The Great New Orleans GUN GRAB

Descent Into Anarchy

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UNWANTED
AND UNDETERRED

It's a $22 cab ride from the Pan American building in downtown New Orleans to the 6000 block of St. Charles Avenue, but given the circumstances, it was a bargain.

Ashton O'Dwyer, 58, had just topped off the tank in his refurbished 1982 Mercedes 380 SL, and driven it to the elevated parking garage of the building that housed his law firm. Though the garage was within shooting distance of some of New Orleans' worst housing projects, the car had always been safe there, and O'Dwyer had no reason to doubt it would be again. Besides, this threat wasn't as much from burglars or car-jackers as it was from a more-objective menace — rifling winds and surge waters that might arrive with a storm that was still 24 hours from land. O'Dwyer preferred his car's chances in an elevated parking lot surrounded by reinforced concrete than on the

stately avenue, where 100-year-old oaks snubbed their noses at the law of averages.

He clicked the remote button that locked the car's doors before looking it over one last time. Finally, he shrugged his shoulders. It was only a car; he had more pressing issues at the moment. He phoned a cab company, and had a driver pick him up near the entrance of the building.

The ride back to his house was like something out of a 1980s made-for-TV nuclear holocaust movie. The scene was surreal. Normally abuzz with the certain strides of well-dressed businessmen and the directionless wobbles of saturated tourists, O'Dwyer's city, the one that his great-grandfather emigrated to from Kilnamanagh, Ireland, was as dead as the cobblestones under the Riverwalk train tracks. Those who could leave already had, and those who couldn't — or wouldn't — sat inside, eyes transfixed to the by-the-minute weather reports, hoping against hope that each update from the National Hurricane Center would show the Category 5 storm, spinning in the Gulf like an evil carnival ride, going to Houston or Lake Charles or anyplace else.

O'Dwyer shook his head and sighed. He was prepared for this. He had survived every storm that passed anywhere near New Orleans — including the two big ones, Betsy and Camille — and he knew he'd survive this one. How much of his city would, he wasn't sure.

He got home to find his wife of 40 years, Kitty, to be somewhat less alarmed than many of her fellow residents. Kitty was planning to catch a plane to watch the storm's approach on television from the safety of her daughter's home in Houston. She slept in, arising in what she was certain was enough time to finish packing and catch one of the last planes heading out of Louis Armstrong International Airport. Around noon, Ashton stowed her bags in her trunk, and promised to be careful. He kissed her goodbye just before she pulled out of the driveway with a half tank of gas.

What might have been one of the longest separations of their marriage, however, proved to be one of the shortest.

"She sat in so much traffic she feared she'd run out of gas," he said. "Around 6 that evening, she came pulling back into the driveway. She told me what happened, and I said, 'Well, baby, you're stuck with me.'"

More importantly, though, she was stuck in New Orleans, and if

things had gone a little differently, that might not have been a bad place to be.

Traditionally an early-to-bed, early-to-rise type, Ashton turned in at 9 o'clock that night. He would have watched a weather report, but the rising winds had knocked out power to his neighborhood at 4:30 that afternoon.

"We had a battery-powered television set, but that thing really sucks juice — I mean it just eats batteries — so we were saving it for when we really needed it," he said.

O'Dwyer was in the dark, but since the power went off late in the day, the air in his house was still cooler than outside.

"I slept like a baby," he said. "World War III could have been going on around me, and I wouldn't have heard it."

Something far worse was threatening. With energy equivalent to a 10-megaton nuclear bomb exploding every 20 minutes, Hurricane Katrina was just three hours from landfall when O'Dwyer arose at 3 a.m. to face August 29, 2005. His windows were closed and locked, but they were free of plywood or any other protective covering.

"We always wanted to get hurricane shutters, but just never did," he said.

O'Dwyer looked out into the pitch darkness. Not a flicker could be seen anywhere along the normally vibrant neutral ground of St. Charles Avenue. Ambient light gave glimpses of trees bending to the point of breaking in the sustained winds and finding even more to give in the gusts. But Ashton didn't need to see to know how strong the blows were. He had only to listen.

"It was bad at that time, and it only got worse," he said. "The storm was the worst I've experienced in my lifetime. At its peak — I've got no other way to describe it — it sounded like a freight train."

Finally, dawn somehow made an appearance on that gloomiest of South Louisiana days, and the cloud deck that seemed so impenetrably opaque began to brighten from black to coal gray. The light of day lifted Ashton's spirits, but it disheartened him at the same time. From inside his home, he was beginning to see the damage around him, and he watched as the wind continued to knock over trees, splinter power poles and blow electrical lines like they were party streamers. His beloved avenue was being treated with indignity, as though invading mongrels had stormed in for the rape and pillage. Out of doors was

clearly not a safe place to be.

