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Systemic Ethics Reform in Katrina's Aftermath

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Their struggle . . . began as one of man against nature. It became one of man against man. For the flood brought with it also a human storm. Honor and money collided. White and black collided. Regional and national power collided. The collisions shook America.

—John Barry, *Rising Tide: The Great Mississippi Flood of 1927 and How It Changed America*

Hurricane Katrina inundated New Orleans on August 29, 2005.¹ Three weeks later, Hurricane Rita came ashore near Lake Charles. Together, these hurricanes delivered a devastating one-two punch.² But they ravaged more than the physical landscape of South Louisiana and the Gulf Coast region.³ They also unsettled the established political order.

This chapter examines how state and local ethics reform took place in Katrina's aftermath. Accordingly, it is useful to clarify at the outset what is meant by the term "ethics reform." Ethics reform does not mean that people start behaving better. Ethics

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reform means that systems are put in place to deal with people who are behaving badly. One sign of success in systemic ethics reform is when large numbers of citizens embrace and applaud that reform.

Three local ethics reforms had been legally authorized—and some legally mandated—in New Orleans' Home Rule Charter more than ten years before Katrina.⁴ None had been properly implemented when Katrina struck; five years later, however, all were comfortably under way. Why and how the storm created such an opportunity for reform is the central focus of this chapter.

Systemic change also transpired in state ethics enforcement during the post-Katrina period. Some of the changes advanced the cause of ethics reform. Some had more ambiguous or mixed effects. Still others may have set back ethics reform—not by design but because of unanticipated consequences. Disasters are change agents, but the direction of change depends ultimately on the human choices made in a disaster's aftermath.

The key to enduring ethics reform is to put well-designed systems in place, fund them adequately, and allow them to function with some degree of independence. Good system design is the first step.⁵ Every system then faces implementation challenges, such as funding and independence. Relying on a well-functioning system will produce good results more often than depending on well-motivated people—though well-functioning systems and well-motivated people produce the best results of all. Good systems enhance the efforts of good people.

The resilience of people who have been knocked down by disaster depends on more than their personal qualities of hardiness and fortitude. Resilience also depends on the presence of systems that can restore “normalcy” by resuming operations in the wake of a disaster. Post-Katrina recovery was impeded by the lack of sufficiently strong or well-designed ethical systems in the pre-Katrina period.⁶ In one of the storm's ironies, however, the city and state may be better prepared to respond to future disasters because of systemic ethics reforms that were instituted as a consequence of the Katrina experience.

New Orleans Home Rule Charter Reform

Long before Katrina, New Orleans voters endorsed municipal ethics reform by overwhelmingly supporting revisions to the city's home rule charter in November 1995.⁷ The charter changes, which took effect on January 1, 1996, mandated establishment of an Ethics Review Board; authorized the

creation of an Office of Inspector General; and explicitly required, for the first time, competitive selection of professional service contractors.⁸

Despite the mandatory charter language approved by voters in 1995, all three ambitious ethics reforms remained mostly unrealized when Katrina blew through ten years later.⁹ But Katrina's ill winds blew into being a whirlwind of civic activism and consequential political change that produced long-delayed ethics reforms before the storm's fifth anniversary.¹⁰

Three developments laid the foundation for reform. First, the failure of government at every level—city, state, and federal—to respond adequately during and after the storm prompted citizens to fill the vacuum by becoming more actively engaged in recovery and in reforming city government.¹¹ Second, disgust with government's performance translated into disgust with the performance of certain public officials, inspiring a new cadre of reform candidates to take voter dissatisfactions to the polls.¹² Third, the infusion of billions of dollars into the city's recovery raised red flags about the integrity with which those dollars would be administered, thereby laying the groundwork for increased scrutiny and systemic reforms.¹³ These three spinoff effects of Katrina came together in a perfect storm to produce long-awaited ethics reform in New Orleans city government.

Ethics Review Board and Office of Inspector General

The Bring New Orleans Back Commission recommended creation of the Ethics Review Board (ERB) and Office of Inspector General (OIG) that had been authorized but never implemented under the revised home rule charter.¹⁴ A candidate for the District A city council seat, Shelley Midura, made ethics reform the centerpiece of her campaign; when elected, she wasted no time in proposing an ordinance to deliver on that campaign promise.¹⁵ Aided by the votes of other post-Katrina reform candidates elected to the "new" New Orleans City Council, an OIG ordinance passed in November 2006.¹⁶

The ERB convened its first meeting in January 2007—more than a decade after charter revisions that became effective in 1996 had called for its creation.¹⁷ The ERB conducted a national search and selected New Orleans' first inspector general, Massachusetts native Robert Cerasoli, who relocated from his Boston-area home and began work in September.¹⁸

Civic support aided the growth and development of the OIG and ERB. Citizens for 1 Greater New Orleans hosted a forum at Loyola University in October 2007 to introduce the new inspector general to the

community.¹⁹ He worked steadily thereafter to bring the OIG message to thousands of area residents, making personal appearances before neighborhood organizations, civic groups, public bodies, and similar groups.²⁰ Newspaper editorials, op-ed articles, and letters to the editor celebrated a new era of ethics reform in city government.²¹

