MEMORANDUM

To: School of Law Visiting Committee

From: Professor William P. Quigley
Director, Law Clinic
Director, Gillis Long Poverty Law Center

Date: May 8, 2007

Re: Law Clinic and Gillis Long Poverty Law Center Report

LOYOLA LAW CLINIC IN THE AFTERMATH OF HURRICANE KATRINA

Luz Molina, D. Majeeda Sneed, Cheryl P. Buchert, Ramona Fernandez, Stephen Singer, Judson Mitchell, Hiroko Kusuda, Bradley Black and Davida Finger of the Loyola University New Orleans School of Law, Law Clinic

I. LOYOLA LAW CLINIC AND GREATER NEW ORLEANS BEFORE KATRINA

The Loyola Law Clinic has a long and unique history in the City of New Orleans, having the distinction of being the first law clinic of its kind in the area. From its inception in 1972, until August 28, 2005, it was a clinic deeply rooted in the local community and attentive to local needs. The law clinic could be best described as a litigation clinic, typically centered around civil rights, criminal and domestic law litigation, homeless advocacy and the representation of long term immigration detainees. Its pedagogical focus was, as it remains today, to provide to its student practitioners the greatest degree of involvement in the practice of law. As set forth below, Katrina brought new pedagogical challenges for its teachers as well as social challenges to its students who now operate in a new learning environment.

A. CRIMINAL LAW SECTION

Approximately 80% of the criminal defendants who appear in Criminal District Court are indigent. Loyola Law Clinic was regularly appointed to represent indigent clients in matters ranging from misdemeanors to felony offenses. Representation could start as early as the initial appearance, which occurs within 48 hours of arrest, prior to formal charges being accepted. In other cases, appointments would not be made until after arraignment. In all cases student practitioners represented the client in every aspect of the criminal process. They learned the importance of early intervention by
interviewing the client, and witnesses, conducting fact investigation, and filing the necessary pleadings for discovery and motion practice. Students were also trained in legal research and writing, oral argument and direct and cross examinations at both the pre-trial and trial level. In addition, student practitioners argued before the 4th Circuit Court of Appeal as well as the Louisiana Supreme Court.

B. FAMILY LAW SECTION

Students represented indigent clients in divorces, child and spousal support, and custody cases in two Parishes, Orleans and Jefferson. Additionally, we were court appointed “attorney for the child” in highly contested custody cases and in juvenile “Child In Need Of Care” (CINC) cases. The Family Law section consisted of: courtroom observations, client interviews, assignment of family law/juvenile/curator cases, fact investigation, discovery, preparation of pleadings, legal research, memoranda writing, court hearings, status conferences, settlement conferences, preparation for trial, and trial.

C. IMMIGRATION LAW SECTION

The Immigration Law Section represented non-citizens, including asylum seekers, torture survivors, arriving aliens, stowaways, long-term permanent residents, and aliens with criminal convictions, who were placed in removal proceedings while detained by the U.S. Department of Homeland Security. We also conducted “Know Your Rights” immigration law seminars to pro se litigants at detention centers in Louisiana.

D. PROSECUTION SECTION

Students are placed in the Orleans Parish and Jefferson Parish District Attorney’s Office and the Domestic Violence section. Students prosecutors are assigned to a section of court, handled a docket with their senior and junior prosecutors, and conducted trial investigation and preparation of witnesses. Additionally, the student prosecutors participates in all aspects of the trial process, including judge trials, motion hearings, jury trials, jury selection, and direct and cross examination of witnesses.

II. CONDITION OF GREATER NEW ORLEANS 20 MONTHS AFTER KATRINA

In the aftermath of Katrina, the yearly expectation of evacuating the city only to return two or three days later did not hold true. Family, friends and fellow citizens were effectively forced to abandon the city for much longer periods of time; some still remain unable to return. The infrastructure of New Orleans remains broken. In some areas of New Orleans there is still no electricity, natural gas, running water, schools, doctors, hospitals, mail service, working telephones, internet access, functioning traffic lights, or garbage pick-up.
III. LOYOLA LAW CLINIC AFTER KATRINA IN FALL SEMESTER

As the magnitude of the disaster slowly sank in, clinical faculty, both in Louisiana and Houston, began to re-assess their role in the legal community, as well as anticipate the many new and immediate legal needs of its clients. This included sorting through emergent efforts by local and national groups to sort out the needs and institute various ways to help. The massive destruction of the infrastructure made clear that our recovery would have to be by the “bootstrap” method. Hence, it became apparent that post Katrina times demanded a new level of involvement by the law clinic- one which would have to look beyond mere litigation.