"I was never stupid enough to venture outside," he said. "I had a slate roof, and after the storm, we found numerous places where the slate tiles had lodged several inches into the ground with the knife edge up. Can you imagine if that had hit flesh? It had the capacity to do great bodily harm."

It wasn't until 10 a.m. that the peak of the storm was over, and the winds began to lessen.

"It was at this point that my wife and I breathed a collective sigh of relief," Ashton said. "There were limbs down everywhere, there were power lines everywhere, and people's garbage was strewn all over the road, but our house was virtually unscathed. We had no roof, and we had no power, but we were fine."

O'Dwyer waited another hour before making his first foray outside. An avid runner, he went to check on the condition of Audubon Park, which had lost a few oaks and many more oak branches. He looked for other people, but seeing none, the gregarious attorney strolled back home and took his bike for a spin to the corner of Napoleon and St. Charles. The strong westerly wind blew at his back and made pedaling easy.

"I saw a few other people, and talked to them. Everybody seemed to be doing fine," he said. "At this point, I had no concern about flooding or looting. I mean, I really thought everything was O.K."

But everything was not O.K., and Ashton and Kitty would get their first hints of that during the evening hours.

"My wife heard a rumor late in the day on Monday that a levee had breached and there was flooding," he said. "But I remember quite specifically that the first form of official information about flooding was on the radio sometime on Tuesday morning."

After hearing the news that morning, Ashton once again pulled out his bicycle and took a ride down St. Charles toward its intersection with Napoleon Avenue. Some residents had already begun cleaning the neutral ground — New Orleans-speak for "median" — so Ashton had fewer downed limbs to dodge as he rode. He had traveled this route every day of the 11 years he lived on the verdant, shady avenue, and he knew the houses well. He looked at each as he passed, and wondered whether a tidal wave was approaching that would sweep away these historic mansions, just as one did to Sri Lankan shacks only a year ear-

lier. At the very least, the power lines that hung limp and lifeless gave clear indication that life wouldn't be returning to normal for quite a while.

Ashton arrived at Napoleon, and saw a group of Latino men standing in the area. He asked if they had seen any flooding. Only one seemed to understand the question, and he pointed to a storm drain that was topped by an inch of water.

"His indication was that the water had been at that height, and it wasn't coming up," Ashton said.

Somewhat relieved, he started back toward his house. He hadn't found any flooding, but what he would discover was nearly as troubling. While beginning to pedal back up St. Charles, Ashton saw that the plywood covering the Rite Aid drug store on the corner of Napoleon had been ripped off and was lying on the ground. He hadn't noticed that on Monday.

"I got a scary feeling," he said. "I thought, 'I'd better get the hell back home.'"

He continued on his way, and within minutes was in front of his house. At the next corner, though, he saw an NOPD cruiser parked on the neutral ground.

"I rode up to it, and I saw that it was a Sixth District car," O'Dwyer said. "I thought, 'That's strange. What the heck are they doing in the Second District?' There were two guys in the car — one white, one black — and there was stuff piled all the way to the top in the back seat of the car.

"I went up to them, and I said, 'What can you tell me about flooding in the city?' They looked at me like, 'Pal, we don't know anything about any flooding.' They were just opportunistic NOPD officers who had piled their car with loot.

"At noon on that day — Tuesday — they confirmed on the radio that there was widespread looting in the city."

The station also confirmed the rumors Kitty had heard the evening before: The 17th Street Canal floodwall had succumbed to the surge, and Lake Pontchartrain was emptying into New Orleans. Ashton knew instantly what that meant to the future of the town he loved. He had practiced maritime law for the previous 35 years, so the sea, quite literally, put food on his table and a roof over his head. He knew the only thing that kept New Orleans from flooding 365 days a year was the

ring of levees and floodwalls that surrounded the city. Remove one link in that chain, and you might as well remove them all. Many others had been removed, but Ashton didn't know it at the time.

He wondered if the authorities had enacted a plan to close the breach, but then he pondered the improbability of that.

"As a lawyer, I knew that there would be issues about who's responsible for closing the breach," he said. "Then I also figured it would be impossible to reposition that much equipment and material in an area that provided access to the breach. And then if you could get there, what do you close it with?

"I knew it would be bad, but I didn't even realize how bad it really was. There was nobody in charge; there was no plan. To say the least, the response was not well-coordinated."

These thoughts filled Ashton with a sense of hopelessness. His city would be ruined, and life would slide into the dank realm of misery in the next days and weeks. He desperately wished that Kitty had made it to the airport and caught her plane.

