

July 2018

*Dying in
East Baton
Rouge Parish
Prison*

the PROMISE
of JUSTICE
INITIATIVE

Shanita
Farris & Andrea
Armstrong



In Memoriam

The following list includes the names, ages, and dates of birth and death of the 25 men who died while detained at East Baton Rouge Parish Prison. May their stories prevent the deaths of other men and women detained in jails and prisons across the country:

| | | |
|-------------------|----|------------------------|
| Tilton Moore | 29 | 11/5/1982 – 1/15/2012 |
| Raymond Brumfield | 57 | 12/24/1954 – 2/10/2012 |
| Kevin Irvin | 41 | 3/24/1971 – 4/10/2012 |
| James Sanchez | 60 | 10/6/1951 – 8/17/2012 |
| Jesus Leyva | 40 | 3/27/1972 – 10/7/2012 |
| Daniel Melton | 40 | 2/29/1972 – 11/3/2012 |
| Cedric Matamoros | 33 | 9/10/1979 – 12/8/2012 |
| Gilbert Franklin | 58 | 6/1/1954 – 12/28/2012 |
| Sedrick Evans | 32 | 1/20/1980 – 1/16/2013 |
| Don McDaniel | 64 | 5/9/1948 – 1/7/2013 |
| David O'Quin | 24 | 11/26/1988 – 2/26/2013 |
| James Aguilard | 73 | 7/17/1941 – 11/14/2014 |
| Paul Cleveland | 72 | 7/20/1942 – 11/12/2014 |
| Jeremy Hilliard | 23 | 4/5/1991 – 4/10/2014 |
| Antwain Harden | 28 | 1/27/1986 – 7/27/2014 |
| Randall Toler | 21 | 11/24/1993 – 4/20/2015 |
| Elbert Hale | 45 | 11/11/1969 – 5/7/2015 |
| Lamar Johnson | 27 | 10/18/1987 – 6/10/2015 |
| Michael O'Neill | 46 | 4/30/1970 – 8/20/2016 |
| Tyrin Colbert | 17 | 3/16/1998 – 2/18/2016 |
| Samuel Sanchez | 64 | 8/5/1952 – 8/26/2016 |
| Kevin Dufrene | 57 | 3/12/1959 – 6/22/2016 |
| Brian Ducre | 44 | 12/9/1971 – 5/15/2016 |
| Tyree Hammond | 47 | 5/13/1969 – 9/19/2016 |
| Timothy Nations | 45 | 10/7/1970 – 9/19/2016 |

Antwoin Harden, 28 years old:

What was something that made Antwoin happy?

Antwoin was happy when he was with his family. Especially when he was spending time with his younger brother.



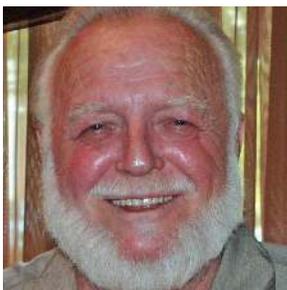
What was something he was really talented at?

Antwoin was really talented at fixing and detailing cars.

What was something that was really important to Antwoin?

His mom, meme and papa (grandmother and grandfather), and children. His sister had five children, and he always made sure they were taken care of and he mentored them. Family was most important to him.

Paul Cleveland, 72 years old:



What was something that made Paul happy?

Something that made Paul happy was spending time with family. He loved to cook and to try new recipes. He always loved feeding the family.

What was something Paul was really talented at?

Something that Paul was talented at was mechanic work. He could listen to an engine and diagnose its problem just from listening.

What was something that was really important to Paul?

Something that was really important to Paul was helping those that could not help themselves. He took in people and helped them get back on their feet no matter their circumstances.



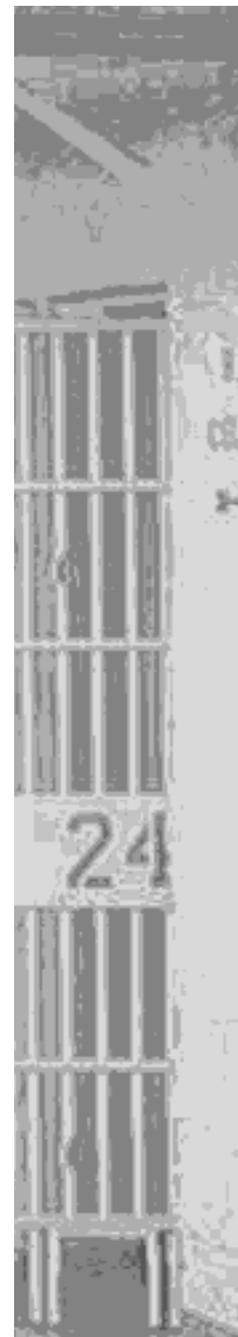
David O'Quin, 24 years old:

What was something that made David happy?

Working on his art, being with his 4-year-old niece, celebrating the Fourth of July on the beach with family, and walking his dog Bogie.

What was something David was really talented at?

David received a BS degree in Art and Spanish from the Universi-



ty of Texas and a Masters in Fine Art from UCLA.

What was something that was really important to David?

At the end, it was his dog Bogie.

Lamar Johnson, 27 years old:



What was something that made Lamar happy?

He loved being with family; I would see him just soaking it all in at family reunions, gatherings, parties or just quiet family time watching movies etc. He loved to see people enjoying themselves, laughing, getting along and seeing the children playing. He just lit up in those types of situations.

What was Lamar really talented at?

He was an amazing athlete. Football was his love, but he could play basketball as well. He was all-star material. He also wrote very well written raps, which is poetry, and he danced. He also had the ability to train and motivate others. When he was 10 years old, he motivated his friend to become healthier. He also trained a dear friend's child in football, who later played at the collegiate level.

What was really important to Lamar?

It was important to Lamar that he provided his children with a safe, loving happy place. Loving people and seeing good in this world was also important to him.

Tyrin Colbert, 17 years old:

What was something that made Tyrin happy?

He was happy being around his mother and father. It used to make his day when his dad would take him to work or take him fishing. Even if he didn't catch anything, just taking the ferry to Plaquemines Parish and being with his dad made him happy.



What was Tyrin really talented at?

He was a talented singer and he loved to dance. His favorite songs to sing were "Every Praise" by Hezekiah Walker and "This Means War" by Pastor Charles Jenkins.

What was really important to Tyrin?

He was proud of being a big brother and he loved his little sister. Church was also important to Tyrin. He loved worshipping and dancing in church.

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Executive Summary

The mortality rate in East Baton Rouge Parish Prison (EBRPP) far exceeds the national average because of inadequate medical and mental healthcare and a failure to properly train and supervise staff. From 2012 until 2016, 25 men—including the mentally and chronically ill—have died in the parish jail. This report examines the deaths of seven of the 25 individuals who have died while detained at EBRPP to call attention to the unconstitutional conditions endured by arrestees. Some of these men were young and not protected from other detainees or from self-harm—the cries of seventeen-year-old Tyrin Colbert were unanswered by staff as he was choked to death by his cellmate. Many of these men were mentally ill and were not properly treated for their documented and sometimes undocumented disorders. David O’Quin, for example, was unmedicated and mentally ill while at EBRPP, and he spent the last moments of his life shackled, stunned with a stun gun, and left in his own excrement. Our review of the deaths in EBRPP demonstrates that the conditions of confinement are particularly harmful for discrete communities in Baton Rouge: minorities, the mentally ill and the poor.

The 25 deaths at EBRPP since 2012 are atypical, compared to 80% of jails across

the country. On average between 2000 and 2014, only 18% of local jail jurisdictions reported any detainee deaths.¹ All 25 deaths in EBRPP since 2012 were men.² Twenty-two of the 25 (88%) men had not been convicted at the time of their death, compared to nationally, where 75% of those who died between 2000 and 2014 were unconvicted.³ The deaths in the jail occurred as early as two days after admission to the jail to thirty-one months after arrest.⁴ In East Baton Rouge, two of the deaths were suicides.⁵ Illness-related conditions were the leading cause of deaths in the jail. Some of these men had pre-existing medical conditions but were not given medication.⁶ Others were denied medical treatment. These health-related issues are a result of inadequate medical care from the parish prison professionals. City and jail officials were formally made aware of the inadequate medical and mental health care in EBRPP at least as early as August 2015, but have failed to implement significant changes.

Unfortunately, the deaths at EBRPP are consistent with experiences in other Louisiana jails and prisons, though EBRPP is one of the deadliest. Despite Louisiana’s vast experience in locking people up, the state has not been able to provide safe conditions for the people it incarcerates. Not only is Louisiana a leader in pretrial deaths, it is also first in per capita deaths in state and federal prisons

nationwide and was the sixth leading state in per capita deaths in local jails in 2014.⁷ The abnormally high rate of deaths in Louisiana jails and prisons in comparison to the rest of the country appears to have reached crisis proportions.

The conditions in EBRPP violate the U.S. constitution's guarantee of life, liberty, and property under the law by effectively imposing the death penalty on detainees. In some cases, EBRPP not only violated the law, but also violated their own policies and procedures. These cases are not coincidental mis-

haps, but rather reveal the disturbingly predictable results of over-incarceration, under-staffing, and an excessively punitive approach. These cases reveal EBRPP's breach of the community's promise to ensure the safety and dignity of the people it detains.