Public support for the OIG and ERB helped to secure further legislative and charter changes, strengthening both entities over the next year of operations. A broad coalition of civic groups and community organizations supported ordinance revisions that the city council approved in November 2007.²² Citizens for 1 Greater New Orleans went to Baton Rouge with representatives of the OIG and ERB in the spring of 2008 and successfully sought legislation authorizing subpoena enforcement power.²³ Members of the Business Council of New Orleans and the River Region contributed to an informational campaign, and on October 4, 2008, voters approved a ballot proposition expanding the powers of the local ethics entities and dedicating in the charter a reliable annual source of funding to support their operations.²⁴

Professional Service Procurement Reform

Reform of professional service procurements followed a more tortuous path. The 1994–95 Citizens' Charter Revision Advisory Commission originally recommended a single new competitive selection procedure, fixed by ordinance and broadly applicable to all of city government.²⁵ Instead, the mayor and city council opted for separate executive and legislative policies fixed by mayoral executive order and city council rule.²⁶

Both mayoral executive order and council rule proved woefully inadequate when promulgated, since both established "in-house" evaluation groups to rate and rank respondents.²⁷ In-house evaluation groups appointed by the mayor and the city council are likely to remain wholly responsive to them, effectively serving as their alter egos.²⁸ When professional service procurements remain subject to the influence of elected officials, political patronage remains the order of the day.

The change agent for procurement reform was a well-regarded U.S. Attorney's Office that brought several high-profile prosecutions for public corruption, fueling public perceptions that something was seriously wrong with how city government handled procurements. A council member at large went to prison after accepting a bribe for a parking contract.²⁹ A former director of the Department of Property Management went to prison for accepting gifts from a contractor who received hundreds of

millions in public funding.³⁰ Several political operatives who functioned outside government went to prison for their corrupt interactions with public officials; the public officials also were incarcerated.³¹

Press coverage of patronage practices in Mayor C. Ray Nagin's administration fostered public outrage over wasteful and corrupt use of public funds during a period of recovery and distress, when acute needs of neighborhood residents were going unmet while private contractors were living large at the public trough.³² Voter distaste for patronage played an important role during the 2010 mayor-council elections, when many candidates pledged their support for procurement reform. Shortly after taking office in May 2010, Mayor Mitch Landrieu garnered widespread public praise when he signed four executive orders that instituted new procurement policies and signaled a new attitude of cooperation with the inspector general.³³

State Ethics Reform

Katrina and Rita also had an impact on state politics, demonstrated most vividly by incumbent Governor Kathleen Blanco's decision not to seek reelection in 2007.³⁴ In the 2003 election, Louisiana voters gave Blanco a narrow electoral victory over her run-off opponent, Bobby Jindal, then lived to regret their decision during hurricanes Katrina and Rita and their aftermath when response and recovery efforts proved unimpressive among Louisiana voters.³⁵ Her signature recovery initiative, the Governor Kathleen Babineaux Blanco Road Home Program, extinguished whatever reelection hopes she may have entertained when it proved too expensive and too poorly administered to pave the "road home" for tens of thousands of displaced residents.³⁶ Feeling the effects of buyer's remorse, many former Blanco voters gravitated toward the candidate that they felt might have responded more successfully to the hurricanes' assaults, awarding Bobby Jindal an impressive first primary victory over all other candidates in the 2007 gubernatorial election.³⁷

Governor Jindal made ethics reform the focus of a February 2008 special session, which convened within a month after his inauguration.³⁸ He secured most of his ethics reform agenda.³⁹ One major reform in the special session—a rigorous system of financial disclosure among different tiers of public officials—was made even more vigorous just months later in the regular session by extending disclosure requirements to include spouses of certain public officials.⁴⁰ The February 2008 special session

produced ethics reforms that garnered extravagant national praise.⁴¹ Over time, however, other voices from within the state proved less complimentary. Even the new ethics board chair criticized some of the changes and lobbied for their modification or repeal.⁴²

Burden of Proof

The burden of proof under Louisiana's pre-Jindal ethics code called only for "substantial evidence" to support a finding of an ethics violation.⁴³ Governor Jindal's 2008 reform established "clear and convincing" proof as the evidentiary standard,⁴⁴ a demanding burden of proof that made it more difficult to enforce Louisiana's ethics code and that might have been questionably characterized as an "ethics reform." Conventional ethics reform usually demands more rigorous compliance with ethics code provisions—not a more rigorous burden of proof from ethics code enforcers.⁴⁵

But the countervailing argument is a compelling one—that quasi-criminal punitive provisions ought not to be inflicted on the basis of a "substantial evidence" standard more often used in civil proceedings. Supporters of the Jindal ethics reform would maintain with some justification that the proper administrative burden of proof should indeed be clear and convincing evidence of a violation before violators are penalized with fines and threatened with suspension or termination of their contracts or employment.⁴⁶

Disqualification of Board and Commission Members

Similar ambiguities accompanied a second major ethics reform, which governed the participation of appointed board and commission members in transactions involving a government entity. Throughout the four decades following its enactment, the ethics code applied a uniquely draconian provision to appointed board and commission members, requiring that they either divest themselves of any economic interest giving rise to a conflict of interest or resign their appointment to a government board or commission.⁴⁷ All other public servants—elected officials and public employees—could disclose a conflict and recuse themselves from participating in a transaction, but appointed board and commission members could not exercise the disclosure-and-recusal option.