"I stayed (throughout the storm) because I'm an independent type of guy," he said. "I stayed to protect my property. It never occurred to me that I would leave what I've worked so hard for. What let me stay was that I had no small children or a wife who needed me to care for them or get them out of harm's way."

That, of course, had changed when Kitty missed her plane.

O'Dwyer looked around more suspiciously now. He kept himself closer to home, and watched families passing back and forth in front of his house.

"People were going in both directions on St. Charles Avenue," he said. "I started thinking, 'Why would a family tugging all their stuff in garbage cans behind them be heading Uptown?' Were they trying to get to the Orleans/Jefferson Parish line to escape to Jefferson Parish? It raised my antennae. It didn't make sense to me. If the staging area was at Lee Circle, why were they walking away from the staging area?"

Kitty spent much of the day Tuesday listening to the radio and talking to her daughters in Houston via a land line that was still working at that point.

"They were telling us that based on what they were seeing on TV, there was widespread looting, lawlessness reigned and that our lives may be in danger," Ashton said. "My wife was beginning to get hyster-

ical."

Ashton busied himself picking up debris from his front yard and on the street and neutral ground in his block.

"By Tuesday evening, we were beginning to descend into anarchy — or at least we were becoming aware of it," he said. "I was outside cleaning up because 1) it gave me something to do, 2) I could learn what was happening by talking to people who passed by, and 3) it let potential looters know that there was somebody on the block who would blow their heads off if they tried to break into any houses."

He kept close at hand a 12-gauge Mossberg pump loaded with 00 buck shot and a .38-caliber Smith & Wesson pistol. That night, he slept, covered in bug spray, on a hammock behind his house with the shotgun tucked under his arm. Kitty was so alarmed at the rampant mayhem reported on the radio that she slept in the oven of a house with every door and window closed and locked.

Ashton slept well. Kitty, however, did not. But her experience in the squalor of New Orleans would soon be drawing to a close.

"On Wednesday morning, sometime around 7:30 or 8 a.m., we suddenly, without warning, lost water," Ashton said. "If the pumps were operational, they were not pumping. We knew that there was some pressure coming from the government, at all levels, for people to get out of the city. There were rumors that the mayor ordered the water be turned off to force the people out."

This new degradation of conditions tested Ashton's resolve, and it pushed Kitty past the breaking point.

"When we lost water, things began to go south immediately," he said. "The commodes wouldn't flush, and we couldn't take a shower. I was able, through the bucket brigade, to get water from my neighbor's pool to flush the commodes, but they're the old-fashioned commodes — 5 gallons per flush. That's a lot of water.

"We were now living The Lord of the Flies, Robinson Crusoe existence, and Kitty O'Dwyer lasted precisely 24 hours with the water turned off. It was too much for her. Believe me, when you're living in squalor, when you're hot, when you're living in fear of the people walking by on your street, and then your very own government starts putting pressure on you to get out, it screws your head up. I knew what I was doing was right, but I'm not going to lie: I began to have some doubts."

Still, Ashton refused to leave. With a metallic resolve steeled during six years in the Vietnam-era Army, he dug in, steadfastly refusing to surrender all to the lusty whims of the looters. Quite the opposite of Ashton, however, Kitty refused to stay. She had been in touch with neighbors, who were also good friends, and they had told her where a key to their house was hidden. They asked that, if she were to leave, she would first go into their attic, unlock several safes that held valuable jewelry and transport it with her out of New Orleans. They also pleaded with Kitty to take their maid, who had opted to ride out the storm in their house. Kitty agreed, and on Thursday morning, she and Ashton unlocked the safes and loaded the valuables into the trunk of Kitty's car, which they had filled with gas.

"She was yelling at me the entire time for not coming with her because she was fearful she might be carjacked," Ashton said. "I didn't think so at the time, but that was a very real concern."

Against the odds, Kitty made it out of town by taking St. Charles to Highway 90, avoiding the flooded areas away from the river. Her ultimate destination was with her daughters in Houston, and she made the normally six-hour drive in twelve hours' time. Ashton knew he'd miss his wife, but he was thrilled not to have anyone to protect or look after. He also could lower his levels of decorum.

"Now I could finally go dig my latrine in the backyard, which is much easier than carrying in all those buckets of water," he said. "I could also go dig my trench in the neutral ground of St. Charles Avenue and empty the rotting contents of my freezer in it. But most importantly, I could keep closer watch on my property, so any looters would think twice because some crazy man lives there who may blow their heads off."

Ashton kept close contact with the few friends and neighbors who stayed behind, and they formed a close bond, a level of brotherhood and camaraderie felt by soldiers in combat. They viewed themselves as soldiers, men on a mission to defend their rights, their freedoms and, most passionately, their homes. This wasn't a war on foreign soil. It was one that came to them, and their perimeters were precisely at the edges of their property lines.