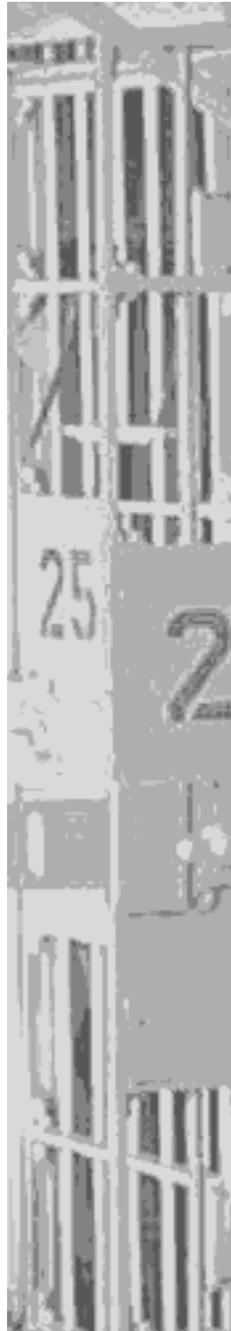
Last, this report documents the lack of transparency and accountability for these deaths and urges a series of recommendations to prevent future loss of life for detained individuals.

Methodology

In this report, we examine the high mortality rate in the East Baton Rouge Parish Prison, compared to other jails in the state and nationwide. The Baton Rouge Sheriff's Office provided the Promise of Justice Initiative, pursuant to a Public Records Act request, with information about deaths of individuals in custody at EBRPP from 2012 until 2016. The information provided consisted of forms required by the U.S. Department of Justice. From 2012 until 2016, 25 men have died in EBRPP, a rate 2.5 times the national average.⁸ As noted in a recent lawsuit against the pris-

on, "the mortality rate per 100,000 local jail prisoners in the United States was [128] per 100,000 in 2012. With a reported average daily population of 1,505 at EBRPP, in 2012 the mortality rate at EBRPP was four times the national average at 532 per 100,000."⁹ The report also relies on interviews with family members, review of court documents, and published news reports.

This report also builds on a 2017 report by the Promise of Justice Initiative, *Punished Protesters: Conditions in East Baton Rouge Parish Prison*, which pre-





sented a disturbing window into the conditions of the East Baton Rouge Parish Prison.¹⁰ EBRPP is the local jail for Baton Rouge, the capital of Louisiana, housing predominately people awaiting trial, but also convicted individuals on behalf of the state.¹¹ The 2017 report detailed the inhumane and punitive conditions endured by people arrested and detained there in July 2016 following the killing of Alton Sterling, a local Black resident, by police. Arrested protesters described the brutal physical

conditions, lack of adequate medical care, derogatory treatment, and neglect that protesters suffered during their detention at EBRPP. While protesters were punished for exercising their civil rights, one of the protest-detainees expressed this haunting concern:

I got the impression, from talking to other women who had been in the prison longer, that even though it was so bad, they went through much worse when we weren't there...¹²

Introduction

The mortality rate in East Baton Rouge Parish Prison is far above the national average because of inadequate medical and mental healthcare and a failure to properly train and supervise staff. From 2012 until 2016, 25 men—including the mentally and chronically ill—have died in the parish jail. These deaths could have been prevented if parish staff had been trained in treating the mentally ill or had proper medical equipment. This report examines the deaths of seven of

the 25 individuals who have died while detained at EBRPP to call attention to the unconstitutional conditions endured by arrestees. Some of these men were young and not protected from other detainees or from self-harm—the cries of seventeen-year-old Tyrin

Colbert were unanswered by staff as he was choked to death by his cellmate. Many of these men were mentally ill and were not properly treated for their documented and sometimes undocumented disorders. David O'Quin, for example, was unmedicated and mentally ill

From 2012 until 2016, 25 men—including the mentally and chronically ill—have died in the parish jail.

while at EBRPP, and he spent the last moments of his life shackled, stunned with a stun gun, and left in his own excrement. Our review of the deaths in EBRPP demonstrates that the conditions of confinement are particularly harmful for discrete communities in Louisiana: minorities, the mentally ill and the poor.

Poor people are more likely to suffer the consequences of the abysmal conditions at EBRPP through their reliance on public defenders, inability to pay money bail, and financial conditions for supervised release. First, once arrested, a poor person's right to a lawyer is delayed and rendered essentially ineffectual because public defender services in Louisiana are underfunded.¹³ In Baton Rouge, public defenders are appointed within 72 hours of arrest. However, they are not actively involved in a defendant's case for another 30 to 60 days. In Fiscal Year 2016, the defender office laid off the entire investigative staff, except for the chief investigator and a single assistant, with over seven thousand cases assigned to their office.¹⁴ The Louisiana Public Defender Board reports that limited access to clients housed in the East Baton Rouge Parish Prison, along with the cancellation of the current medical services at the jail, negative-

ly impacted the medication and treatment of clients with mental health issues.¹⁵ Without a lawyer, courts are more likely to set a higher bail amount, leaving a person unable to pay sitting in jail.¹⁶ Second, without money to pay a private company for monitoring "services," a poor person is sent to the parish jail to wait for their trial for days, weeks, and even months. In EBRPP, only those who can continuously afford monitoring fees are released from the parish prison as Brandon Buskey of the ACLU Criminal Law Reform project notes:

Judge Trudy White has for years been assigning people to a for-profit company, Rehabilitation Home Incarceration, to supervise the conditions of a person's release — for a price. RHI then charges people who post bail a \$525 fee simply to be released. And it doesn't stop there. You then have to pay the company a monthly \$225 "supervision" fee while awaiting trial. If you don't, they will threaten to send you back to jail.¹⁷

More generally, poverty is associated with conditions that make poor people more vulnerable to the horrendous conditions in EBRPP. The rates of mental illness are highest for families living below the federal poverty line.¹⁸ Poverty is also associated with poor health, according to the U.S. Centers for

Poor people are more likely to suffer the consequences of the abysmal conditions at EBRPP through their reliance on public defenders, inability to pay money bail, and financial conditions for supervised release.





Disease Control.¹⁹ Because the prison is understaffed and fails to provide adequate health services, those suffering from physical or mental health issues risk extraordinarily high rates of mortality.

Members of minority groups are also more likely to be exposed to the inhumane conditions at EBRPP. Fifteen of the 25 men who died in EBRPP were Black, eight were White, and two were Latino. Mass incarceration of Black people has historically been disproportionately high compared to non-Black individuals. From 1992 until 2003, Black people made up 65% or more of the East Baton Rouge jail population.²⁰ In 2015, the Black population in jails throughout Louisiana dropped to 52%, however, Black Americans only make up roughly 32% of Louisiana's population.²¹ From biases in policing to disparate outcomes in sentencing, Black people are over-represented in jails and prisons throughout the nation, but profoundly so in Louisiana.

Residents of Baton Rouge also describe living in a racially segregated city, where Black neighborhoods have been left behind.²² Basic government institutions, including a hospital and high schools, have been closed in the primarily Black northern areas of Baton Rouge.²³ Unsurprisingly,

the poverty level is much higher for Black residents than for White residents. Census data documents that 31% of Black residents live below the poverty line, far greater than the 17% of White residents living below the poverty line.²⁴ In other words, for every White

Fifteen of the 25 men who died in EBRPP were Black, eight were White, and two were Latino.

person living in poverty in Baton Rouge, there are two Black people also living in poverty. The racial inequality in the city—from access to quality high schools and medical care to policing—

has received more public attention since the killing of Alton Sterling by two white police officers in 2016. The video-taped killing and the protests that followed made local and national news, exposing longstanding racial inequities in police relations, economics and daily life. From aggressive policing in Black neighborhoods to the inability to afford bail or private counsel due to poverty, Black residents are uniquely vulnerable to the daily harms occurring in the jail.

This report documents the illegal conditions in EBRPP suffered by detainees. The conditions violate the U.S. constitution's guarantee of life, liberty, and property under the law by effectively imposing the death penalty on detainees. In some cases, EBRPP not only violated the law, but may also have violated their own internal policies and procedures. Last, this report documents the lack of accountability for these deaths.

Deaths in Custody

East Baton Rouge is the largest parish in Louisiana. The jail is staffed and managed by the Sheriff's Office, controlling an average population of 1,594 individuals (1,410 men and 184 women), not including hundreds arrested by Baton Rouge police, but housed elsewhere in the state.²⁵ Regardless of whether they are housed in EBRPP or elsewhere, the local government is financially responsible for the cost of detaining arrestees. The cost of sending arrested individuals to other jails across Louisiana averaged about \$6 million a year from 2011-2013.²⁶

The 25 deaths at EBRPP since 2012 are atypical, compared to 80% of jails across the country. Only 20% of local jails nationwide reported detainee deaths within the past five years.²⁷ All 25 deaths in EBRPP since 2012 were men.²⁸ Twenty-two of the 25 (88%) men had not been convicted at the time of their death, compared to nationally, where 74% of those who died were unconvicted.²⁹ The deaths in the jail occurred as early as two days after admission to the jail to thirty-one months after arrest.³⁰ In East Baton Rouge, two of the deaths were suicides.³¹ Illness-related conditions were the leading cause of deaths in the jail. Some of these men had pre-existing medical conditions but were not given

medication.³² Others were denied medical treatment. These health-related issues are a result of inadequate medical care from the parish prison professionals. Our rate of deaths in EBRPP far exceeds the national average.

The crumbling 50-year-old jail is also unable to safely house detainees.³³ The warden, Dennis Grimes, and Baton Rouge's sheriff, Sid Gautreaux, have publicly admitted to defects in physical design and operation, including the inability to use modern surveillance equipment, poor sightlines and rusted cell doors that do not

stay closed, leaving younger and smaller detainees vulnerable to violence.³⁴ The parish prison is operating at full design capacity of 1,594,

excluding hundreds of "overflow" individuals housed throughout the state and as far away as East Carroll Parish, 185 miles from Baton Rouge.³⁵ In practice, a jail's operational capacity is less than its design capacity, because jails must house certain populations separately, leaving potential beds empty. Thus, even though operating at design capacity, the dilapidated jail is overcrowded in practice.