A good example of how severely that provision worked in practice can be drawn from the experience of William Turner, who served as dean of the Tulane School of Architecture during the 1970s. His professional expertise was an obvious asset during his tenure as a member of the New

Orleans City Planning Commission (CPC), but his service ended when Tulane University applied for a zoning change that required CPC review and approval. Dean Turner could not recuse himself from participating in the transaction involving Tulane. His only choices were to resign his faculty position at Tulane or to resign from the commission. Not surprisingly, he chose the latter course of action, and the commission lost a valuable source of expertise.

Governor Jindal's 2008 ethics reform created a recusal option for appointed board and commission members for the first time.⁴⁸ Much can be said in favor of this reform, perhaps best illustrated by a hypothetical example. The chair of the New Orleans Ethics Review Board during its first three-and-a-half years of operation was Father Kevin Wildes, the president of Loyola University and a Jesuit priest whose training and specialization was in the field of ethics.⁴⁹ Father Wildes devoted many hours and performed very capably in his role as ERB chair. Under Louisiana's prior ethics regime, however, he might at any moment have been placed in an irreconcilable conflict of interest and forced to resign from the ERB simply by filing an ethics complaint against any member of the Loyola University community. Shrewd counsel could use a "strategic" ethics complaint to target certain ERB members for removal, preventing them from casting a vote against the lawyer's client in an unrelated ethics proceeding. The 2008 recusal option eliminated this opportunity for such a sordid abuse of ethics laws. Viewed in that context, the recusal option made very good sense.

Defenders of Louisiana's prior ethics regime also had valid arguments, however. They contended that appointed board and commission members should be subject to unique prohibitions because they occupy a unique position with regard to accountability. Other public servants are accountable to someone—elected officials to the voters, public employees to their supervisors. Once appointed, however, board and commission members are largely unaccountable to anyone, since they generally serve for a term of years and can be removed only for cause. That lack of accountability renders the situation ripe for "logrolling," or quid pro quo agreements: "I'll recuse myself this time with the understanding that you'll vote in my best interests, and the next time you have to recuse yourself, I'll be happy to reciprocate."

Here again, the merits of this particular ethics reform can be argued either way, depending on which policy position holds more beauty in the eye of the beholder.

Administrative Law Judges

A third ethics reform—very vigorously questioned by members of the State Board of Ethics—removed decisionmaking authority from the board and transferred it to a panel of three administrative law judges (ALJs).⁵⁰ The ethics board may have brought this particular reform upon itself by allowing its dual “prosecutorial” and “adjudicatory” roles to compromise the right of an accused individual to be heard and judged by an impartial decisionmaker.⁵¹ Since the ethics board and its staff received and investigated complaints, evaluated them, and made a preliminary finding of ethical misconduct before bringing the matter to a public hearing, they could not credibly lay claim to the mantle of “impartiality” or dodge the charge of “prejudgment.” The Louisiana Supreme Court held in 1989 that this confusion of roles violated the fundamentals of due process and ordered a change.⁵² The ethics board’s response—designating some staff attorneys to investigate and prosecute ethics complaints while some other staff attorney counseled the board in its decisionmaking role—did not go far enough to create a “two-tier” separation of prosecutorial and adjudicatory functions. In 2008, the legislature did it for them.⁵³

Louisiana already had a Division of Administrative Law populated by ALJs who heard and decided diverse agency proceedings involving welfare, employment, and similar matters.⁵⁴ The new Jindal ethics reform assigned the responsibility for hearing and deciding ethics complaints to a panel of three ALJs, removing that authority from the board of ethics and leaving the board with only the responsibility to investigate and prosecute complaints.⁵⁵ One feature of the new law was especially obnoxious to members of the ethics board; they were required to adopt the findings of the ALJs as their own and were prohibited from appealing an unsatisfactory outcome to the courts.⁵⁶ (In contrast, the target of an ethics proceeding could seek judicial review of an unfavorable decision by the ALJs.⁵⁷) The ethics board chair prepared a substantial fifteen-page white paper detailing his dissatisfactions with the 2008 ethics reforms and urging the legislature to reconsider the decisions that it had reached in the special session two years earlier.⁵⁸

Governor Jindal had garnered exceptional praise for his 2008 ethics reforms, and he was not of a mind to question the wisdom of those earlier decisions or to put his “ethics reform” legacy at risk by having the legislature reconsider those reforms. The legislature responded in a very limited fashion to the ethics board chair; the ethics board is no longer

statutorily instructed to adopt the ALJs' decisions.⁵⁹ It is too soon to say how this further revision of the governor's initial reform will work in practice, but it is surely a less aggressive revision than the ethics board would have liked.

