated in litigation against the federal government for its failure to provide equal protection in employment and housing to African Americans and other racial minorities. Given this history, it is not

surprising that race has been interjected into the disaster response and recovery process following Hurricane Katrina.

Hurricane Katrina has directly affected more than 1.3 million households, comprising some four million individuals. A significant proportion of this population was African American. Prior to the catastrophe, New Orleans' population was nearly 70% African American with the state's black population comprising 32.5%. The state of Mississippi's Black population was 36.3% before the storm landed. Both Louisiana and Mississippi rank in the top four U.S. states with the highest poverty rates in the nation. Unfortunately, the hurricane exposed problems of poverty that cut across racial and ethnic lines. While the majority of my testimony will focus on Katrina's impact in the African American community, it's important to note that thousands of poor whites, Latinos, Asian Americans, and Native American survivors of Katrina have suffered in virtual invisibility over the past three months. The plight of undocumented survivors also presents particular concerns.

For too many Americans, Katrina provided their first look at the face of poverty and race in this country. The storm and its devastating aftermath forced Americans to witness first-hand a deadly combination of racism, racial disparities, racial insensitivity, poverty, and governmental incompetence. The Lawyers' Committee acknowledges that the chaos and destruction caused by Hurricane Katrina were unprecedented in its broad scale. However, the Lawyers' Committee believes that racism and racial insensitivity exacerbated these already stressful circumstances. Foremost, the racial "criminal stereotyping" generated unjustified fear and played a role in FEMA's slow and inadequate response to the survivors of the storm.

We acknowledge that it is not uncommon for rumors to run amuck in a crisis situation. But, what was uncommon in the Katrina aftermath was the perpetuation of racially tinged allegations of massive inhumane criminal activity by Blacks.

In the days immediately after the storm hit, destructive and largely false rumors of violence and other criminal activities created a fear factor where aid workers were reluctant to enter New Orleans and provide assistance. Media coverage of the purported violence created a climate where some believed that the people of New Orleans were unworthy or undeserving of receiving assistance. Remnants of these perceptions were also evident in the overly policed atmosphere of some emergency shelters, which led to the intimidation of many survivors. These runaway perceptions led to the FBI's unprecedented decision to allow local law enforcement officials to access their database in order to screen evacuees looking for local housing, resulting in racial profiling of the survivors. These actions fueled harmful beliefs and ultimately undermined both FEMA's and the Red Cross's ability to affectively serve those in need.

Senator Barack Obama, after touring shelter facilities in the Houston Astrodome, made this assessment, "There seemed to be a sense that this other America was somehow not on people's radar screen...and that...does have to do with historic indifference on the part of government to the plight of those who are disproportionately African American."

Senator Obama also observed that “passive indifference is as bad as active malice.” These inequities so glaringly exposed in Katrina’s wake provide Congress a rare window of opportunity to address policy priorities that have resulted in two Americas.

II. Race and Class Inequities Persist

Long standing and institutionalized race and class inequities, as much as we might like to pretend they no longer exist, played a significant role in effectively undermining FEMA's response to Katrina from the very beginning. As noted above, racial stereotyping and the resulting fears impacted disaster response at all levels in communities of color.

New Orleans has always been a great racial divide with segregated communities -- white Americans live in the Quarter, the Garden District and Uptown, and Black Americans in the 6th, 7th and 9th Wards and in pockets of housing developments along the River. Census data available on the FEMA website prior to Katrina showed approximately 40,000 residents without automobiles and without access to private transportation lived in predominantly African American sections of the City. Before Katrina hit, it was clear to FEMA and to anyone who inquired that the people in New Orleans who could not evacuate on their own would be Black.

Many of the 40,000 Black residents were directed to the Superdome and the Convention Center as a place of shelter to only discover upon arrival that there was no plan in place for FEMA or anyone else to provide evacuation or other assistance. The media coverage gave the impression that the Superdome and Convention Center were cut off, isolated and unreachable, when this was never the case. Bus drivers sat in staging areas outside the City refusing to drive in because they feared racial violence. The French Quarter was placed under a curfew and National Guardsmen with machine guns patrolled the Garden District and Uptown to prevent the abandoned houses from being looted. Yet, there was virtually no visible law enforcement presence at the Superdome and Convention Center. Thus, the protection of white-owned property became more important than the protection of Black lives.