In 2012, 20,491 people were admitted

Only 20% of local jails nationwide reported detainee deaths within the past five years.





at the jail.³⁶ Approximately 89% of people detained in the EBRPP have not been convicted of a crime and are being held pre-trial.³⁷ Typically, jails detain people who have been arrested but are not free on bail or bond while awaiting trial or sentencing, individuals convicted of a misdemeanor offense and serving sentences of one year or less, and people waiting to be transported to prison. The average person is detained for 32 days after being booked.³⁸ In June of 2015, the number of felonies outnumber misdemeanors by nearly double, although most felonies and misdemeanors are non-violent offenses.³⁹ In 2016, there were 27 juvenile males (age 17 or younger) detained in the adult jail at the close of the year.⁴⁰ The population is overwhelmingly Black. Approximately 75% of the jail population is Black, compared to being only 46% of the population in East Baton Rouge.⁴¹

In addition to overcrowding, the jail is grossly understaffed; the lack of guards and medical personnel create a dangerous environment for everyone in the jail, detainees and staff.⁴² Families of those who died in the jail allege that the staff do not adequately supervise inmates' dorms and cells and fail to protect inmates from assaults. Our review of the deaths in EBRPP also highlights the danger to detainees of inadequate medical and mental health care. Dr. Rani Whitfield, a contract physician with the prison, candidly explained, "We have a

sicker inmate population, and without proper resources, supplies and more boots on the ground in the form of nursing staff, we are unable to efficiently care for the patients, increasing morbidity, mortality and, ultimately, liability."⁴³

While 80% of jails nationwide reported no deaths in 2014, Louisiana reported 39 deaths, of which a tenth occurred in EBRPP that year, despite being only one of at least 120 jail facilities across the state.⁴⁴ In 2013, Louisiana reported 37 deaths, 3 occurred in EBRPP and 5 occurred in Orleans Parish Prison (combined, 22% of the State's reported deaths).⁴⁵ 2013 and 2014 were not anomalies. In the past four years, men have died of illnesses, neglect and suicide, and at the hands of other inmates. Their deaths were preventable. These men died neglected by medical staff, confined in unsafe conditions, and denied psychiatric help. Through news reporting, civil litigation, and community activists, it becomes clear that EBRPP—through neglect, indifference, and denial of basic services—effectively imposes the death penalty on individuals in custody.

The Dire Need For Help

DENIAL OF MEDICAL CARE

In August 2015, medical professionals at EBRPP argued for critical additional resources from the parish's metropolitan council.⁴⁶ Medical staff at the jail criticized the lack of functional equipment, understaffing and low salaries, and a shortage of standard supplies such as heart monitoring equipment.⁴⁷ Dr. Rani Whitfield confirmed that there has been a "significant decline in the quality of care" for detainees over the past seven years.⁴⁸ Dr. Whitfield cited the decline in the number of nurses and the closure of the Earl K. Long Medical Center, among other things, as contributing to increased mortality and liability.⁴⁹

In 2013, the metro council approved a series of contracts to provide x-rays, infectious disease treatment, and dental services to the detainees.⁵⁰ More broadly, conditions at the jail have been squarely before the metropolitan council at least ten times during the 2012-2016 period examined in this report.⁵¹

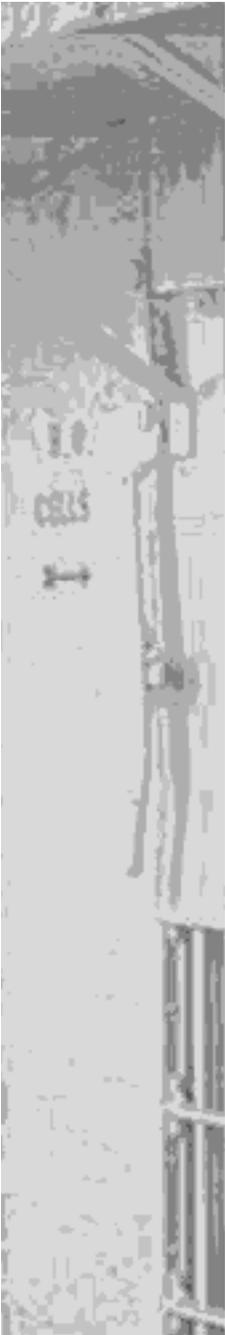
EBRPP's denial of adequate medical care to unconvicted detainees violates the Fourteenth Amendment's guarantee of due process.⁵² Correctional facilities, such as jails and prisons, have a constitutional obligation to provide adequate medical care to all detainees and inmates, including adequate psy-

chological and psychiatric mental health care.⁵³ Detainees are not free to seek their own medical care and thus must rely on a jail's constitutional obligation to provide adequate medical care. The U.S. Supreme Court explained in *Brown v. Plata*, that

[P]risoners are dependent on the State for food, clothing, and necessary medical care. . . Just as a prisoner may starve if not fed, he or she may suffer or die if not provided adequate medical care. A prison that deprives prisoners of basic sustenance, including adequate medical care, is incompatible with the concept of human dignity and has no place in civilized society.⁵⁴

The EBRPP is constitutionally responsible for insuring inmate access to medical services.⁵⁵ "[T]he Constitution, establish[es] minimum standards rather than ideals to which a correctional institution may aspire. These minimum standards are nonnegotiable. The Constitution guarantees that inmates, including convicted inmates and pretrial detainees who are presumed innocent, receive certain minimum levels of medical care and mental health care."⁵⁶ In addition, EBRPP internal policies recognize that anyone detained in the jail has "the right to have access to and receive medical services necessary for maintaining their physical health."⁵⁷ Numerous reports and complaints demonstrate that





parish prison medical services are poorly staffed and cannot adequately address life-threatening emergencies, treat chronic illnesses or provide mental-health services to those detained.⁵⁸

Elected leaders, including the sheriff and the metropolitan council, are well aware that the jail fails to offer constitutionally-adequate medical care due to the jail's staffing, facility, and policies. The jail's policy and procedures manual requires any medical contractor to provide services consistent with *Flowers v. Phelps*.⁵⁹ The East Baton Rouge Metro Council hired Health Management Associates (HMA) to analyze the jail's medical operations and determine whether EBRPP was meeting correctional medical standards. The HMA concluded that East Baton Rouge Parish Prison would not pass standards outlined by the National Commission on Correctional Health Care for healthcare within a jail setting.⁶⁰ The HMA found that the jail budget was \$5 million less than needed and is, consequently, not adequately staffed by health care providers to address the medical needs of the detained patients.⁶¹ The infirmary rooms were found to be wholly unfit for delivering medical care.⁶² In addition, EBRPP policies, such as limited access to sick call slips, further disrupt medical treatment for detainees.⁶³ Ultimately, the HMA found healthcare at EBRPP to be "episodic and inconsistent."⁶⁴

The severity of the staffing and funding

crisis cannot be overstated. Dr. Whitfield stated that in 2015 there were "25 nurses on staff, a [single] primary care doctor, a surgeon who is also a urologist, a dentist, a psychiatrist and an internist who comes three or four times a month to manage only HIV patients."⁶⁵ This is the entirety of the medical staff required to treat and assess the prison's more than 1,500 inmates.⁶⁶ Nurse Vincent Bradley stated that she would often have to work 15-hour days, well over her standard 12-hour shift, to complete a day's work.⁶⁷ Medical personnel also reported that there should be a minimum of five nurses on staff per shift, however, sometimes there are only one or two nurses per shift.⁶⁸ The failure to provide adequate staff is compounded by the lack of funding for functioning medical equipment. Nurses disclosed that EKG machines that detect the heart's activity are so faulty it is hard to tell if a patient is having a heart attack.⁶⁹ The consequences of EBRPP's failure to adequately staff and equip jail medical services included the deaths of Paul Cleveland, Daniel Melton, Randall Toler and others.

Paul Cleveland

In November 2014, Paul Cleveland, a 72-year-old U.S. Navy veteran, died of severe cardiac disease in the jail.⁷⁰ According to his family, Paul suffered from heart problems, diabetes, high blood pressure, and bipolar disorder, among other conditions.⁷¹ In a wrongful death suit against the parish jail and

other liable defendants, Paul's family alleges that the jail's medical staff is not sufficiently trained in interacting, diagnosing, and treating its growing mentally ill population.⁷²

Daniel Melton

Daniel Melton was 40 years old when he was found dead in his cell just 23 days after being arrested.⁷³ According to the East Baton Rouge Parish Coroner, Dr. Beau Clark, Daniel suffered from peptic ulcers.⁷⁴ Such ulcers "can be corrected if caught in time," according to Dr. Clark.⁷⁵ Moreover, Dr. Clark believes the ulcer developed before the actual day Daniel died.⁷⁶ In the days before his death, Daniel had repeatedly complained to jail staff and other detainees about how much he was suffering.⁷⁷ Daniel was housed in "M Wing," a 20-cell unit that houses one person per cell, and was on lockdown for mental health issues.⁷⁸ Lockdown is a term used when an individual is taken out of general population (usually for mental health or disciplinary issues) and is placed in a one-man or two-man cell. EBRPP's own jail logs document that Daniel reported his stomach pain at 7:50 a.m. the day before his death, and a nurse and a deputy were informed.⁷⁹ During a subsequent investigation,

In the days before his death, Daniel had repeatedly complained to jail staff and other detainees about how much he was suffering.

detainees interviewed by a homicide detective reported Daniel had asked for medicine and repeatedly stated that he felt as if his stomach was going to explode.⁸⁰ Daniel made at least another two requests for medical assistance before he died: at 6:53 p.m., less than 12 hours before his death, and another directly to East Baton Rouge Parish Emergency Medical Services during pill call.⁸¹ A deputy making rounds failed to notice Daniel's signs of obvious distress.⁸² Medical request forms found in Daniel's cell by homicide detectives document his continuing medical complaints of pain and acid reflux.⁸³