Consigning decisionmaking responsibility to a group of ALJs rather than to the ethics board was unquestionably a major systemic change, but its impacts arguably undermined two important values—diverse citizen representation, and the accumulation of agency expertise in administering ethics laws. An eleven-member ethics board composed of residents from all across the state exerts a stronger claim to “democratic legitimacy” than does a three-member panel of Baton Rouge-area ALJs whose composition changes from case to case. That constantly changing cast of characters—combined with their extensive caseload of non-ethics matters—also undermines the concept of accruing agency expertise, making courts less likely to give deference to administrative decisions rendered by a panel of ALJs.

A better approach to ethics reform might have left decisionmaking authority with the ethics board and created a separate system of investigation and prosecution in an office and staff operating independently of the board. That type of two-tier model is employed by the Louisiana State Bar Association in its attorney disciplinary proceedings.⁶⁰

Overview of State Ethics Reforms

The new state ethics laws stand as powerful testimony to the disaster-based theory of “systemic change” at the heart of this chapter. Each change was sweeping and substantial, and some would simply have been unthinkable before Katrina. But this theory of change implies nothing about the content or direction of change, nor does it predict that systemic change will necessarily produce reform.

How are we to evaluate Governor Jindal's ethics changes in terms of principle—in terms of right or wrong? We might fairly conclude that neither supporters nor opponents can claim ownership of “right” or “wrong,” nor does “truth” lie somewhere in between. Each of these three ethics “reforms” can be fairly debated from both sides, and the resolution of that debate depends utterly on policy choices that might be legitimately defended either way.

In evaluating these policy choices, we should be guided by measurable outcomes: In the years since their enactment, how have they worked in practice? The answer is—not that well. Imposing a rigorous new system

of financial disclosure drove ethics board members and senior staff to resign en masse during the summer of 2008, which in turn led to an unhappily long season of inactivity while new staff was hired and an entirely new board seated.⁶¹ Transferring ethics decisions to constantly changing panels of ALJs undermined the concepts of agency expertise and democratic legitimacy by removing authority from a diverse eleven-member board.

The 2008 ethics changes shortened the prescriptive period from two years to one but did not address retroactivity, leaving it unclear whether matters that had been referred to investigation before the law changed required action by the ethics board within one year or two. Numerous other procedural questions—involving motions for summary judgment, discovery, and confidentiality issues—might all have been more thoroughly thought through than proved possible in a week-and-a-half-long special session held in February 2008, less than a month after the new administration took office. As a consequence, ethics administrators were still embroiled in time-consuming court proceedings to resolve procedural questions three years later.⁶²

Substantive and implementation challenges continue to trouble the administration of ethics programs in Louisiana, as new members of the ethics board call for legislative changes that would reverse—and in their view, “reform”—some of the systemic changes pushed through by Governor Jindal.

By January 2010, civic and editorial commentary had begun to reflect a consensus about the efficacy of ethics reforms at the state level. The Public Affairs Research Council of Louisiana (PAR) characterized the reforms as a “mixed bag” and noted that “weakened enforcement” and “procedural pitfalls” placed “inordinate power in the hands of the governor.”⁶³ A *Times-Picayune* columnist scoffed at Governor Jindal’s 2008 ethics package, “when he emasculated the ethics code and called it the ‘gold standard.’”⁶⁴ Katrina and Rita provoked systemic change at the state level, just as they did in New Orleans, but Governor Jindal steered the course of change in state legislation toward a somewhat more dubious destination.

Conclusion

Ten years after New Orleans’ 1994–95 home rule charter revision process, the city still had no ethics review board, no office of inspector

general, and no reform in procurement of professional services. Ten years of no progress—and no progress in sight—provides us with a good test case: We must credit Katrina as the catalyst that led to implementation of the ERB, OIG, and professional service procurement reform in post-Katrina New Orleans.

Disasters like Katrina inflict terrible trauma, and their physical devastation is often accompanied by comparable political upheavals within government. Post-Katrina political upheavals created an opportunity for systemic change, but systemic change itself is no guarantee of reform. Systemic change can have either positive or negative effects, and even well-designed changes can be well or poorly implemented. Governor Jindal's ethics changes provided many good examples of each type.

This chapter attributes post-Katrina ethics reform to the synergy arising out of high-profile prosecutions, press coverage, civic activism, and the political upheaval caused by an environmental catastrophe. The most important component of the cycle may well have been the political upheaval provoked by Katrina—a powerful reminder that “disasters are not only socially and physically disruptive; they are also political events.”⁶⁵

Because disasters introduce uncertainty into the established order, they create opportunities for change—change that is political as well as physical. How well or poorly we use these post-disaster opportunities remains very much a human enterprise and a test of the damaged community's resilience. To New Orleans' credit, post-Katrina ethics reforms generally strengthened the systems that safeguard public integrity, leaving a legacy of positive change in the wake of a devastating disaster.