One of O'Dwyer's tactical maneuvers in the war was to keep himself always visible to looters. Like jackals or hyenas, looters are furtive figures, stricken by cowardice, who move in on the kill of others.

They're grave-robbers, pure and simple. By making himself visible, Ashton was screaming to the thieves that he was very much alive and that he wasn't afraid.

This high level of visibility also caught the attention of the news crews that had flocked from around the world to the carnage of New Orleans. St. Charles Avenue is among the city's most prestigious — and important — streets. It roughly parallels the crescent shape of the river, providing an historic and gorgeous passage from the heart of downtown, at the eastern edge of the crescent, all the way through uptown and almost to the Jefferson Parish line on the western edge. The route itself is a destination for tourists, who stop as much as they drive to photograph 19th century homes and clackity streetcars, and for locals, who jog at Audubon Park or catch parades at Lee Circle. In the days after Katrina, journalists used St. Charles as a primary thoroughfare because most of it was unflooded. It wasn't long before they bumped into O'Dwyer, and his natural panache and flair for the colorful made him eminently quotable. Within days of his wife's departure, he became what is known as a media darling. His name was printed in newspapers and magazines as obscure as The Huffington Post and as prominent as the Wall Street Journal, and his face was beamed via satellite to the other side of the planet.

Ashton became fed up with the slow pace of recovery in his hometown, and with the lack of a focused plan that gave residents the information they needed to make decisions that would drastically impact their futures. He began to let the reporters know how frustrated he was and how isolated he felt living, as a law-abiding taxpayer, in a city that didn't want him. He also grew increasingly alarmed at information the reporters were telling him that the civil authority would soon force defiant residents like him to leave against their will.

"Has your neighborhood ever been invaded by state troopers from another state sent here by God knows whom?" he asked CNN Correspondent Dan Simon in one report. "I will leave when I am dead, OK? Let them be warned. They come to my house, they try to evict me, they try to take my guns, there will be gunfire.

"Treat me with benign neglect. Get out of my neighborhood, get out of my life, get out of my (bleeped) city."

Many of the questions came from left-leaning journalists.

"These liberal reporters would come in from the Northeast, and

they'd say, 'What do you think gives you the right, as a rich white man, to stay in a city where all the poor black people have been forced to evacuate?' I'd just look at them and say, 'What the hell gives you the right to be here? Do you pay taxes to live here? Are you any less prone to sickness or disease than I am? Are you some type of superhuman? I've got more right to stay than you do. I grew up in the swamp. See these bites all over my legs? I don't even feel them. Take a deep breath; this is the freshest air you'll ever breathe in New Orleans.'

"They thought I was from another planet."

The leftward lean of the reporters was evident in a September 13, 2005, CBS News report featuring O'Dwyer. It began: "It is by no means fair but, reports CBS News Correspondent Lee Cowan, Hurricane Katrina did more damage to the poor than to the privileged in New Orleans."

Finally, he'd had enough, and O'Dwyer expressed his frustration in a humorous way, proclaiming to a Baton Rouge news crew that he was seceding from the Union.

"If anyone crosses that line without an invitation, there will be gunfire," he said. "You are standing on sovereign territory right now. I have withdrawn — the word is seceded — from the United States of America, the state of Louisiana and Orleans Parish.

"You are standing on the sovereign soil of the Duchy of Kilnamanagh."

Kilnamanagh is an area in Ireland from which O'Dwyer's ancestors hailed. He says he got the idea of forming his own country and taking on the U.S. from a 1959 Peter Sellers movie titled, "The Mouse that Roared." In that movie, Sellers is the leader of the Duchy of Grand Fenwick, which notes the prosperity found in Germany and Japan following losing campaigns against the U.S. So he decides to declare war against America, hoping he'll quickly lose and the reparations can begin. To the great dismay of Sellers' character, however, the U.S. never even notices it's under "attack."

"That was my effort to maintain my sanity in what was a very real situation," O'Dwyer said.

He kept up the ruse for days, wearing a military hat and web gear and even pointing visitors to his country's colors, a Robert E. Lee battle flag that he had propped up in the corner of his courtyard.

"That was my way of thumbing my nose at the government," he

said. "I just used the web gear for fun."

But most journalists missed the joke.

"I had one reporter who came up and stood at the edge of my property line and said, 'I request permission to make passage into the Duchy of Kilnamanagh to seek an audience with its leader.' I said, 'I'll let you in, but I'll have to blindfold you first, and if you've come on behalf of the United States seeking to surrender to me, I should let you know now that I'll accept but one condition of surrender — it's unconditional — and I'll accept it only from a leader with equal rank to that of myself.' I was wearing a hat with five stars colored on it, and I knew that there is no five-star general in the U.S. right now.