Randall Toler

East Baton Rouge Parish Prison also failed to provide routine health care to a young 25-year-old diabetic, Randall Toler. As a result, he suffered and died in pain—likely experiencing symptoms of mental confusion, extreme thirstiness, nausea, shortness of breath, fatigue, and abdominal pain—just two days after being booked for shoplifting.⁸⁴ Randall died on April 20, 2015, from diabetic ketoacidosis, a serious condition that results from a shortage of insulin and can lead to death.⁸⁵ Two days before he died, he told jail staff during the intake process that he was diabetic and was given 15 units of regular insulin.⁸⁶ At 1:30 p.m. on April 20, the day he died, Randall complained that he was feeling sick





and needed to throw up.⁸⁷ According to the jail's policy, "any deputy who observes an inmate, who appears to require immediate medical care as a result of injury, illness, or any other such condition, shall immediately notify medical personnel."⁸⁸ And despite a specific request by an East Baton Rouge District Court commissioner, Randall was not brought to the jail medical unit until three hours later and was never seen by the doc-

As a result, he suffered and died in pain—likely experiencing symptoms of mental confusion, extreme thirstiness, nausea, shortness of breath, fatigue, and abdominal pain—just two days after being booked for shoplifting.

tor.⁸⁹ Randall's condition worsened, and a jail physician found Randall dead on the floor of the medical unit around 7 p.m.⁹⁰ Randall's death was completely preventable. He would be alive today had he received routine—and constitutionally guaranteed—medical care. Randall's family filed a wrongful death suit against the EBRPP, and the parish's metro council approved a settlement offer for \$25,000, plus \$1,976.51 in court costs.⁹¹

DENIAL OF MENTAL HEALTH CARE

Similarly, EBRPP fails to provide constitutionally adequate mental health care, despite widespread evidence that individuals with mental illness are filling the nation's prisons and jails. "The . . . obligation to provide medical care to prisoners includes psychiatric and mental-health care."⁹² "[J]ust as a failure to act to save a detainee from suffering from gangrene might violate the duty to provide reasonable medical care absent an intervening legitimate government objective, failure to take any steps to save a suicidal detainee from injuring himself may also constitute a due process violation..."⁹³ "The 'basic' mental-health care . . . includes not only medication but also psychotherapeutic treatment" for the incarcerated.⁹⁴ EBRPP policies also recognize that "psychological treatment" is a component of required "medical services."⁹⁵ Nationally, individuals with mental illness are three times more likely to be incarcerated than housed in a mental health facility.⁹⁶ Emerging research also indicates that incarceration itself can produce mental health issues for the detained populations.⁹⁷

The HMA, in its comprehensive review of EBRPP, found that there are no mental health programs or services whatsoever at EBRPP.⁹⁸ The jail's policy and procedures manual does not outline any training on suicide prevention, but does have policies regarding housing for people on suicide watch and mental

health observation.⁹⁹ For individuals diagnosed with mental illness and confined to the jail, EBRPP's failure to implement mental health programming or training can equal death.

“The . . . obligation to provide medical care to prisoners includes psychiatric and mental-health care.”

Antwain Harden

Antwain Harden was 28 years-old and had been diagnosed with sickle cell disease and bipolar disorder.¹⁰⁰ Antwain was homeless and was arrested for refusing to leave a hotel's lobby.¹⁰¹ Due to his mental illness, Antwain refused his sickle cell medication for the 16 days he was in custody.¹⁰² Antwain's sickle cell condition was manageable with medication, but the absence of treatment for over two weeks created severe health problems and was ultimately fatal. It also likely caused excruciating pain. The jail's medical services erroneously places the blame on Antwain for refusing his medication. However, according to a report released by the Treatment Advocacy Center, mentally ill inmates can be involuntarily treated for up to 15 days with certification from a psychiatrist or other physician, and longer if ordered by a court.¹⁰³ There is no indication that Antwain was ever evalu-

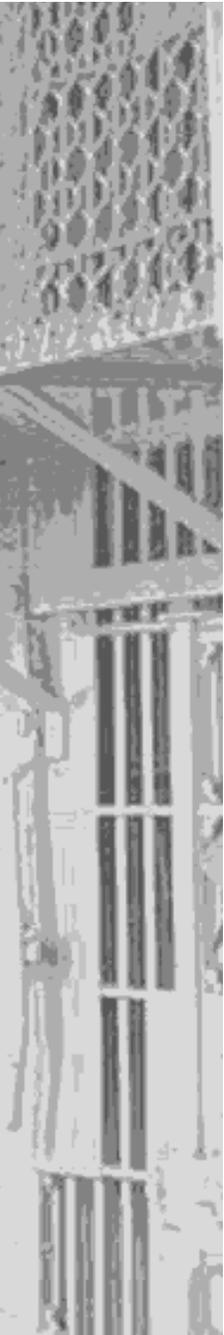
ated by a doctor. Moreover, in failing to treat Antwain's mental illness, EBRPP also failed to treat his medical condition. Antwain's untreated sickle cell disease caused a blood clot to form that traveled to his lungs and caused his death.¹⁰⁴ Antwain is not alone. Jeremy Hilliard and David O'Quin both suffered and died from blood clots after being detained in EBRPP for less than three weeks.¹⁰⁵

Lamar Johnson

Lamar Johnson, a family man with three young children, suffered in jail for four days before his death.¹⁰⁶ According to his family, Mr. Johnson was “misclassified, placed in a de facto racially-segregated dorm with little-to-no staff supervision, moved to a solitary confinement unit” that housed individuals with serious mental health conditions, and then “ignored by guards” until he committed suicide.¹⁰⁷ During the first two days of Lamar's four-day detention, he was cooperative and relaxed.¹⁰⁸ However, as the days passed, he mentally deteriorated; he became delusional, paranoid, and ultimately, suicidal.¹⁰⁹

Lamar was initially housed in Q8, where one or two guards are responsible for supervising over a hundred detainees.¹¹⁰ Though the documentation of his time in custody is sparse and incomplete, it appears as if Lamar felt threatened by other detainees in Q8. Witnesses in the jail described La-





mar as having hallucinations, possibly due to the availability of synthetic drugs within the unsupervised jail according to one detainee witness.¹¹¹ While on Q8, at least four guards participated in beating and pepper spraying Lamar.¹¹² At some point in his third day in EBRPP, Lamar was moved to solitary confinement Unit II, M01 lockdown unit at EBRPP.¹¹³

Witnesses in the lockdown unit told Lamar's family that just prior to his death, he had told them he "couldn't take it" and "did not want to live."¹¹⁴ These witnesses also stated the same guards who had beaten him while he was handcuffed overhead these statements but did not initiate any suicide prevention protocols.¹¹⁵ No mental health assessment was ever ordered for Lamar. Jail staff remained indifferent to his worsening conditions and instead isolated him in solitary confinement. On May 30, 2015, the jail was short-staffed, and the jail staff failed to monitor Lamar's condition every 15-30 minutes.¹¹⁶ Despite Lamar's visible and severe distress, including multiple suicidal statements in front of jail staff and being beaten by four guards, EBRPP failed to act. Lamar was found hanging in his cell later that day.¹¹⁷

Lamar never should have been in EBRPP in the first place.¹¹⁸ He was stopped for an alleged traffic violation in Baton Rouge, where police discovered an outstanding warrant in Jefferson Parish for cashing a check under false pretenses.¹¹⁹ Lamar was taken into cus-

tody, but was to be extradited to Jefferson Parish, a 90-minute drive away, within 24 hours.¹²⁰

Jesus Leyva

Jesus Leyva committed suicide on the morning of October 7, 2012, in his cell.¹²¹

He was 40 years old and had spent 34 days in the parish jail before his death.¹²² He had not been convicted of a crime.¹²³ Jesus never had the opportunity to receive any mental health treatment because the facility completely lacks a mental health program, and the jail staff were not receiving consistent suicide prevention training. It is not clear how or why he committed suicide. The EBRPP did not provide any details surrounding the suicide in formal reporting.

FAILURE TO PROTECT DETAINEES

EBRPP officials consistently fail to regularly monitor cells, in violation of the jail's policies and procedures. Officers are required to visually observe all inmates at least once every 30 minutes.¹²⁴ These failures increase the chances of harm and death to arrestees. According to former detainees at the parish prison, some housing units are known as the "dungeon," where guards routinely fail to make their rounds and prisoners engage in violence on a daily basis.

Detainees in EBRPP have a constitutional right to safe and humane conditions. The U.S. Supreme Court has held that corrections officials must take reasonable steps to guarantee that inmates are safe and provided humane conditions of confinement.¹²⁵ This obligation includes protecting inmates from harm from fellow prisoners. According to the U.S. Fifth Circuit Court of Appeals, “all jailers owe a constitutionally rooted duty to their prisoners to provide them reasonable protection from injury at the hands of their fellow prisoners.”¹²⁶ Despite its clear constitutional duty under the Eighth and Fourteenth Amendments, EBRPP officials have failed to protect all detainees from violence at the hands of other inmates. Defects in the design of the building, inadequate staffing and supervision techniques, and insufficient training have resulted in frequent and continuous violence for individuals in custody.¹²⁷ The failure to adequately monitor cells can have disastrous consequences for the most vulnerable inmates, such as those with disabilities and minors.