Loyola retains its commitment of several decades to teaching our students through the actual practice of law in civil and criminal courts. But the factual and legal ground has shifted beneath us and we are faced with unprecedented challenges. For the clinic, the inability of the state criminal and civil courts to get fully back up and operational has forced a change in all phases of teaching and advocacy. While it is hoped that these changes will be temporary, methods of teaching over the past years have had to be modified for the new environment. The need for legal services in the metropolitan area has greatly expanded while the people who can assist with pro bono and free legal services has been dramatically reduced as many lawyers have not returned or have returned to greatly reduced practices.

Each faculty member is trying their best to find ways for our students to practice law and to contribute to the reconstruction of our broken community. Members of the Loyola Law Clinic are involved in most of the legal advocacy work to rebuild New Orleans- from a new advocacy effort for workplace justice to challenging the dismal conditions of the criminal justice system; from helping create a local Katrina advice clinic which will be mostly staffed by non-clinic students to joining in efforts to slow down mass evictions and home demolitions. At the same time, the clinic continues to handle individual legal cases of people who need lawyers to advocate in court for them.

This is difficult work that is compounded by the fact that all clinic students, staff and faculty have significant family, housing, economic, and the consequent emotional problems that go with these as well. We are all evacuees, like our clients.

A. CRIMINAL LAW PRACTICE

The climate of criminal litigation for our students has changed. In previous semesters, students would be representing their clients on the merits of the case. Now, we continue the representation of clients on the merits of the case, but we also have directed our focus to invoking and arguing the due process rights of clients to have access to their attorney and meaningful and timely access to the court. Additionally, students have been involved in the systemic litigation addressing the issues of post Katrina representation of indigent defendants. Due to a lack of funding, the Orleans Parish Indigent Defender Office had to lay off 30 of the 42 attorneys assigned to represent indigent defendants. While the Indigent Defender Office represented approximately 4,000 clients pre Katrina, they are unable to continue representation in over half that number post Katrina leaving many defendants without representation. Students are working to identify the unrepresented jailed population to bring to the court’s attention the need to address the issue of the right to counsel, the right to a speedy trial, and the
right to be released if trial cannot proceed due to the lack of evidence.

B. FAMILY LAW PRACTICE AND KATRINA ADVICE TEAM

In the aftermath of Hurricane Katrina and the flooding of The Greater New Orleans Area, the Family Law practice group is concentrating on locating our Pre-Katrina clients and representing clients in Post-Katrina relocation and custody issues.

Additionally, we have established a New Orleans Katrina Advice Clinic and Team to assist the people of New Orleans in Katrina issues. Early in the semester many clinic students from all practice groups took a school bus tour of the devastated areas of Lower 9th Ward, St. Bernard Parish, New Orleans East, and Lakeview areas to enable students to see and understand problems and frustrations of our New Orleans evacuees. We collaborated with Loyola’s University Ministries and Environmental Communications department to provide the students with a cultural, historical, political, and socio-economical look at the impact of the storm on the areas devastated by Hurricane Katrina. The law clinic set up a Katrina phone line where law students can return phone calls to people seeking advice to their Katrina problems. The students research the issues and assist the callers with advice, referrals and advocacy. Furthermore, the Katrina student coordinators created an intake form and prepared informational, referral, and self-advocacy handouts. The students visit local churches and other outreach posts in the devastated areas to assist people with their issues.

Another goal of our Katrina Advice Clinic is to involve the entire law school and train non-clinical law students to be a part of a Katrina Advice Team to enable us to continue our relief efforts for years to come. Thus, orientations are held each semester to involve non-clinical Loyola law students teaching them interviewing, listening, counseling, and research skills and instructing them on Katrina issues. Furthermore, other Loyola law faculty in conjunction with clinic faculty presented a Katrina “Know Your Rights” Day open to the community. Finally, clinical faculty members have collaborated with recovery groups state wide speaking on panels and making presentations to various organizations on a city, state, and national level. The demand for legal assistance in this area has been so great that the Law Clinic had to hire an additional attorney to work solely in the Katrina Advise Clinic.