"I think he was the only reporter who understood that it was all tongue-in-cheek."

On the day the Wall Street Journal reporter was there, he asked Ashton to take him to the area where he was raised so he could see more of the city and get a better sense of his interview subject. The neighborhood, known locally as Carrollton, had degraded over the years, cracking under the deleterious weight of drugs, crime and poverty. Before they left, Ashton went inside and grabbed his 1940s-era .38-caliber Smith & Wesson pistol.

"I took him down Willow Street near its intersection with the protection levee. That's the area my paternal grandfather had his home and business," Ashton said. "I was looking to my right, pointing out the deterioration of the neighborhood, and I failed to see an NOPD unit parked on the left side of the street. I stopped and got out of the car to show the reporter around. This is a bad neighborhood, so I brought the .38 with me. I had it in my hand, pointing at the ground.

"I took maybe one or two steps, and I heard, 'Drop the weapon! Put your hands in the air!' I turned around, and I had two automatic 9-millimeters or Glock 40s twenty-five to thirty feet from my face. It was two Second District officers. I said, 'Are you kidding me?'"

The officers weren't. They pushed O'Dwyer against the car, frisked him and tightened handcuffs on his wrists.

"I said, 'You have no right to take me. A citizen has the right to bear arms.' They said, 'Shut up.'"

The reporter didn't stick around for the show. After Ashton was locked in the cop car, he vanished, finally showing up back at Ashton's house later in the day.

Moments later, the officers' supervisor showed up, and Ashton could barely make out the muffled exchange from the back seat of the cruiser.

"I could hear the supervisor arguing with them. He said, 'A citizen has the right to carry firearms.' But he had to defend the cops working for him. About fifteen minutes later, (the supervisor) came to the car and said I'd be released, but the gun would be confiscated. I asked him for a receipt, but I didn't press the point. I was not in a good negotiating position."

Ashton was escorted back to his house, and ordered to stay there.

Other than visits from reporters and unannounced drop-ins from friends who would sneak into town to supply him and check on his health, O'Dwyer spent much of the week alone after Kitty left. He had tended to his property as best he could with his limited supplies, and soon there was no work left to do. His sources of entertainment were minimal. His existence became simplistic, like that of a stranded castaway on a desert island: He ate, drank, slept and sought shelter from the interminable rays of the mid-day sun.

Then on Thursday, a week after Kitty left, Ashton met 83-year-old Harold Gagnet, who was cleaning the neutral ground in front of the home of his friend, Katherine Demontluzin. Harold was a chief engineer licensed by the U.S. Coast Guard, so given Ashton's maritime background, they had much in common. They discussed the flaws in the levee system, and groused about the hopelessness of the city and state's leadership. Harold, Ashton said, would grow to become his soul-mate. They passed the days telling stories, laughing and even cooking for one another. Breakfast was always the best meal of the day.

"We found out you don't have to keep bacon refrigerated, and eggs will stay pretty well if you don't let them get hot," Ashton said. "The gas (stove) worked, so whenever people came by, we'd ask them to bring three things the next time they came back — steaks, beer and ice."

These visitors kept O'Dwyer well-stocked. His engineer son-in-law kept a pipeline of supplies flowing from Houston, causing several of the reporters to marvel at the goods, ice particularly, that O'Dwyer was able to procure in a city with such lean resources at the time. They wrote about it in their stories, with veiled criticism of Ashton for trying to live as comfortably as possible when so many of his fellow residents were scattered around the country, unable to return to their homes and

continue their lives. Ashton took pride in his ability to sustain himself in such challenging circumstances.

"Frankly, I was having the time of my life," he said.

But that all began to change on September 14, more than two weeks after Hurricane Katrina sliced through the Gulf Coast and trekked through the heart of the country.

On that day, Ashton saw a crew of about a dozen workers begin to inspect the roof of his next-door neighbor's house. They had a German shepherd along with them to provide protection. By this point, Ashton viewed himself as the defender of his neighborhood. He was friendly with most of his neighbors, and knew them well. Most had called or sent messages asking him to look after their houses, and Ashton took the charge seriously.

So he wandered over to ask the crew of workers what their business was. They explained they had been hired by the homeowner to do an insurance inspection on the roof. Ashton watched for a while, and it became apparent they were legitimate.

"I asked them if they'd do an inspection of *my* roof," he said. "They did, and around 4 o'clock in the afternoon, I was standing in front of my house. They had finished the inspection and were just beginning to write up the report when I smelled something horrible. I mean, it was the worst smell I've ever smelled in my life. It was worse than death. I turn around, and 15 feet away there's this 6-foot-tall dude walking on my sidewalk. I literally smelled him before I saw him. He smelled like a billy goat.