Tyrin Colbert

Tyrin was a 17-year-old, 129-pound child being housed in an adult prison.¹²⁸ His cellmate, also 17 years old at the time, killed him in a dispute over a blanket.¹²⁹ Tyrin, who had not been charged at the time of his death, had been incarcerated for 106 days, long past the 60-day statutory requirement

to file formal charges.¹³⁰ Within those 106 days, Tyrin experienced extreme trauma. He had been sexually assaulted by another inmate, which was reported but not investigated.¹³¹ Another inmate broke Tyrin’s arm and he was not admitted to the hospital for an X-ray and treatment until five days after the assault.¹³² Tyrin reported feeling suicidal, hearing voices, and having hallucinations.¹³³

On February 17, 2016, Tyrin was heard yelling “I’m sorry” and “I give up,” during an argument with his cellmate over a blanket.¹³⁴ The Sheriff’s Office suspects that Tyrin’s cellmate pulled him from the top bunk and choked Tyrin with the blanket.¹³⁵ Tyrin was found unresponsive in his cell and transferred to a local hospital.¹³⁶ He was initially listed as being in critical con-

*Within those 106 days,
Tyrin experienced
extreme trauma.*

dition, however, he died the next morning after being taken off of life support.¹³⁷ The incident was not captured on surveillance, since cameras only capture the hallways between the cells.¹³⁸ The jail’s physical design, including low ceilings, limits the ability of the jail administrators to install additional surveillance cameras.¹³⁹ Tyrin’s cellmate was charged with second-degree murder.¹⁴⁰





USE OF FORCE

EBRPP guards have used unnecessary force on individuals in custody.¹⁴¹ The U.S. Supreme Court has drawn a line on whether the force is excessive—“The core judicial inquiry is . . . whether [the] force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm.”¹⁴² The Baton Rouge Sheriff’s Office policy on use of force states that “deputies use only that level of force that is objectively reasonable to bring an incident under control, while ensuring the safety of the deputy and others.”¹⁴³ “Use of force” can range from use of pepper spray to physical assault and includes the unnecessary use of restraints and stun guns. The jail requires medical and/or mental health staff be contacted prior to the use of chemical agents, the taser, the electronic capture shield, intermediate/impact weapons, or other less than lethal devices, whenever possible.¹⁴⁴ Correctional officers may only use force to respond to a genuine threat to the order or security of the facility.

The use of force is particularly problematic when used against individuals suffering from a mental break or a long-standing mental illness. The EBRPP lacks mental health units and trained officials to work with the jail’s mentally ill population. As a result, the staff and guards use force to restrain—rather

er than treat—manifestations of those individuals’ mental illnesses. Unnecessary use of force has resulted in at least one death at the EBRPP.

David O’Quin

David O’Quin is another tragic example of an unmedicated mentally ill man dying in the parish jail.¹⁴⁵ David was a graduate of University of Texas with a degree in studio art.¹⁴⁶ His family first noticed his alarming behavior during college.¹⁴⁷ David complained of intelligence officials implanting listening devices in his brain, being followed by helicopters and birds, and would often strip naked in public.¹⁴⁸ He was eventually diagnosed as a paranoid schizophrenic.¹⁴⁹ At the time of his arrest, he was not taking his medication and suffering from serious psychosis.¹⁵⁰ Within six days of being incarcerated, David spent 24 hours continuously shackled to a restraint chair. During his time shackled to the chair, he refused to eat and screamed for at least six of those hours.¹⁵¹ During his incarceration, guards also shot David with a stun gun.¹⁵²

During his thirteen days detained in EBRPP, David spent over 170 hours shackled to a restraint chair with few breaks, resulting in lacerations on his ankles.¹⁵³ The lacerations then became infected by David’s feces and urine.¹⁵⁴ David’s treatment was not only fatal, but also degrading and in violation of the jail’s own policies. Internal poli-

cies require that all detainees have 24-hour access to restrooms, handwashing facilities, and opportunities to shower once a day.¹⁵⁵ When he was finally released from the chair, he was too weak to move.¹⁵⁶ David ate his last meal lying on a mat on the floor.¹⁵⁷ Thirteen days after being detained, a guard poked a lifeless David through the bars with a broom.¹⁵⁸ David died of blood clots that traveled from his legs to his lungs.¹⁵⁹

The jail updated its policy and procedures on the use of the restraint chair on April 1, 2018, following David's death. The use of the restraint chair is legally permissible only in extreme cases when other types of restraints have proven to be ineffective.¹⁶⁰ When using a restraint chair, medical staff must "examine the inmate every two hours and must note the presence or absence of

swelling and/or discoloration of extremities, the adequacy of blood circulation, and shall evaluate any other potential risk to the inmate's health."¹⁶¹ Also, "direct complete visual observation of the inmate must be continuous until the initial medical/mental health assessment by the Health Authority or designee is completed and should continue at no greater than fifteen minute intervals thereafter."¹⁶² Inmates must be released from restraints for toilet, sanitation, and nourishment functions every two hours at the latest.¹⁶³ Alternative restraint methods must be employed for a minimum of two hours if the inmate cannot be released from restraint after five two-hour intervals in the restraint chair.¹⁶⁴

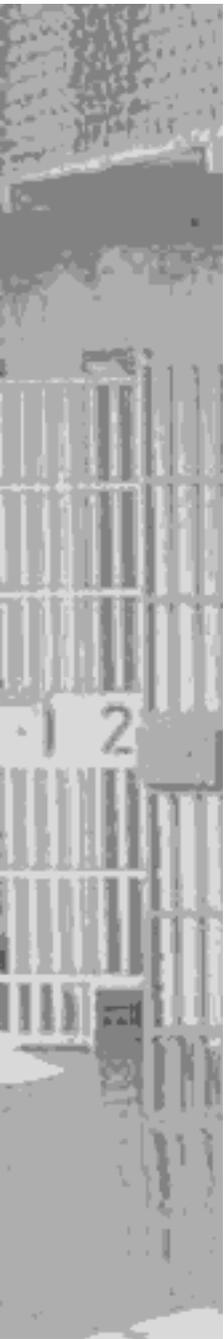
Lack of Accountability

More often than not, EBRPP is not held financially liable for these preventable deaths. As of June 2018, only two families of the deceased have been able to hold EBRPP legally accountable for the deaths of their loved ones. Of the twenty-five deaths that have occurred from 2012-2016, seven families have filed lawsuits, according to insurance company records. For those seven claims, the sheriff's office paid approximate-

ly \$80,134 to the insurance company in deductibles. To date, only Randall Toler and David O'Quin's families have received damages through settlement for their deaths. Randall Toler's family received \$25,000 in settlement, plus \$1,976.51 in court costs.¹⁶⁵ The O'Quin's settlement was at least \$50,000, and was approved by the Metro Council.¹⁶⁶

There are significant barriers to holding jail officials, i.e. East Baton Rouge Sheriff's





Office, Prison Medical Services, and the jail's warden, accountable for their uncon-

Liability insurance for 2017-2018 cost the parish \$820,543, a 71% increase from the premium paid for the 2011-2012 fiscal year.

stitutional conduct. These tragic cases are often complex, requiring expert medical or correctional testimony and years of pre-trial litigation costs before being resolved. Insurance invoices to the Sheriff's office, which are only issued when the investigation is complete, are sent years after the death occurred. Counsel are also often wary of taking these expensive and intricate cases. Though these lawsuits sometimes fail for procedural reasons, the litigation is still costly because the EBRPP and the Sheriff must pay associated

The Sheriff's Office has paid, in settlements, deductibles, and liability insurance, almost five million dollars since 2011.

legal fees for each lawsuit filed.

The East Baton Rouge Sheriff's Office was insured by Columbia Casualty Company during the 2012-2016 time period. The in-

urance company completed an initial investigation and/or defense of claims filed within the terms of its contract with the Sheriff's Office. The "Law Enforcement" insurance policy for the Sheriff's Office had a \$25,000 deductible per claim. This deductible was met through paying legal costs to defend against the lawsuit, settlements, or judgments after a trial. From 2011 until 2018 alone, the EBR Sheriff's Office paid \$4,713,520 in annual insurance premiums. Liability insurance for 2017-2018 cost the parish \$820,543, a 71% increase from the premium paid for the 2011-2012 fiscal year.¹⁶⁷ The Sheriff's Office has paid, in settlements, deductibles, and liability insurance, almost five million dollars since 2011.¹⁶⁸ These resources could have been better spent in ensuring safe and humane conditions in EBRPP.

Ultimately, the cost of the conditions at EBRPP exceeds the suffering of detained individuals and their families. The financial cost is passed on to taxpayers through judicial settlements, defense costs, and higher insurance premiums. Our communities lose the potential life-long contributions of the deceased. Detainees and jail staff are exposed to trauma as well in bearing witness to the deaths.

Finally, we emphasize that this report is only possible because of public records requests and federal data collection. The East Baton Rouge Sheriff's Office provided the Promise of Justice Initiative with the Department of Justice death in custody forms

(2012-2016), copies of insurance payout invoices (2011-2017) and the cost of premiums for liability insurance (2011-2018). These records were requested and received between July 2017 and May 2018, at a cost of \$337.25. Beyond the financial cost, sifting through provided documents consumed

thousands of hours of work of attorneys and staff. To truly address the high death rate in EBRPP—and Louisiana prisons and jails more generally—sheriff and city authorities must be more transparent about the real cost of detaining thousands of people every year.