Notes

1. Katrina delivered the wind and the rain to New Orleans' doorstep, but the flooding that inundated the city was a product of human error in the design and implementation of its flood protection systems, not an inevitable consequence of the hurricane:

Katrina was an extraordinary act of nature, but what it precipitated was the most extraordinary manmade—not “natural”—disaster in the history of New Orleans. Long before Katrina ever made landfall, design failures by the Corps of Engineers, Congressional funding failures, and the fragmentation of responsibility among parochial levee protection bodies laid the awful groundwork (literally) for catastrophic levee failures and consequential losses in life and property.

David A. Marcello, “Housing Redevelopment Strategies in the Wake of Katrina and Anti-*Kelo* Constitutional Amendments: Mapping a Path through the Landscape of

- Disaster," 53 *Loyola Law Review* 53 (2007), pp. 763, 827–28; omitted are footnotes 334–37, citing a report commissioned by the Corps of Engineers: American Society of Civil Engineers Hurricane Katrina External Review Panel, *The New Orleans Hurricane Protection System: What Went Wrong and Why* (2007) (www.asce.org/uploadedFiles/Publications/ASCE_News/2009/04_April/ERPreport.pdf). See also the definitive website for information about local levees: www.levees.org.
2. See, for example, Donald W. Davis, "The Aftermath of Hurricanes Katrina and Rita on South Louisiana" (www.epa.gov/OEM/docs/oil/fss/fss06/davis.pdf).
3. Douglas Brinkley, *The Great Deluge: Hurricane Katrina, New Orleans, and the Mississippi Gulf Coast* (New York: HarperCollins, 2006).
4. The Home Rule Charter of the City of New Orleans is the city's fundamental governing law—the equivalent of its "constitution." Under article VI, sections 4 and 6 of Louisiana's 1974 constitution, home rule jurisdictions (particularly pre-1974 home rule jurisdictions such as New Orleans) are protected from state laws that would alter the structure, powers, or functions of local government.
5. See, for example, William Lidwell, Kritina Holden, and Jill Butler, *Universal Principles of Design, Revised and Updated: 125 Ways to Enhance Usability, Influence Perception, Increase Appeal, Make Better Design Decisions, and Teach through Design* (Rockport Publishing, 2010).
6. For example, administration of the Road Home Program suffered significantly from multiple levels of anti-fraud protection built into the system (reportedly twenty levels; in comparison, Mississippi had four). Louisiana had such a bad reputation in ethics matters that public officials felt the need to protect themselves from the adverse consequences of fraud and abuse. If public confidence in state and local ethics systems improves in the future, that may alleviate the perceived need for extraordinary ethics protections and diminish administrative complexities such as those that burdened the road home program.
7. See "Orleans," *Times-Picayune*, November 19, 1995 (1995 WLNR 102490), which reported that 83,754 (68 percent) voted for charter reforms while 39,005 (32 percent) voted against. (WLNR references are to the Westlaw legal database, available by subscription at www.lawschool.westlaw.com.)
8. See sections 9-401, 9-402, and 6-308(5)(a) of the Home Rule Charter of the City of New Orleans.
9. Frank Donze, "Inspector General Plan May Get Vote; N.O. City Council to Discuss Today," *Times-Picayune*, September 20, 2006 (2006 WLNR 16316178): "A Wednesday story incorrectly reported that the New Orleans City Council failed to create an Ethics Review Board, appoint board members and enact an ethics code for city workers and contractors as mandated by a 1995 City Charter change approved by voters. The council took those steps in 1996 and 1997. The Ethics Review Board, however, never met and the staggered terms of all its members expired by 2003."
10. See, for example, "Women of the Storm" (www.womenofthestorm.net/) and "Citizens for 1 Greater New Orleans" (www.citizensfor1greaterneworleans.com/site/PageServer?pagename=home_2010).
11. See, for example, "Report: Katrina Response a Failure of Leadership," CNN, February 24, 2006 (www.cnn.com/2006/POLITICS/02/13/katrina.congress/index.html); Jed Horne, *Breach of Faith: Hurricane Katrina and the Near Death of a Great American City* (New York: Random House, 2006); "Conclusions and Findings" (www.nola.com/katrina/pdf/hs_katrinarpt_conclusions.pdf?600).