"I walked up to him, got right in his face and screamed, 'What are you doing in my neighborhood?!?' The guns were inside, and that was probably a good thing. If I had had access to them, I may have ended up getting myself in trouble.

"He responds by acting like he's out of his head. He starts babbling incoherently. Then he blurts out, 'I'm stranded.' He says it twice. This is 16 days after Katrina, and he all of a sudden comes walking up St. Charles Avenue. If he had wanted to get out, there were many ways to get out, particularly after the military arrived.

"What I figured happened was that this guy stayed behind to protect his loot until his hole got too foul, even for him. So he stuck his nose out looking for his next opportunity to steal, and that's when I confronted him.

"I ordered him on the ground, spread eagle, and we put the dog on him to guard him. I thought, 'O.K., who am I going to look for to pick him up?' It was a no-brainer. I would just go to the military encampment in Audubon Park, and pull up to the HQ. I knew right where it was because I had been bringing ice, water and fruit to those guys since they got there.

"Well, I pulled in there, and I was pretty excited and was going too fast. I get drawn down on by two officers with 9 millimeters. I've got my hands in the air, and they're frisking me, asking what the hell I'm doing there. An hour later, I'm still explaining myself. Finally, I convince them I'm just a citizen looking for a little help. They tell me they're not allowed to do any local law enforcement. They were totally ineffectual."

Forty minutes later, Ashton finally made it back to his house to discover the alleged looter was gone. The workers explained that soon after Ashton left, they flagged down a passing state trooper, who took the man into custody.

"Before they'd put him in the car, they sprayed him with disinfectant," O'Dwyer said.

The contentious encounter with the military surprised O'Dwyer, but an incident that occurred just three days later confirmed how unwanted he was in his hometown. The local authority, it became obvious, would stop at nothing — not even the clear boundaries drawn by the Constitution — to intimidate him into getting out of town and keeping his mouth shut.

On the morning of September 19, O'Dwyer drove to Baton Rouge to file a class-action lawsuit he had hand-written in his driveway. Named as defendants in the suit were Gov. Kathleen Blanco, Mayor Ray Nagin and then-Police Chief Eddie Compass, among others.

"I was so angry," he said. "I firmly believed — and still believe — that Blanco and Nagin deserve to be driven into personal bankruptcy. They should be in jail. They killed people through their ineptitude."

It was the first lawsuit filed against government officials on behalf of those impacted by Hurricane Katrina, and it apparently got some notice by those named as defendants.

O'Dwyer drove back home, getting through checkpoints with a pass he had procured that allowed him to move about the city unfettered, and shared dinner that night with Harold Gagnet and another friend,

Jerry Guice.

Around 11 p.m., Harold left to retire to the friend's house he had been guarding in Ashton's neighborhood. Jerry, however, had a much farther journey home, so he asked Ashton if he could spend the night rather than risk being arrested by authorities for violating curfew. Grateful for the company, Ashton agreed.

He had told his house guest on another occasion that the best place to sleep was on the patio hammock, and on this night, he offered his chosen spot to Jerry, who eagerly accepted.

Ashton retrieved a pillow and sheet from the house, and covered the webbing of the hammock with the sheet. He then carefully showed Jerry how to climb into the hammock without it flipping.

"There's some little manipulation to get comfortable and to become secure in the hammock," Jerry said. "It tends to swing. (Ashton) showed me how to get in without falling out to break my neck."

Assured that Jerry was comfortable, Ashton poured himself a glass of wine, and walked along the side drive of his house to a table and chairs he kept set up at the midpoint of his driveway, immediately adjacent to the front corner of his house. The table supported a television set that O'Dwyer powered with a borrowed generator. The city was still wrapped in a thick blanket of darkness, and only the rays of the TV added to the soft light of the moon.

Ashton settled into one of the chairs and watched the local news broadcast for updates on the city's progress. Sleep would come when it willed. He had no agenda for the next day, no reason to turn in early. He could watch the TV all night if his whims called for it.

But he'd never get the chance.

Around midnight, an SUV with "Louisiana State Police" emblazoned on the side pulled in front of O'Dwyer's house.

"Out jumps three or four officers in SWAT clothes, and they're coming toward me," O'Dwyer said. "I jump up and say, 'Halt! Get back on the sidewalk! Get off my property!'

"They don't even stutter. They keep coming and say, 'Sir, you're coming with us.'

"I say again: 'Get off my property unless you're coming to serve a warrant or make an arrest.'