Louisiana

Though the focus of this report is the local jail conditions in Baton Rouge, the high mortality rate in EBRPP is consistent with high mortality rates in jails and prisons throughout Louisiana. According to statistics from the U.S. Department of Justice, three hundred and eight (308) inmates died in local jails in Louisiana between 2005-2014, and the state reported 1,028 deaths in state prisons during the same time frame.¹⁶⁹ Louisiana is first in per capita deaths in *state and federal prisons* nationwide.¹⁷⁰ Louisiana is also unique in that approximately 50% of individuals convicted of a felony offense serve their sentence in a local jail, instead of a state-operated prison. Ultimately, Louisiana leads the nation in mortality rates per 100,000 state and federal prisoners, with an average of 529 deaths per 100,000 between 2005 and 2014.¹⁷¹ The next closest state was West Virginia, with 162 fewer deaths.¹⁷²

Despite Louisiana's vast experience in locking people up, the state has not been able to provide safe conditions for the people it incarcerates. Louisiana has led the nation in incarceration since 1965. Since at least 2005, Louisiana has lead both the nation and the world in incarceration rates per capita.¹⁷³

Every year, hundreds of people throughout the state are imprisoned because they are too poor to pay court costs, probation costs, or court-ordered fines.¹⁷⁴ Louisiana's unconstitutional use of "debtor's prisons" has been the basis for lawsuits throughout the state. Many poor defendants face charges on non-violent, minor offenses and are expected to pay fees and fines that they cannot afford to avoid being jailed.¹⁷⁵ According to an advocate with the public defender in New Orleans Municipal Court, "the practice of jailing people unable to pay fines or court costs was so common you stop noticing it."¹⁷⁶ It is typi-





cal for judges in those cases to issue warrants for failure to appear charges when individuals either fail to pay a fine on time or miss a court date to pay.¹⁷⁷ “Hefty court costs can drive up the amount a person has to pay to satisfy legal financial obligations, rendering compliance virtually impossible.”¹⁷⁸

Second, Louisiana does not provide sufficient funding for indigent defense services. The Sixth Amendment to the U.S. Constitution guarantees a right to counsel whenever a person’s liberty is at risk. Louisiana is the only state that funds public defense primarily through traffic ticket revenue and court fees and fines. As a result, a class action suit was brought against Louisiana Governor John Bel Edwards alleging their constitutional rights to counsel were denied because of an insufficiently funded and staffed public defense system.¹⁷⁹ “[The] Louisiana public defense system [has been described by public officials and experts] alternatively

as ‘in shambles,’ ‘chronic[ally] underfunded,’ ‘hopelessly underfunded,’ ‘a systematic failure by any measure,’ ‘on the verge of collapse,’ ‘beyond the crisis stage,’ ‘terrible,’ and ‘abysmal.’”¹⁸⁰ Statewide, underfunding of public defender services means unconvicted, and sometimes uncharged, individuals are detained for extended periods of time, like 17-year-old Tyrin Colbert.

Louisiana’s criminal justice system is broken. The State cannot fund the defense of the individuals that are charged with crimes or those subject to over-policing. The State cannot afford to safely house those it locks up for being poor or mentally ill and yet spends millions of dollars in insurance and litigation costs to defend against lawsuits seeking compensation and accountability. Current practices are harmful and expensive; our state must do better.

Conclusion & Recommendations

The East Baton Rouge Parish Prison is unsafe, overcrowded and understaffed. On average between 2012 and 2014, the jail accounted for 12% of deaths in local jails in Louisiana, with preventable or treatable ill-

nesses being the leading cause of deaths.¹⁸¹ The jail’s medical unit is underfunded and understaffed, and breaches its constitutional obligation to provide adequate medical, psychological and psychiatric health care to

Continued indifference to the abysmal conditions within EBRPP is nothing less than intentional.

all inmates. Currently, the prison medical services provide substandard care and treatment. The medical services area is not properly equipped with the staff, machines and other basic resources to properly access and treat its large population. It is also entirely devoid of mental health care of any kind. The prison also fails to protect inmates from self-harm and harm from others. Prison officials routinely ignore monitoring policies and deny the most vulnerable inmates protection from others and themselves.

City and jail officials have known of the unconstitutional conditions at EBRPP since at least 2015 and yet have failed to act. While the metro council and voters have rejected ordinances to finance new facilities,¹⁸² there are a number of critical improvements that can be made immediately to prevent further loss of life:

1) The city and EBRPP officials must provide adequate medical and mental health services, whether directly or

through contract.

2) All custodial staff must be adequately trained in both suicide prevention and addressing medical complaints.

3) EBRPP must ensure sufficient staffing in order to safely supervise detained individuals.

4) City officials must address pre-trial detention by considering how other Louisiana cities have reinvested savings from reducing their jail populations.

5) The city and the jail must commit to greater transparency on the harms that occur within the jail. This could take a variety of forms, such as more regular public hearings on jail operations to quarterly data reports for community engagement to civilian oversight of jail operations.

Continued indifference to the abysmal conditions within EBRPP is nothing less than intentional.





About the Promise of Justice Initiative

The Promise of Justice Initiative (PJI) is a private, non-profit organization that advocates for humane, fair, and equal treatment of individuals in the criminal justice system. Our projects focus on ending the death penalty, fixing inhumane conditions of confinement, exposing prosecutorial and judicial misconduct, eliminating poor representation of criminal defendants, and ending racial discrimination in the criminal justice system. Our organization is composed of dedicated board members, staff, and volunteers who are committed to our Constitution's promises of justice and dismayed by society's shortcomings in making good on them.

Shanita Farris is a staff attorney at PJI.

Andrea Armstrong is a Professor of Law at Loyola University New Orleans, College of Law and a founding board member of PJI.

Find out more about how you can support the Promise of Justice Initiative at <http://justicespromise.org/> or email pji@thejusticecenter.org.

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Endnotes

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¹ Margaret E. Noonan, *Mortality in Local Jails, 2000-2014 - Statistical Tables*, Bureau of Justice Statistics (Dec. 2016). <https://www.bjs.gov/content/pub/pdf/mlj0014st.pdf>.

² Letter from East Baton Rouge Parish Sheriff's Office to the Promise of Justice Initiative (July 31, 2017) (on file with the Promise of Justice Initiative).

³ *Id.*; Noonan, *supra* 1.

⁴ See Letter, *supra* note 2.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Melissa Fares & Charles Levinson, *Special Report: In Louisiana jail, deaths mount as mental health pleas unheeded*, Reuters (May 31, 2018 6:20 AM) <https://www.reuters.com/article/us-usa-jails-louisiana-specialreport/special-report-in-louisiana-jail-deaths-mount-as-mental-health-pleas-unheeded-idUSKCN1IW1G4>

⁹ Margaret E. Noonan, *Mortality in Local Jails, 2000-2013 - Statistical Tables*, Bureau of Justice Statistics (Aug. 2015); Complaint at 19, *Zavala v. City of Baton Rouge/Parish of East Baton Rouge et al*, 3:17CV00656 (M.D. La. 2017).

¹⁰ Erica Navalance and Andrea Armstrong, *Punished Protesters: Conditions in East Baton Rouge Parish Prison*, Promise of Justice Initiative (Jul. 2017), <http://www.justicespromise.org/attachments/article/160/PJI%20Baton%20Rouge%20Protest%20Report.pdf>.

¹¹ Throughout this report, EBRPP will be referred to as a jail because it functions as the local jail and not a state prison. Jails are typically administered by city or county government officials for the detention of individuals accused, but not yet adjudicated, of a felony crime. They may also hold individuals who have been adjudicated, i.e. found guilty, of misdemeanor crimes typically serving sentences up to one year. Prisons, on the other hand, may be administered by a state or national government and typically only hold individuals who have been sentenced to confinement following a determination of their criminal culpability. See Margo Schlanger, *Differences between jails and prisons*, (2003) <https://www.law.umich.edu/facultyhome/margosch>



langer/Documents/Resources/ The_Difference_Between_Jails_and_Prisons%20.pdf.

¹² Navalance & Armstrong, *supra* note 10 at 24.

¹³ See discussion in Louisiana section of report.

¹⁴ See *LPDB 2016 Annual Board Report*, Louisiana Public Defender Board, 386 (Jan. 2017), 19th District PDO, Available at <http://lpdb.la.gov/Serving%20The%20Public/Reports/txtfiles/pdf/2016%20LPDB%20Annual%20Report.pdf>.

¹⁵ See *id.* at 386.

¹⁶ See, e.g., Douglas L. Colbert et. al., *Do Attorneys Really Matter? The Empirical and Legal Case for the Right of Counsel at Bail*, 23 *Cardozo L. Rev.* 1719, 1720 (2002).

¹⁷ Brandon Buskey, *In Louisiana A Private Company is Operating A Court-Approved Shakedown*, ACLU, (Aug., August 8, 2017, 11:45 AM), <https://www.aclu.org/blog/mass-incarceration/unnecessary-incarceration/louisiana-private-company-operating-court-approved>.

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¹⁹ Center for Disease Control and Prevention. (2017). *Health, United States, 2016 with Chartbook on Long-term Trends in Health*. [online] Available at: <https://www.cdc.gov/nchs/data/abus/abus16.pdf> at 14 [Accessed 23 May 2018].

²⁰ *Incarceration Trends*, Vera Institute of Justice, <http://trends.vera.org/rates/louisiana?incarcerationSource=black&incarceration=disparity>.

²¹ *Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for the United States, States, and Counties: April 1, 2010 to July 1, 2016*, United States Census Bureau, <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkml>.

²² See Melinda Deslatte. *Long divided: Baton Rouge race relations under new scrutiny*, AP News (Jul. 11, 2016), www.apnews.com/72b1d5c37dde40459e53bcc1bb8f7a9a.

²³ *Id.*

²⁴ *Id.*

²⁵ *Who We Are*, East Baton Rouge Sheriff's Office, <http://www.ebrso.org/WHOWEARE/Divisions/Parish-Prison.aspx> (last visited Apr. 2, 2018).

²⁶ Rebekah Allen, *More or less? Jail costs at issue in East Baton Rouge jail proposal*, *The Advocate* (Dec. 23, 2014 3:54 PM), www.theadvocate.com/baton_rouge/news/article_403bfbe2-256e-5816-8ac3-cb3ba05c66ea.html.

²⁷ Noonan, *supra* note 1.

²⁸ Letter, *supra* note 2.