12. See, for example, Bruce Egger, "Incumbents Lose Seats in 3 Districts," *Times-Picayune*, May 21, 2006 (2006 WLNR 8734158); Frank Donze, Gordon Russell, and Kate Moran, "Public Sours on Elected Officials," *Times-Picayune*, May 5, 2007 (2007 WLNR 8544219): "Renwick, who did the survey of 400 registered voters between March 30 and April 5 for WWL-TV, said that while he expected to see low [approval] numbers, he was taken aback by how low they were. 'This is clearly a product of frustration with the slow pace of recovery,' Renwick said. 'People are looking for someone to blame, and as long as these problems persist, incumbents will not be highly rated.'"
13. Public Affairs Research Council of Louisiana, "PAR Urges More Oversight for Aid Spending," June 8, 2006 (www.la-par.org/article.cfm?id=175&cateaid=2).
14. Bring New Orleans Back Commission, "Governmental Effectiveness Final Report," January 19, 2006 (www.bringneworleansback.org/Resources/GovernmentEffectiveness.pdf).
15. Bruce Egger, "Ethics Board, Inspector General Deferred; Council Sets aside Midura Proposal," *Times-Picayune*, June 23, 2006 (2006 WLNR 10891375): "Fulfilling a campaign promise, recently elected City Councilwoman Shelly Midura tried at Thursday's council meeting to start the process of adding two features to city government that were authorized by a sweeping 1995 revision of the City Charter but never implemented: an Ethics Review Board and an Office of Inspector General."
16. Bruce Egger, "Inspector General Plan Passed," *Times-Picayune*, November 3, 2006 (2006 WLNR 19107563).
17. See Bruce Egger, "Council Ratifies Ethics Appointees; Board, Inspector General Are to Ferret Out Corruption, Waste," *Times-Picayune*, January 11, 2007 (2007 WLNR 605144).
18. Bruce Egger, "City Names Official to Probe Fraud; He Founded Group of Inspectors General," *Times-Picayune*, June 13, 2007 (2007 WLNR 029800).
19. See "Ethics Reform History" (www.citizensfor1greaterneworleans.com/site/PageServer?pagename=Ethics_reform_story).
20. Frank Donze and Gordon Russell, "Turf Check, N. O.'s Inspector General Is Taking the Time to Know His New City," *Times-Picayune*, March 1, 2008 (2008 WLNR 4101095).
21. See, for example, Michael Cowan, "A New Day for New Orleans," *Times-Picayune*, December 23, 2008 (2008 WLNR 24579331): "On Dec. 17, Inspector General Robert Cerasoli submitted his first public report to the mayor and the public, a document inauspiciously entitled 'Interim Report on the Management of the Administrative Vehicle Fleet.' It's not the Magna Carta or the Gettysburg Address, yet I believe it signals the beginning of the end of the waste, corruption and insider dealing that have crippled New Orleans under white and black administrations alike, destroying economic opportunity and feeding social mistrust"; Laine Lazar, "IG Brings Hope to City," *Times-Picayune*, November 30, 2007 (2007 WLNR 2367970); David Marcello, "Finally, City Tackles Real Ethics Reform," *Times-Picayune*, January 7, 2008 (2008 WLNR 332397).
22. New Orleans Ordinance M.C.S. No. 22,888 (November 1, 2007); Bruce Egger, "Council Grants Inspector General His Own Attorney; He Won't Have to Rely on City Attorney," *Times-Picayune*, November 2, 2007 (2007 WLNR 21656479).
23. "Briefing Book, News and Views from the Capital," *Times-Picayune*, February 14, 2008 (2008 WLNR 2838792); La. R. S. §33:9611 (2008) (Act. No. 18, H.B. 80, First Extraordinary Sess. [La. 2008]); Bill Barrow, "Inspector General Gains Clout;

Secrecy Measure Defeated in Senate," *Times-Picayune*, February 26, 2008 (2008 WLNR 3802286).

24. Brian Friedman, "Officials Supporting Inspector General Ordinance; Charter Change Established Office," *Times-Picayune*, September 21, 2008 (2008 WLNR 17940755); New Orleans Ordinance Calendar No. M-08-573 (October 2008).

25. See James C. Brandt, letter to the editor, "Two Significant Changes Proposed for Charter," *Times-Picayune*, January 30, 1995 (1995 WLNR 982405); Home Rule Charter of the City of New Orleans, "Mayor's Charter Revision Advisory Committee: Committee Recommendations" (December 15, 1994) (on file with author or see New Orleans Public Library, Public Archives).

26. Section 6-308(5) of the Home Rule Charter of the City of New Orleans; Home Rule Charter of the City of New Orleans, "Mayor's Recommendations: Amendments to the Charter" (March 16, 1995) (on file with author or see New Orleans Public Library, Public Archives).

27. New Orleans City Council Rule 45; Executive Order MHM 96-020 (September 5, 1996).

28. Council Rule 45, section 7, established an in-house Selection Review Committee that consisted of "the Council Chief of Staff, the Council Research Officer and either the Council Fiscal Officer or the Director of Council Utilities, depending on the type of professional service to be performed." Executive Order MHM 96-020, section 8 (September 5, 1996), established in-house evaluation groups drawn from members of the unclassified service, who held employment at the pleasure of the mayor. The chief administrative officer or an executive assistant could also appoint "other persons with specialized knowledge or expertise" from the community at large or the university community, but those "outsiders" would be chosen by mayoral representatives—if chosen at all: "Nothing herein shall be construed to require these additional raters." The system preserved mayor and council control over patronage practices.

29. Frank Donze, "Thomas Expected to Plead Guilty; New Orleans Councilman Oliver Thomas Could Resign Monday," *Times-Picayune*, August 12, 2007 (2007 WLNR 15584730); "The Case against Thomas," *Times-Picayune*, August 14, 2007 (2007 WLNR 15726311).

30. Gordon Russell and Frank Donze, "Letter Reveals Private Deals; Feds Contend Document Will Show Broader Pattern of Corruption," *Times-Picayune*, January 9, 2007 (2007 WLNR 397456); Gwen Filosa, "Barre, DeCay Must Forfeit Pensions; Judge Orders Pair to Pay \$1 Million," *Times-Picayune*, January 8, 2009 (2009 WLNR 350241).