In addition to the well publicized failures in New Orleans, I am compelled to share with this Committee examples of the federal government’s inadequate response to countless people in small communities throughout the Gulf Coast Region where neither FEMA nor the Red Cross (FEMA’s principal subcontractor for providing humanitarian disaster assistance) had any staff or presence serving these areas in the days and weeks after the storm. Many of these small communities like North Gulfport, Mississippi are predominantly African American. Again, racial biases, stereotypes, and historic indifference and hostility by the government prevented these citizens from receiving much needed humanitarian aid. The Red Cross rarely set up any operations in these African American jurisdictions. But instead, where they were present, they invariably set-up operations in predominantly white towns or in the white parts of town. In one small town, an African American couple traveled to a Red Cross Center that was located outside of their town to receive assistance. Once they arrived at the Center, they were told to go to the back of the line since they were not from that community.

Requests for help not only from residents, but from local health and emergency officials were consistently ignored while Disaster Medical Assistance Teams (DMATS) sat in Texas and hundreds of supply trucks loaded with ice sat in Memphis undeployed for weeks. In an August 29 email, just after the storm crashed ashore, FEMA deputy chief of staff Scott Morris wrote, “Gulfport, MS only has enough commodities for roughly 3 hours distribution tomorrow. Apparently, the local law enforcement officials have allowed evacuees back into the city.”

Attempting to fill the void created by FEMA’s inaction and insensitivity, African American churches came to the rescue of the hardest hit communities. With limited resources churches and faith groups provided shelter, food, transportation, and medical support, some to the point of bankruptcy. A bureaucratic and racially insensitive FEMA offered no compensation to the churches. Finally, an official federal government mechanism to compensate churches was created but, the process for seeking compensation has been made virtually impossible due not only to a lack of communication, outreach, and assistance, but because of outright racist assumptions. Again, the fears of fraud took priority over making sure that means were provided to those serving survivors.

In the immediate aftermath of the storm, while the world watched, FEMA did nothing. FEMA’s former Director Michael D. Brown when questioned during the crisis stated that he was unaware persons were at the Convention Center and Superdome. Recently released emails from Mr. Brown reveal a person more consumed with his wardrobe than with the dire circumstances of the moment. Fortunately, contrary to the callous inactions of FEMA’s leadership, average Americans watching telecasts from the Superdome showing fellow Americans abandoned by their government and in distress responded with an outpouring of compassion. After the several days that it took for the evacuation, many of these fellow Americans provided humanitarian aid, receptiveness and assistance that helped survivors to be accepted into many localities.

Nevertheless, our legacy of racism was evident in the aftermath of Katrina as many of the African American survivors upon relocating to new communities encountered racial discrimination as they sought housing, employment, public accommodations, with the stereotypes of criminality dogging their every movement.

Both the dignity and essential kindness of our people and the ugly reality of racism and poverty that still prevail in our society were exposed in the wake of Katrina. The racism that compounded the devastation is a national disgrace. We must acknowledge and learn from both our strengths and our weaknesses. There will be other disasters in the future, but there must never be another Katrina.

III. Failure of Federal, State, and Local Governments

The Lawyers’ Committee is seriously concerned about the reports of misconduct by law enforcement officials in Orleans Parish and in Gretna, Louisiana. Last month, the ACLU

filed a lawsuit on behalf of the men and women formerly detained at the Orleans Parish Prison who were abandoned without food or water and abused by guards after Hurricane Katrina struck. For four days and nights, confined inmates of the Templeman III compound at the Orleans Parish Prison were abandoned and left locked in their cells as the floods from the storm rapidly overwhelmed parts of the prison. Human Rights Watch has reported that between August 29 and September 1, 2005, correctional officers from the New Orleans Sheriff's Department abandoned inmates, as many were immersed in chest and neck level water and left without food, water, electricity, fresh air, or functioning facilities. First hand reports from the inmates reveal that amidst their urgent cries for help, they witnessed bodies floating in the water.