²⁹ *Id.*

³⁰ *Id.*



³¹ *Id.*

³² *Id.*

³³ Emily Lane, *Inside the East Baton Rouge Parish Prison: Conditions, Layout Could Pose Danger, Warden Says (Video)*, The Times-Picayune (Feb. 4, 2015, 11:14 AM), www.nola.com/news/baton-rouge/index.ssf/2015/02/video_baton_rouge_prison_condi.html.

³⁴ Kelsey Jukam, *Teen's Prison Murder Wasn't the First, His Parents Say*, CourthouseNews.com (Jan. 17, 2017), www.courthousenews.com/teens-prison-murder-wasnt-the-first-his-parents-say/.

³⁵ Allen, *supra* note 26.

³⁶ Letter, *supra* note 2. This number includes new admissions only (i.e. persons officially booked into and housed in EBRPP by formal legal document and by the authority of the courts or some other official agency) and repeat offenders book on new charges. This number excludes returns from escape, work release, medical appointments/treatment facilities, bail, and court appearances.

³⁷ Loop Capital, *East Baton Rouge Parish Justice Center Study – Final Report*, at 6 (June 30, 2016), <https://www.scribd.com/document/317180261/Baton-Rouge-Justice-Center-Study-Final-Report>.

³⁸ *Id.*

³⁹ *Id.* at 4.

⁴⁰ Letter, *supra* note 2.

⁴¹ *Id.*

⁴² Rebekah Allen and Andrea Gallo, *Medical staff at East Baton Rouge Parish Prison say they are understaffed, overworked and lack critical supplies*, The Advocate, (Nov. 22, 2016, 12:16 PM), www.theadvocate.com/baton-rouge/news/article_1a9f4959-689c-5795-a073-289815d2dce4.html.

⁴³ *Id.*

⁴⁴ Letter, *supra* note 2. The number of jail facilities is approximate and is based on the local parish facilities listed in Louisiana Commission on Law Enforcement and Administration of Criminal Justice, 2017 Status of State and Local Corrections Facilities and Program Report, (April 1, 2018), p.67-74 at http://lcle.la.gov/programs/uploads/2017_Status_of_State_and_Local_Corrections_Facilities_and_Program_Report.pdf

⁴⁵ Richard A. Webster and Naomi Martin, *Dying at OPP: The Findings*, The Times-Picayune, (Oct. 15, 2014, 11:16 AM), www.nola.com/politics/index.ssf/2014/10/new_orleans_jail_deaths_the_fi.html; See Noonan, *supra* note 1.

⁴⁶ Allen & Gallo, *supra* note 42.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ See Minutes, Baton Rouge Metropolitan Council (Aug. 14 and Sept. 23, 2013) at <https://www.brla.gov/AgendaCenter/Metropolitan-Council-3>. Approval was determined based on a review of video-recorded ses-





sions available at: [https:// www.brla.gov/1085/Live-Stream-Archived-Meetings](https://www.brla.gov/1085/Live-Stream-Archived-Meetings)

⁵¹ See Minutes, Baton Rouge Metropolitan Council (Aug. 14, 2013; Sept. 23, 2013; Jan.14, 2015; Jan.28, 2015; Aug. 26, 2015; Oct. 14, 2015; Feb. 10, 2016; June 8, 2016; Oct. 12, 2016; Nov. 22, 2016) at <https://www.brla.gov/AgendaCenter/ Metropolitan-Council-3>.

⁵² U.S. Const. amend. XIV.

⁵³ *Farmer v. Brennan*, 511 U.S. 825, 832 (1994).

⁵⁴ *Brown v. Plata*, 563 U.S. 493, 510-11 (2011).

⁵⁵ EBRPP defines medical services as medical treatment, dental treatment and psychological services. East Baton Rouge Parish Prison, Policy and Procedures Manual, B.400 Medical Procedure Policy and Definitions, last revised Feb. 27, 2014.

⁵⁶ *Jones v. Gusman*, 296 F.R.D. 416, 469 (E.D. La. 2013).

⁵⁷ East Baton Rouge Parish Prison, *supra* note 55.

⁵⁸ Person/Case Type Search on East Baton Rouge Clerk of Court Website, [https:// ssl.ebrclerkofcourt.org/DevMortConv/acs/courtconnect/srchByParty.aspx](https://ssl.ebrclerkofcourt.org/DevMortConv/acs/courtconnect/srchByParty.aspx), (Enter EBR PARISH SHERIFFS OFFICE in for Company Name and Select TI – Tort Injury from the drop box for Case Type).

⁵⁹ East Baton Rouge Parish Prison, *supra* note 55 (citing *Flowers v. Phelps*, Civ. Action 76-364 (M.D. La.)).

⁶⁰ Linda Follenweider, Jack Raba and Karen Batia, *Report and Recommendations: Clinical Operations at East Baton Rouge Parish Prison*, Health Management Associates, 25 (June 8, 2016) (unpublished presentation) (on file with the Promise of Justice Initiative).

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Allen & Gallo, *supra* note 42.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ Ben Wallace, *Three of last 4 deaths at East Baton Rouge Parish Prison were mentally ill inmates jailed as mental health centers closed*, The Advocate, (13 Nov. 13, 2014, 11:05 AM), www.theadvocate.com/baton-rouge/news/crime_police/article_5375899e-1afd-5a0b-b678-651801c96146.html.

⁷¹ *Id.*

⁷² *Id.*

⁷³ Jim Mustian. *Family questions inmate's death in EBR Parish Prison*, The Advocate, (14 Jan. 14, 2013, 7:26 PM), http://www.theadvocate.com/baton_rouge/news/crime_police/article_3183d03f-00b6-5599-a5b3-171386cb7820.html. Letter, *supra* note 2.

⁷⁴ See Mustian, *supra* note 73.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ Joe Gyan Jr., *East Baton Rouge Parish offering to settle prison death lawsuit of diabetic man booked on shoplifting*, The Advocate, (5 Mar. 5, 2017, 3:02 PM), www.theadvocate.com/baton_rouge/news/courts/article_e1fd2e32-ff6e-11e6-a82b-5bf87190376e.html. See also Mayo Clinic, *Diabetic ketoacidosis: Symptoms and Causes*, <https://www.mayoclinic.org/diseases-conditions/diabetic-ketoacidosis/symptoms-causes/syc-20371551>

⁸⁵ Gyan Jr., *supra* note 84.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ East Baton Rouge Parish Prison, *supra* note 55.

⁸⁹ Gyan Jr., *supra* note 84.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Braggs v. Dunn*, 257 F. Supp. 3d 1171, 1188 (M.D. Ala. 2017) (citing *Rogers v. Evans*, 792 F.2d 1052, 1058 (11th Cir. 1986)).

⁹³ *Patridge v. Two Unknown Police Officers of City of Houston*, Tex, 791 F.2d 1182, 1187 (5th Cir. 1986).

⁹⁴ *Braggs*, 257 F. Supp. 3d at 1188.

⁹⁵ East Baton Rouge Parish Prison, *supra* note 55, Policy B.400 (“Medical Services”) revised Feb. 27, 2014. Note that the inclusion of psychological treatment in the identification of “medical services” does not appear to be consistent with other language in the policy recognizing a right to access to and medical services “to maintain physical health.”





⁹⁶ Dean Aufderheide, *Mental Illness in America's Jails and Prisons: Toward a Public Safety/Public Health Model*, Health Affairs Blog (Apr. 1, 2014), <http://healthaffairs.org/blog/2014/04/01/mental-illness-in-america-jails-and-prisons-toward-a-public-safety-public-health-model/>.

⁹⁷ See, e.g., Jason Schnittker, Michael Massolgia and Christopher Uggen., *Out and Down: Incarceration and Psychiatric Disorders*, 53 J. Health & Soc. Behav. 448 (Dec. 2012).

⁹⁸ Follenweider, Raba & Batia, *supra* note 60.

⁹⁹ East Baton Rouge Parish Prison, Policy and Procedures Manual, E.111 Suicide Prevention, last revised Aug. 17, 2017, effective Mar. 26, 2018.

¹⁰⁰ Wallace, *supra* note 70.

¹⁰¹ *Id.*

¹⁰² Letter, *supra* note 2.

¹⁰³ Wallace, *supra* note 70.

¹⁰⁴ Letter, *supra* note 2.

¹⁰⁵ Wallace, *supra* note 70.

¹⁰⁶ Voice of the Experienced. "DEATH IN THE RED STICK LAMAR JOHNSON AND (IN)JUSTICE IN EAST BATON ROUGE PARISH: THE COMPLETE REPORT." *VOICE OF THE EXPERIENCED*, www.vote-nola.org/lamar-johnson-report.html.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ Letter, *supra* note 2.

¹²² *Id.*

¹²³ *Id.*

¹²⁴ East Baton Rouge Parish Prison, Policy and Procedures Manual, E.110 Inmate Safety, last revised Oct. 01, 2010.

¹²⁵ *Farmer*, 511 U.S. at 832.

¹²⁶ *Stokes v. Delcambre*, 710 F.2d 1120, 1124 (5th Cir. 1983).

¹²⁷ *Jukam*, *supra* note 34.

¹²⁸ *Id.*

¹²⁹ *Id.*; See also Grace Toohey, *Federal judge rules to proceed with wrongful death claims against Sheriff, Parish Prison by family whose son was strangled in the jail cell*, The Advocate (Jan. 11, 2018 10:54AM), http://www.theadvocate.com/baton_rouge/news/crime_police/article_1661d05a-f6f0-11e7-896e-578939e63056.html

¹³⁰ *Jukam*, *supra* note 34.

¹³¹ *Id.* Failure to investigate a claim of sexual assault also violates EBRPP's own policies and procedures. East Baton Rouge Parish Prison, Policy and Procedures Manual, A.103 Prison Rape Elimination Act (PREA), last revised Jan. 01, 2013.