Undaunted, the cops surrounded O'Dwyer, cuffed him and threw him face first into the shrubbery lining his driveway.

"I knew my rights," Ashton said. "I was on my own property; they had no right to be doing this. I said, 'Who are you guys? Why are you doing this to me? Am I under arrest? What is the nature of the charges?' I was very vocal in asking why this was happening."

In the meantime, one of the cops had walked around to the back patio and discovered Jerry sleeping in the hammock. The officer pushed Jerry's right shoulder to waken him.

"I looked up, and there to my surprise was an officer in uniform," Jerry said. "I said, 'What's going on?' I was surprised. I was really dead asleep. So he says, 'Can you identify this man?' And we look out toward the street, and I said, 'Can I identify him? Of course I can. That's Ashton O'Dwyer. He lives here.'"

Despite Ashton's protests, he was shoved into the vehicle wearing nothing more than a pair of white shorts and topsiders. The SUV sped off, finally stopping at the Union Passenger Terminal, a train station that was being used as the parish jail during the aftermath of Katrina.

"All they would tell me is, 'You are now in the custody of the Louisiana Department of Corrections," Ashton said. "I kept telling them, 'Well then I want to make a phone call. I want to call my attorney.' They ignored me."

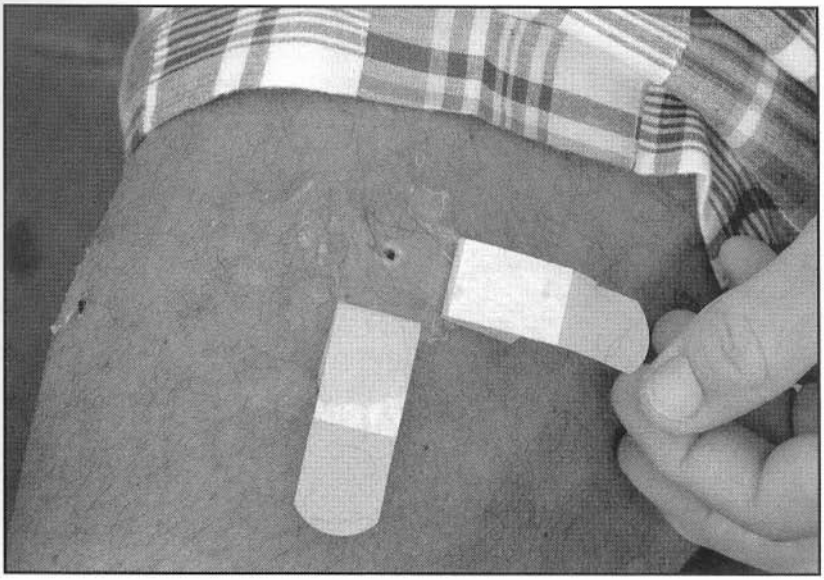
The room they were in was poorly lit, and Ashton, still hand-cuffed, was dragged to a corner of it.

"All of a sudden, a little guy who I'll remember until the day I die runs out of the shadows and pepper sprays me," he said. "I said, 'Aww, y'all didn't have to do that.' So he sprays me again, and then a third time.

"Another one charged at me and slapped me on side of the head with an open hand. Then I really started getting mad. I said, 'Is that the best you can do, you gutless dogs? Why don't you break my nose or my jaw?' I wanted them to do something that would leave evidence."

Just minutes later, Ashton would get his wish, but it would prove to be painful.

"I was telling them, 'Please just answer this question: Have I been arrested?' They would never answer yes," Ashton said. "Then the same little bastard rushes at me with a 12-gauge. He points it 2-3 feet from my right thigh, and he shoots it. I'm running on adrenaline, so I barely even feel it. But then he shoots my left thigh, and then my right again. He does this four or five times, and then it really starts to hurt. I didn't



Ashton O'Dwyer was examined by Dr. Brobson Lutz after being shot with beanbag rounds several times at short range by police officers.

know what he was shooting me with then, but I'd later learn that it was beanbag rounds."

Blood began to gush from O'Dwyer's right thigh. There were three officers present, all dressed in dark trousers. Two had on T-shirts, and one wore a dark shirt that matched his trousers.

"I didn't know what was going to happen," Ashton said. "I was waiting for one of them to pull out their sidearm and shoot me. It was very intense."

With his hands still behind his back in cuffs, Ashton was brought to another section of the terminal. One of the walls was lined with holding cells made of chain-link fencing. Several held prisoners.

"They put me in a Guantanamo-style dog cage, and took off the handcuffs. Then they shot me two more times. By this time, the shooting really hurt," he said. "They took my Timex running watch, so I had no idea what time it was, and I had not yet been booked."