In Gretna, law enforcement officials barred New Orleans residents from crossing the Greater New Orleans Bridge to safety. According to press accounts, a group of approximately 200 citizens, who were primarily African American and included people in wheelchairs, on crutches, and the elderly, were told by the National Guard to cross the Greater New Orleans Bridge and wait for police buses that would take them out of the city.

At the time, this appeared to be the only plausible recourse to keep these citizens safe as both the Superdome and Convention Center were filled beyond capacity and depleted in resources. However, as the group embarked on the Greater New Orleans Bridge they were met with reports of armed sheriffs, gunfire, human barricades, and attack dogs. Prevented from crossing the bridge, enduring threats from law enforcement officials, and unable to return to the city, the group set up makeshift camps for the night. However, these temporary shelters were soon dismantled by the wind of helicopters purposefully hovering above. The group was again met with more hostile and volatile shows of force from the sheriff's office demanding that they leave the Greater New Orleans Bridge. Nor was the Gretna incident the only one where armed government officials denied access to those survivors fleeing the flooded areas.

These egregious acts by local law enforcement officials unfortunately occurred during a time of national crisis when the assistance of every governmental entity was needed to preserve the health, life, and well-being of the evacuees. These incidents should be investigated by the Congress and the U.S. Department of Justice.

Without a doubt, FEMA, the federal agency charged by statute to care for Americans who are victims of natural disasters, failed to fulfill its mandate before, during, and after Hurricane Katrina struck Louisiana, Mississippi, and Alabama. As a result, more than three months after the tragedy, thousands of Americans continue to be victimized, this time by bureaucratic inaction, indifference, and incompetence. FEMA has failed to provide temporary housing assistance to these disaster survivors in violation of the plain requirements of federal law. The poor and vulnerable – including children, the elderly, and the disabled are suffering the most.

There is no excuse for FEMA's failure to fulfill its mandate. The dimensions of Hurricane Katrina and its aftermath were neither unpredictable nor unexpected. Indeed,

FEMA's former head, Michael D. Brown made several speeches in 2004 on the agency's preparedness and ability to respond to a major hurricane. In addition, FEMA participated in emergency preparedness drills predicated on a category three to four storm of precisely this dimension and magnitude, striking exactly where it hit, and leaving this many people in need of temporary housing. In July 2004, FEMA participated in "Hurricane Pam," an emergency preparedness drill predicated on a storm striking in the same place, resulting in similar damage to that caused by Katrina. The purpose of this drill was to gain information that would enable FEMA and state agencies to plan and prepare for the probable damage and subsequent events that would surely result from an actual hurricane.

FEMA and its leadership did not heed the warnings of Hurricane Pam, or implement any of the precautions it called for that, at a minimum, would have mitigated some of the heartbreaking personal anguish and suffering that continues to this day. The consequences of those, and other acts and omissions are still being felt by thousands of individual survivors in the Gulf Coast, whose homes were destroyed or rendered uninhabitable or inaccessible as a direct result of the storm.

Federal law requires FEMA to provide assistance to disaster victims with, among other things, financial assistance to rent housing, or by supplying them with a trailer or mobile home. This assistance is guaranteed by the Stafford Disaster Relief and Emergency Assistance Act ("the "Stafford Act"). The Stafford Act defines the type and scope of federal assistance available in the event of a declared disaster, including temporary housing assistance, and sets the conditions for obtaining that assistance.

More than three months after Hurricane Katrina struck, thousands of disaster survivors still have not received their desperately needed housing and other assistance from FEMA and, as a result, continue to be victimized and to suffer harm each and every day, this time at the hands of their own federal government. Others received some amounts of aid, but under rules that kept changing. Now those individuals find themselves supposedly indebted to the government for having used that assistance to replace the necessities of life. Many other disaster victims, most of who lived at or below the poverty line, are being denied assistance based upon a mechanical or arbitrary presumption of fraud which has no basis in fact. After already seeing their communities, homes, and possessions destroyed, disaster survivors are now forced to sleep on the floors of relatives, on pavements, in cars, and in tents, or are bounced from shelter to shelter, seemingly abandoned and forgotten by FEMA.