C. IMMIGRATION LAW SECTION

The New Orleans Metropolitan area lost its long term immigration detention centers due to Hurricane Katrina and there is only one short-term jail where Department of Homeland Security “DHS” keeps non-citizens because the conditions of the jail do not meet the federal detention standards. Immediately after moving back to New Orleans, we began receiving calls from and interviewing undocumented aliens who were the victims of a raid conducted by and detained by the DHS and local police. All of our existing clients have been transferred to different detention centers and jails throughout Louisiana and as far as Alabama. The closest jail is four hours away from New Orleans; however, we are trying to visit them regularly. We also lost the opportunity to visit pro se detainees to provide “Know Your Rights” programs due to the destruction of local detention centers. We are in the process of identifying another detention center with a large immigration detainee population to continue the program. As of this semester, we began representing non-citizens who were affected by Katrina regardless of their detention status. Outside of the immigration law arena, there are many legal issues
confronting hordes of newly arrived immigrants in our community. Non-citizens are arrested by local law enforcement agencies and facing criminal charges daily. We are assisting non-citizens on immigration issues but are also tackling a host of other legal issues that non-citizens face on a daily basis.

D. PROSECUTION SECTION

In the fall and spring semesters 13 students were assigned to the District Attorney’s Offices of Orleans and Jefferson Parishes. Three students are placed in Jefferson Parish DA’s Office and 9 at the Orleans Parish DA’s Office. The Orleans Parish DA’s Office is a challenge for any attorney because the court system is barely operational. The office continues to be displaced and is currently operating out of a satellite office. Some of the many challenges faced by the office are: not having a physical location, not having financial support, a staff or a budget and most importantly, not having a court house to prosecute its cases. The Jefferson Parish DA’s office is in a better position. The courthouse and their building suffered minor damage. They were back in their building two months after Katrina. Five months after Katrina, J.P. Courts had its first jury trial. Student prosecutors in the J.P. DA’s office are in a much better environment, but they still face challenges. The challenges of both District Attorney’s offices are ongoing.

E. WORKPLACE JUSTICE PROJECT

A large percentage of the city lay nearly destroyed in the wake of hurricane Katrina. Other than emergency workers, the first “inhabitants” became, not its citizens, but hundreds of workers seeking jobs made abundant by the destruction. Many of these workers, some undocumented, others not, have become victims of unscrupulous local and out of state contractors, resulting in a multitude of legal issues ranging from violations of the Fair Labor Standards Act-Wage and Hour Law to non-payment of wages, breach of contract, unjust enrichment, and/or workman’s compensation claims. Many workers have been left cheated, homeless and/or injured by virtue of these violations. The legal community, specially those providing free legal services, were simply unprepared for the need; hardly any legal services are available to meet those needs on a no-cost basis. In light of that unmet need, the law clinic re-directed those students doing federal work, into what currently operates as the Workplace Justice Project. This Project has sought out and established collaborative alliances with local and national groups, and has sought to identify the immediate and long term needs of the old and new worker communities, and also address the legal void in enforcing the rights of those workers post Katrina. Much work needs to be done in this area.
VI. CONCLUSION

While the Greater New Orleans Area struggles to get on its feet from the devastation of Katrina, our law clinic continues to collaborate with groups throughout the city, state, and country to assist the indigent to recover their lives. We face a series of unprecedented legal and educational challenges and constantly evolving problems. The events of the coming years will challenge us to innovate and to create new paradigms for clinical education.

THE GILLIS LONG POVERTY LAW CENTER

William P. Quigley, Barbara J. Wilson

The Gillis Long Poverty Law Center continues to provide a wide range of activities for Loyola students and graduates. Programs ordinarily sponsored in the fall will continue along with programs customarily held in the spring.

The Loan Repayment Program has been restructured making it possible for awards to be tax exempt for participants employed in low paying public service positions.

The Center will continue to provide stipends for Summer Internships with public interest law firms. The Law Clinic and the Gillis Long Poverty Law Center have several joint projects including the Student Pro Bono Project, the Homeless Advocacy Project, and the Catholic Legal Immigration Network Project on Detained Immigrants.