¹³² *Jukam*, *supra* note 34.

¹³³ *Id.*

¹³⁴ Maya Lau, *Latest: Fight over blanket sparks inmate-on-inmate killing at East Baton Rouge Parish Prison*, The Advocate, (Jan. 12 2017, 7:58 AM), www.theadvocate.com/baton_rouge/news/crime_police/article_bb6e95af-6e01-587b-be9b-09e869c80dc2.html.

¹³⁵ *Id.*

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Navalance & Armstrong*, *supra* note 10 at 9-11.

¹⁴² *Hudson v. McMillian*, 503 U.S. 1, 1-2 (1992).

¹⁴³ East Baton Rouge Parish Sheriff's Office Policy and Procedures Manual, Policy 04-03.02: POLICY, last revised 2014, available at www.ebrso.org/Portals/0/DOCS/HumanResources/Office%20Policy%20Manual%20Document.5-2014.docx.





¹⁴⁴ East Baton Rouge Parish Prison, Policy and Procedures Manual, E.101 Use of Force (Inmate Disturbances), last revised Jan. 04, 2016.

¹⁴⁵ Jamie Mondics, *I Thought He Was Safe, That Was a Mistake*, Treatment Advocacy Center, (Apr. 15, 2014), www.treatmentadvocacycenter.org/fixing-the-system/features-and-news/2522.

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.*; *Inmate's family files wrongful death lawsuit*, wafb.com. (Feb. 20, 2014), raycomgroup.worldnow.com/story/24777883/inmates-family-files-wrongful-death-lawsuit.

¹⁵⁴ *Inmate's family files wrongful death lawsuit*, *supra* note 153

¹⁵⁵ East Baton Rouge Parish Prison, Policy and Procedures Manual, B.310 Personal Hygiene, last revised Apr. 01, 2018.

¹⁵⁶ Mondics, *supra* note 138.

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ East Baton Rouge Parish Prison, Policy and Procedures Manual, E.320 Use of Restraints, last revised Apr. 01, 2018.

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ Gyan Jr., *supra* note 84.

¹⁶⁶ Hardy, Steve. *East Baton Rouge's 'dirty little secret': Jail death settlement reignites complaints about conditions of facility*. The Advocate, 1 May 2018, http://www.theadvocate.com/baton_rouge/news/article_8b82774a-4a15-11e8-98fd-b3807ec072da.html.

¹⁶⁷ PRA Response from East Baton Rouge Parish Sheriff's Office to the Promise of Justice Initiative (March 28, 2018) (on file with the Promise of Justice Initiative).

¹⁶⁸ *Id.*

¹⁶⁹ See Noonan, *supra* note 1. Margaret E. Noonan, *Mortality in State Prisons, 2000-2014 - Statistical Tables*, Bureau of Justice Statistics (Dec. 2016). <https://www.bjs.gov/content/pub/pdf/msp0114st.pdf>. (hereinafter “Noonan (Prisons)”)

¹⁷⁰ See Noonan (Prisons), *supra* note 169

¹⁷¹ See *id.*

¹⁷² See *id.*

¹⁷³ In 1965, Louisiana ranked 13th nationally in incarceration rates and rose to 5th highest in 1986. In 1990, Louisiana ranked 3rd in incarceration rates but moved to the second highest in the nation a decade later, in 2000. Bill Quigley, *Louisiana Number One in Incarceration*, TheHuffingtonPost.com, (May 10, 2016, 1:22 PM), www.huffingtonpost.com/bill-quigley/louisiana-number-one-in-i_b_9888636.html. See Paige M. Harrison and Allen J. Beck, *Prisoners in 2005*, Bureau of Justice Statistics, (Nov. 2006), www.bjs.gov/content/pub/pdf/p05.pdf. In 2018, Louisiana’s incarceration rate dropped to second place in the world. Peter Wagner & Wendy Sawyer, *States of Incarceration: The Global Context 2018*, Prison Policy Initiative (May 2018) <https://www.prisonpolicy.org/global/2018.html>

¹⁷⁴ *Louisiana’s Debtors Prisons: An Appeal to Justice*, ACLU Louisiana (2015), https://www.laclu.org/sites/default/.../2015_Report_Louisiana_Debtors_Prisons_0.pdf (last visited May 24, 2018).

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

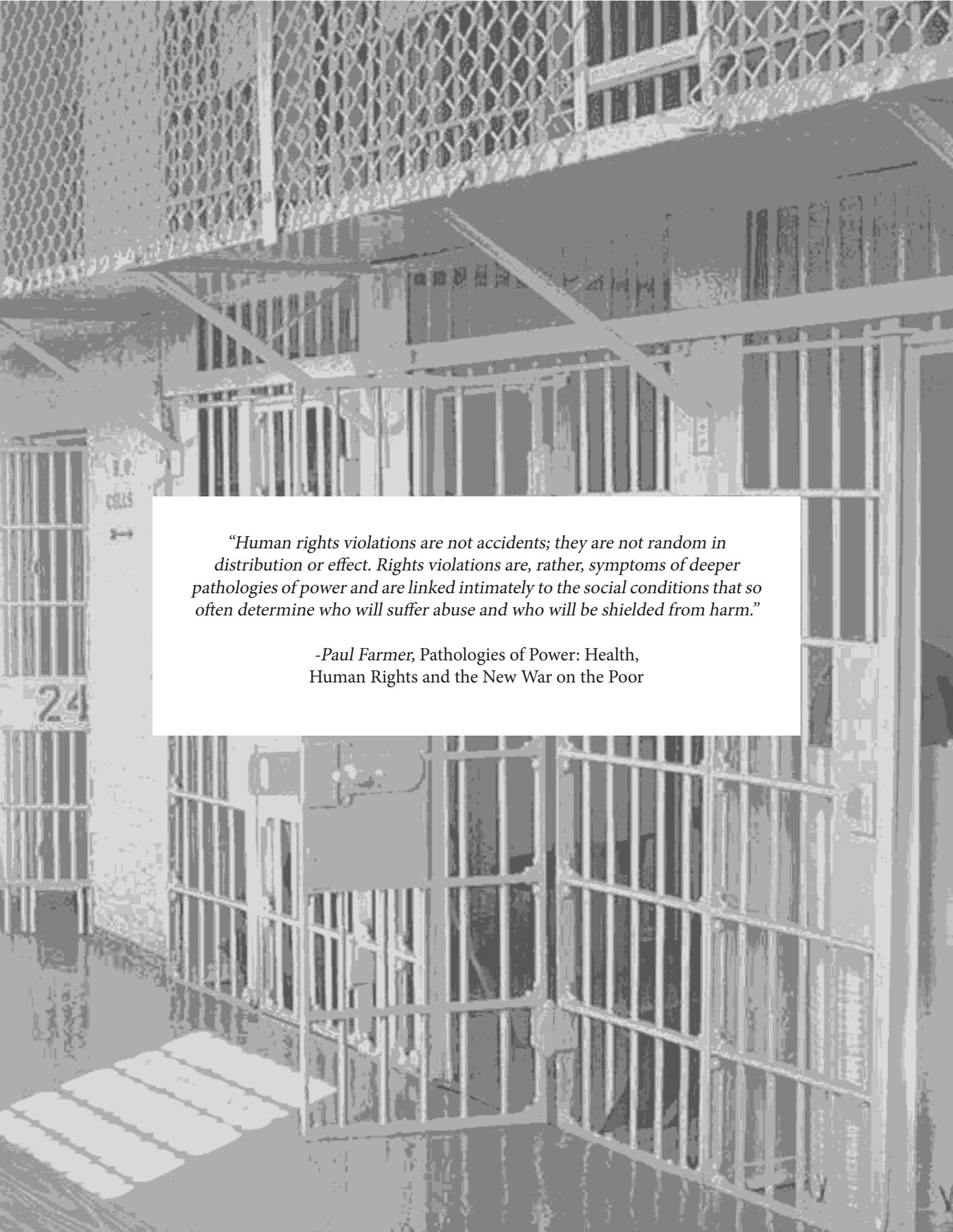
¹⁷⁹ *Allen et. al., v. Edwards*, 2017 WL 1056616 (La.Dist.Ct.)

¹⁸⁰ *Id.*

¹⁸¹ See Noonan (Prisons), *supra* note 169; Letter, *supra* note 2.

¹⁸² See Ryan Broussard, *EBR sheriff: State to give up land for new parish prison*, The Advocate (May 1, 2014 4:55 PM) http://www.theadvocate.com/baton_rouge/news/crime_police/article_6e4875e5-1f34-5866-b168-518763897e4b.html; Steve Harvey, *Voters to decide on tax for mental health facility in East Baton Rouge Parish*, The Advocate (Nov. 18, 2016 12:16 PM) http://www.theadvocate.com/baton_rouge/news/article_18cae946-adbb-11e6-b08f-d35989d7d038.html; Steve Harvey, *Jail, parish’s lawyers up for discussion in Baton Rouge mayoral candidates’ talks with press* (Oct. 17, 2016 5:30 PM) http://www.theadvocate.com/baton_rouge/news/politics/article_51a5e64a-9497-11e6-949a-e3d1bde69fa8.html. See also Andrea Armstrong, *300 Years of Impact of Jail Conditions* at <https://s3.amazonaws.com/gnocdc/reports/TDC-prosperity-brief-andrea-armstrong-FINAL.pdf> (noting that historically, new facilities were not sufficient to improve conditions at the New Orleans jail).





“Human rights violations are not accidents; they are not random in distribution or effect. Rights violations are, rather, symptoms of deeper pathologies of power and are linked intimately to the social conditions that so often determine who will suffer abuse and who will be shielded from harm.”

-Paul Farmer, Pathologies of Power: Health, Human Rights and the New War on the Poor