On November 10, 2005, the Lawyers' Committee filed a lawsuit against FEMA that challenges the agency's failure to provide assistance as required under the Stafford Act. In our ongoing negotiations with FEMA, it has become apparent that the agency has a serious ongoing communications problem with its own staff and the public. Specifically, the agency has been unable to effectively communicate policy directives and changes to its offices and employees in the field. As a result, FEMA's own staff is denying assistance based on bad information or poor training and the public is given incorrect or outdated information from FEMA's local representatives. FEMA's elimination of on-call

volunteer reserve workers and long-term regional directors has exacerbated this tragic situation and raised questions as to the wisdom of the agency's decision to replace these long-term workers with inexperienced and untrained contract workers and new hires. When Katrina hit the Gulf Coast, FEMA had no reservists to call to duty or advanced communication system to interact with those in the field.

IV. Policy Problems and Recommendations

As previously noted, the overall lack of race, class, and gender awareness, appreciation of cultural differences, and diversity in staff and volunteers permeated every aspect of disaster relief and service delivery. Our nation must thoroughly restore and revamp FEMA and its entire recovery and response process to ensure that the dire injustices of the Katrina catastrophe never occur again. The Lawyers' Committee makes the following recommendations to the Committee as a first step to achieving this goal.

- We recommend that FEMA undertake a racial impact study and implement policies so that it can respond to the particularized needs of minority communities in a comprehensive manner during disasters. Critically, diversity policies must be developed by FEMA and the Red Cross to include more African American churches, civic groups, and other minority organizations as integral components of the disaster response and recovery process. A recent Washington Post article revealed that only 5% of Red Cross volunteers are African American.
- We urge FEMA to modify its emergency response plan so that it is responsive to the specific needs of minority communities. Unfortunately, racial disparities in homeownership rates and healthcare have produced unique issues for minority communities for which FEMA was not prepared to respond during the Katrina crisis. FEMA's current policies are best suited for homeowners and not those that rent housing. In future emergency situations, we recommend that FEMA provide special medical assistance that is specifically suited for the medical needs of the affected community. For example, African Americans disproportionately suffer from diabetes, hypertension, and heart disease. Yet, many people in New Orleans needlessly suffered without their medication that FEMA failed to provide.
- FEMA must be able to provide transportation to evacuees during an emergency situation. Lack of transportation not only doomed the evacuation process but hampered subsequent assistance. The only transportation available to evacuees in shelters and those stranded far from DRCs and food distribution centers was that provided independently by church groups.
- We recommend that Congress call upon local, state, and federal authorities to work to prevent bias and racial insensitivity and to adopt laws and procedures that will protect the civil liberties of its citizens, especially during a time of

national crisis. Congress should develop policies to prevent jurisdictions from blocking access to people fleeing from a disaster.

- One of the biggest long-term challenges of rebuilding New Orleans and the Gulf Coast stems from FEMA's total failure to provide temporary housing in the affected areas in a timely manner. As a response, we urge FEMA to provide immediate temporary housing to displaced persons that is convenient to their communities and destroyed homes.
- We recommend that FEMA improve its external and internal communications system so that it is state of the art, user friendly, and results oriented. The technological aspects of the FEMA application process presented major obstacles and was for the most part dysfunctional. FEMA's website was extremely difficult to navigate and would frequently "time out" after an applicant had entered his/her name, address and social security number, thus leaving him/her unaware that the application was useless and incomplete. If the applicant did try again they would wind up with a duplicate application and assistance would be denied. There was no way to reach FEMA on its one telephone number regardless of how quickly FEMA tried to hire personnel to answer the lines. The telephone personnel were so inadequately trained that a significant percentage of telephone applications had errors that resulted in the denial of applications.
- FEMA must establish strong bilingual capabilities for limited English communities that will enable them to easily access all of FEMA's services.
- We recommend that Disaster Relief Centers ("DRCs") be set-up first where both evacuees and remaining survivors are actually located. The DRCs must be more mobile and they must be set-up quickly. There were thousands of evacuees in Memphis, yet there were huge delays in setting up DRCs where evacuated survivors could receive assistance. After many weeks, the closest DRC was finally in Jackson, Mississippi. For a very long time there were only three DRCs in the Mississippi Gulf Coast. The first DRCs did not open on the East Bank of New Orleans (6th, 7th and 9th Wards, as well as the Lake Front, Mid-City, French Quarter, Garden District, Uptown and the rest of New Orleans proper) until more than two months after the disaster.
- FEMA should implement diversity training for all of its employees and take affirmative steps to ensure that the agency reflects America's diverse constituencies.