31. See, for example, Stephanie Grace, "Two Sides of Stan Barre?" *Times-Picayune*, November 6, 2007 (2007 WLNR 21906569); Laura Maggi, "Guilty on 4 Counts: In a Split Verdict, Mose Jefferson Is Convicted of Bribery and Obstruction of Justice," *Times-Picayune*, August 22, 2009 (2009 WLNR 16383246).

32. See, for example, Gordon Russell, "Probe Looks at N.O. Pastor, Sources Say, Feds Suspect He Received Kickback as S&WB Member," *Times-Picayune*, November 15, 2009 (2009 WLNR 25679753); James Gill, "Trash Contract Gets Smellier All the Time," *Times-Picayune*, October 26, 2006 (2006 WLNR 18505618); "If the Ray Nagin Administration Is, As Advertised, On the Up and Up, How Come Contracts Get Awarded on the Down Low?"; David Marcello, "Contracts Should Be Done in the Open," *Times-Picayune*, May 15, 2011 (2011 WLNR 9698159).

33. Executive Order MJL 10-02 (June 3, 2010); Executive Order MJL 10-03 (June 3, 2010); Executive Order MJL 10-04 (June 3, 2010); Executive Order MJL 10-05 (June 3, 2010).

34. Ed Anderson and Robert Travis Scott, "Blanco Bows Out of Race; Slow Recovery Takes Toll on Governor. Blanco: Politics a Distraction from Duties," *Times-Picayune*, March 21, 2007 (2007 WLNR 5357909).

35. "Dive in Blanco's Popularity Reflected in Post Storm Poll, Vitter Rises, Landrieu and Bush Stand Pat," *Times-Picayune*, November 30, 2005 (2005 WLNR 19279766): "Louisiana voters have taken a dim view of Gov. Kathleen Blanco's performance since Hurricane Katrina hit the state, with fewer than one out of five voters saying they would definitely vote to re-elect her to office, according to polls conducted before and after the storm by Southern Media & Opinion Research." See also "Briefing Book, News and Views from Louisiana," *Times-Picayune*, October 21, 2007 (2007 WLNR 17554884): "Hurricanes Katrina and Rita have done more than wreck lives and property in Louisiana. They also appear to have put a major dent in Gov. Kathleen Blanco's public approval rating."

36. Robert Travis Scott, "Road Home Snag Broke Blanco," *Times-Picayune*, March 22, 2007 (2007 WLNR 5422429).

37. See, for example, Jan Moller, "Jindal Wins," *Times-Picayune*, October 21, 2007 (2007 WLNR 20668636); Chris Cillizza, "Louisiana: Is Jindal's Win a Sign of GOP Turnaround Nationally?" *Washington Post*, October 21, 2007: "Jindal ran on a reform platform and against the entrenched Democratic political establishment, a message that resounded in a state full of angry survivors of the 2005 storms."

38. Bill Barrow and Jan Moller, "Jindal's Special Session Agenda Is Heavy on Ethics; Financial Disclosure Sought for All Offices," *Times-Picayune*, February 2, 2008 (2008 WLNR 1997425).

39. Jan Moller and Bill Barrow, "Ethics Session Ends with Solid Results," *Times-Picayune*, February 26, 2008 (2008 WLNR 3802007).

40. Act No. 1, H.B. 1, 1st Extraordinary Sess. (La. 2008); Act No. 162, H.B. 842, Regular Sess. (La. 2008).

41. Ed Anderson and Robert Travis Scott, "Ethics Law Changes to Take Effect One by One; Effects Will Extend to Officials Statewide," *Times-Picayune*, February 27, 2008 (2008 WLNR 3824995).

42. Robert Travis Scott, "Chief Wants Ethics Board to Hear Cases, Jindal Proposal to Shift Duties Draws Criticism," *Times-Picayune*, February 12, 2008 (2008 WLNR 2676170).

43. Acts 1979, No. 443, § 1, eff. April 1, 1980, amended by Acts 1980, No. 579, § 1; Acts 1980, No. 580, § 1: La. R.S. 42:1141(D): "(11) If the investigation of an ethics body fails to disclose any substantial evidence to support the charges, the ethics body shall make an official determination of its findings and thereupon close its file on the charges."

44. Act No. 23, H.B. 41, 1st Extraordinary Sess. (La. 2008); La. R.S. 42:1141(C) (4)(e): "If the public hearing of the ethics adjudicatory panel fails to disclose clear and convincing evidence to support the charges, the ethics adjudicatory panel shall make an official determination of its findings, and thereupon the Board of Ethics shall close its file on the charges."

45. Jan Moller, "After a Year of Hurricanes and Public Firestorms, Gov. Bobby Jindal Faces Tougher Challenges," *Times-Picayune*, January 11, 2009 (2009 WLNR

544746): "Although the ethics law changes won Louisiana flattering national publicity and helped clean up the state's long-running reputation for moral laxity, they also could make it harder to prosecute public officials by raising the legal standard for winning a conviction. The new system requires 'clear and convincing' proof to establish an ethics violation, whereas the previous law called for only 'substantial' evidence of a violation." Robert Travis Scott, "Watchdog Seeks Reversal of Change in Ethics Laws; Standard of Proof for Violation at Issue," *Times-Picayune*, November 3, 2009 (2009 WLNR 21902700).