In a town where the civil authority seemed to feel it had carte blanche to gain control of the citizenry, Ashton began to recognize how dire his situation was.

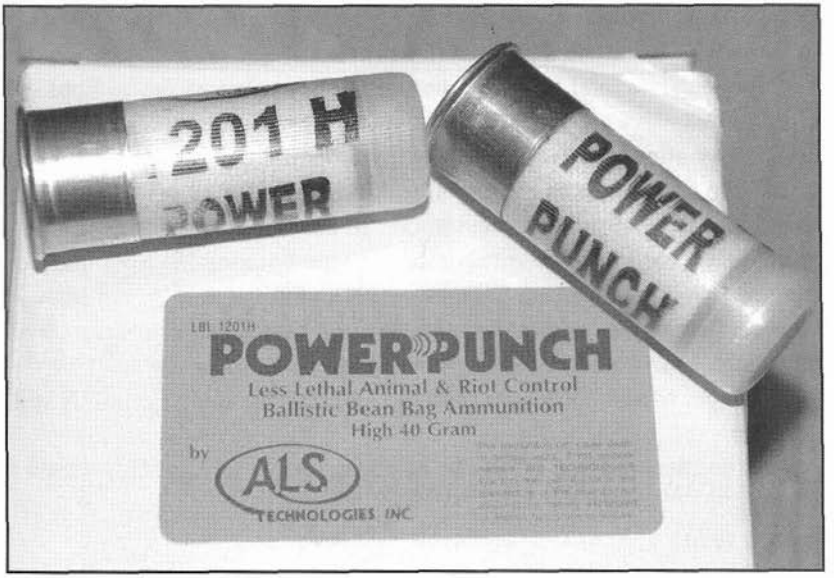
"I realized I was in a tight spot, and I started getting scared," he said. "I started yelling, 'I'm Ashton O'Dwyer, 6034 St. Charles Avenue. I'm being held here against my will without charges.' I wanted somebody to know I was there."

Ashton didn't sleep a wink, and when the first rays of daylight brightened the greasy windows of the train station, he was surprised to still be alive. Two officers returned to the cage, and one cuffed him. They led him to another cell that was already occupied by five other citizens, each of whom, he discovered, was being held without even a hint of the charges. The six of them were given military meals ready to eat, known as MREs, for breakfast and, later, for lunch, but were never updated as to how long they'd be held there or, more importantly, what the charges were against them.

"These cops shouldn't have a badge," Ashton said. "A citizen doesn't deserve this. I didn't do anything to these bastards. What I did was I picked a fight with the governor, the mayor and the chief of police. They were incompetent. I said so in interviews, and I sued them.

"We had a trampling of Constitutional rights by the people in power. What happened to me was a trampling of my Fifth and Fourteenth

After the encounter, O'Dwyer had trouble walking, and Lutz noted that one of the hematomas on his leg had abscessed.



So-called "beanbag" rounds are used by police for riot control. Consisting of a small nylon bag containing lead shot, they are fired from 12-gauge shotguns. Officers are strictly cautioned not to aim at the head or chest area as the blow can incapacitate or kill.

Amendment Constitutional rights. The problem was there was no court of law to enforce people's Constitutional rights in the aftermath of the storm."

At 5 p.m., two officers opened the cage, and told the six men that they were free to go. Ashton was led to a desk where he was handed an affidavit that said why he had been arrested — public intoxication. It was signed by Trooper John Nelson.

The charge, in O'Dwyer's view, was bogus.

"No. 1, I was not intoxicated," he said. "No. 2, I was not in public. I was sitting in my driveway, and No. 3, I was never breathilized, I was not given a field-sobriety test, and they never drew blood."

Ashton was grateful to be walking out the door, into the thick Louisiana air, alive. But he was humbled.

"I was physically incapacitated because of what happened," he said. "I could hobble, but I was hurt. It caused me to stay inside my gate. The anxiety and fear of them busting down my door never left. They taught me a lesson about what they could do. The rest of the time we had the apprehension of a home invasion."

But Ashton vowed to use his powers as an attorney to bring justice to those who had denied him his due process.

"They made a fatal mistake," he said. "They released me without killing me."

The day after his release, O'Dwyer was examined by Dr. Brobson Lutz, who had served as the city's health director for 12 years. He found him to have multiple hematomas to his anterior thighs near his groin, and issued a hand-written medical report stating his findings. He examined Ashton again on September 30, and noted that he still had bilateral hematomas and thigh pain. During a follow-up exam just three days later, Lutz noted that one of the hematomas had abscessed.

O'Dwyer filed a complaint with the FBI, but the investigation is still pending.

And despite repeated efforts he has been unable to locate his seized .38.