V. The Lawyers' Committee's Response

The national tragedy resulting in the wake of a season of storms has exposed the ugly underside of race and class inequalities in the United States. We are all deeply dismayed as we have watched thousands of our fellow Americans, mostly Black and poor, abandoned by

our government. The subsequent forcible relocation of these families to all parts of the country is heart-wrenching.

Our fellow Americans deserve equal treatment under the Stafford Disaster Relief and Recovery Act and the civil rights laws of our nation. The storms created a critical need for civil rights legal services not seen since President Kennedy called on the Lawyers' Committee to send hundreds of volunteers to Mississippi and elsewhere in the Deep South.

Regrettably, the racial and economic barriers that have existed for more than two centuries have been exacerbated by the destructive force of nature. Disaster victims are encountering discrimination in relief at all levels, as well as outright racial hostility. We cannot allow these families to be victimized a second time by the failings of human nature.

The Lawyers' Committee has responded by launching a comprehensive Disaster Victims Legal Assistance Program which actively addresses the unique civil rights legal assistance needs resulting from this unprecedented devastation. The wide-ranging effects of the displacement of 1.3 million people in the heart of the Gulf Coast disaster -- Louisiana, Mississippi, Alabama, and Texas will significantly affect our core civil rights legal program for years to come.

Our response to this crisis builds upon our unique ability to strategically deploy volunteer legal resources to the Gulf Coast disaster area. Our traditional and often historic partnerships with pro bono law firms throughout the Deep South enables us to administer and manage effective and immediate legal assistance and conduct an effective "Know Your Rights" education initiative. Central to our program is a strong public policy effort designed to transform the nation's shock and dismay at the brutal realities of race and poverty in America into lasting and effective reforms at all levels of government and the private sector.

The Lawyers Committee is implementing an aggressive plan of action. We have established a:

- **National Commission on Disaster Survivors Legal Assistance** to guide the overall program, promote a national discussion on race and poverty in America, unify legal assistance program by all entities, and advocate for the incorporation of civil rights legal issues into all aspects of the relief effort.
- **Special Disaster Assistance Litigation Project** to monitor FEMA's compliance with regulations and statutes to ensure fair and equitable delivery of needed assistance.
- **African American Churches Legal Assistance Program** to provide timely legal advice on issues which have risen among these historic frontline service providers struggling to provide needed assistance to their communities.
- **Lawyers' Committee Client Initiative** to focus on the equitable rebuilding of, historic communities of color, such as North Gulfport, Mississippi; Port Arthur, Texas; and other communities throughout the South where we have historically provided assistance.

This is an unprecedented moment in our history calling upon our nation to once and for all address racial discrimination and poverty through targeted public education and sweeping reform at the local, state and federal levels of our government. The Disaster Survivors Legal

Assistance program aggressively works toward immediate and systemic solutions to alleviate the pain and suffering faced by families traumatized by these disasters.

VI. Conclusion

Regardless of the private sector's creative and courageous response to this crisis, Congress enacted the Stafford Act which created FEMA, because our nation believed that the first responsibility for responding to a disaster and assisting with recovery belongs to the federal government. It is imperative that Congress adopts policy changes to assure that FEMA operates in a manner that ensures equal protection for all Americans.

Mr. Chairman and members of the Committee, I salute my fellow panelists and all of the survivors of the storm who are preserving during this difficult time. Thank you again for the opportunity to testify on this important subject. I look forward to answering any questions from the Committee.