46. See, for example, Robert Travis Scott, "Ethics Changes Called into Question; Some Say Burden of Proof Is Too High," *Times-Picayune*, April 27, 2008 (2008 WLNR 7808277).

47. See Bill Barrow, "Board Member Recusal Bill Signed, Board Sidesteps Conflicts of Interest," *Times-Picayune*, July 8, 2008 (2008 WLNR 12763726).

48. Act No. 685, Regular Sess. (La. 2008): La. R.S. 42:1120.4.

49. Wikipedia, "Kevin Wildes" (http://en.wikipedia.org/wiki/Kevin_Wildes); <http://president.loyno.edu/about-president>.

50. See, for example, Jan Moller, "Panel OKs Revamp of Ethics Board, Measure May Hit House Floor Friday," *Times-Picayune*, February 13, 2008 (2008 WLNR 2758154).

51. See, for example, Robert Travis Scott, "Watchdogs Oppose Ethics Proposal; Bill Alters Who Hears Enforcement Cases," *Times-Picayune*, February 19, 2008 (2008 WLNR 3199640); Robert Travis Scott, "House, Senate Reach Deal on Judging Ethics Cases; Under Bill, Board Loses Judicial Power," *Times-Picayune*, February 26, 2008 (2008 WLNR 3726097): "House Bill 41 by House Speaker Jim Tucker, R-Algiers, would remove the State Board of Ethics as the judge in cases of alleged violations and give that power to a panel of administrative law judges. . . . The ethics board would retain its role as investigator and prosecutor of ethics cases. . . . 'It's curious as to why this wasn't done years ago,' said Sen. Rob Marionneaux."

52. *Ga. Gulf Corp. v. Bd. of Ethics for Public Employees*, 543 So.2d 173, 176-180 (La. 1997), citing *Allen v. La. Bd. of Dentistry*, 543 So.2d 908 (La. 1989).

53. Act No. 23, First Extraordinary Sess. (La. 2008).

54. La. R.S. 49:992.

55. Act No. 23, 1st Extraordinary Sess. (La. 2008), amending Section 42:1141(C).

56. Act No. 23, 1st Extraordinary Sess. (La. 2008) added to Section 1141(C) a new subparagraph (5): "If the ethics adjudicatory panel determines that a violation has occurred and prescribes authorized penalties or other sanctions, the Board of Ethics shall, within forty-five days of the issuance of the determination by the ethics adjudicatory panel, issue a decision adopting the determination of the ethics adjudicatory panel."

57. La. R.S. 42:1142(A): "Whenever action is taken against any public servant or person by the board or panel or by an agency head by order of the board or panel, or whenever any public servant or person is aggrieved by any action taken by the board or panel, he may appeal therefrom to the Court of Appeal, First Circuit."

58. State of Louisiana Board of Ethics, "White Paper on the Effects of Act 23 on Louisiana's Ethics Program" (adopted August 26, 2009) (www.ethics.state.la.us/pub/laws/WhitePaperAct23_08252009.pdf).

59. Act No. 1002, S.B. 310, Regular Sess. (La. 2010), amending Section 1141(C)(5).

60. See Louisiana Attorney Disciplinary Board, "An Emphasis on Ethics and Professionalism" (www.ladb.org/about_the_board.asp).

61. It took four months to fill vacant board and staff positions, and the “backlog of cases wasn’t cleared until April 2008.” Penny Font, “Fool’s Gold: Gov. Bobby Jindal Might Have Declared Sweeping Ethics Eeform to ‘Set the Gold Standard,’ but Board Members Say Significant Problems Remain,” *Baton Rouge Business Report* at 28, November 30, 2010.

62. See, for example, Marsha Shuler, “Judge Says His Ruling Could Hamstring Ethics Law Enforcement,” *The Advocate*, November 8, 2010, quoting Judge William Morvant, who “begrudgingly” held that enforcement of campaign finance laws was transferred from the ethics board to ALJ panels with the 2008 ethics changes: “It’s going to hamstring the ability of the Ethics Board. . . . If the goal was to streamline this and make its function easier, it sorely missed its point” (www.theadvocate.com/blogs/politicsblog/106907774.html).

63. Public Affairs Research Council of Louisiana, “The Unfinished Business of Ethics Reform” (January 2010) (www.la-par.org/Publications/PDF/EthicsReform_01272010.pdf).

64. James Gill, “Ethics in the Legislature? That’s a Laugh,” *Times-Picayune*, February 7, 2010 (2010 WLNR 2581877). See also other editorial commentary in January-February listings under “PAR in the News: 2010” (www.la-par.org/parnews.cfm).

65. Gregory Button, *Disaster Culture: Knowledge and Uncertainty in the Wake of Human and Environmental Catastrophe* 16 (Walnut Creek: Left Coast Press, 2010).