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The Times-Picayune

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Re-electing Mary Landrieu is vital to state

AN EDITORIAL

When Mary Landrieu was elected to the U.S. Senate 18 years ago, Louisiana residents needed her to become a strong and effective advocate for the state. She did that, forging relationships across party lines, pushing three different presidents and her colleagues in Congress to treat us fairly and building the clout that comes with not only seniority but respect.

The benefits to Louisiana have been enormous. At a time when the New Orleans area needed eloquent and powerful leadership after Hurricanes Katrina and Rita and the levee breaches, Sen. Landrieu provided it. She championed our community's right to be rebuilt, reminding Washington of the value of this almost 300-year-old port city on the nation's greatest river.

The entire state has benefited from her hard work in the Senate.

In 2006, she accomplished something Louisiana leaders had tried for decades and failed to do. She persuaded Congress to force the federal

government to give Louisiana and other Gulf states a share of lease revenues from offshore oil and gas wells — which by 2017 will provide an estimated \$500 million each year for restoring our coast.

Sen. Landrieu was instrumental in writing and passing the Restore Act, which ensures the vast majority of BP fines for the 2010 oil spill will go to coastal restoration — and that Louisiana will get the largest share. She worked successfully across Gulf state and party lines. Her leadership role in the aftermath of the oil spill cannot be overstated.



Mary Landrieu is the clear choice for Senate

See EDITORIAL, A-6



EDITORIAL
We endorse Steve Scalise and Cedric Richmond for re-election

E-2



Road Home grants won't be forgiven, feds tell Louisiana

18,000 homeowners are noncompliant

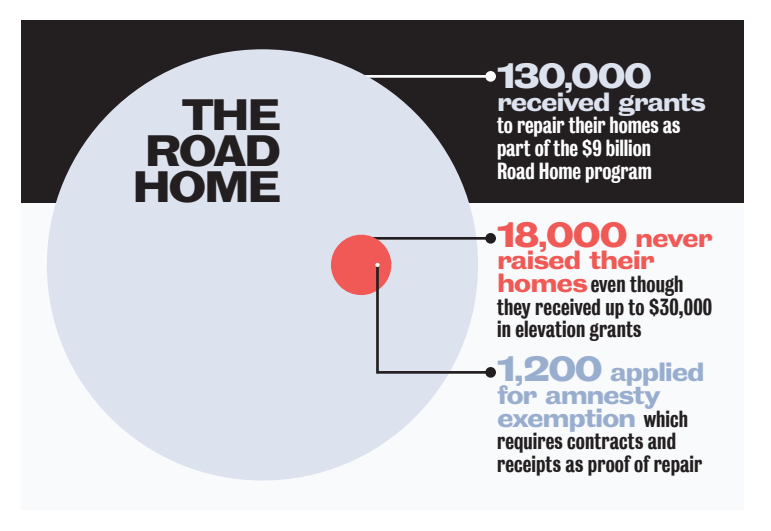
By Robert McClendon
Staff writer

Federal officials have denied a state request to relax Road Home documentation rules and told state officials to prepare to pay back more than a half billion dollars in unaccounted for Road Home grant money.

In an letter dated Oct. 1, the Department of Housing and Urban Development demanded that state officials identify all the nearly 18,000 homeowners who took Road Home elevation grants, \$30,000 in most cases, but never actually raised their homes. The letter also demanded to know how much total grant money was associated with the noncompliant homeowners.

State officials said that number is \$522.2 million.

See ROAD HOME, A-20



State considers fund to pay for rape exams

Officials studying other states' methods

By Rebecca Catalanello
Staff writer

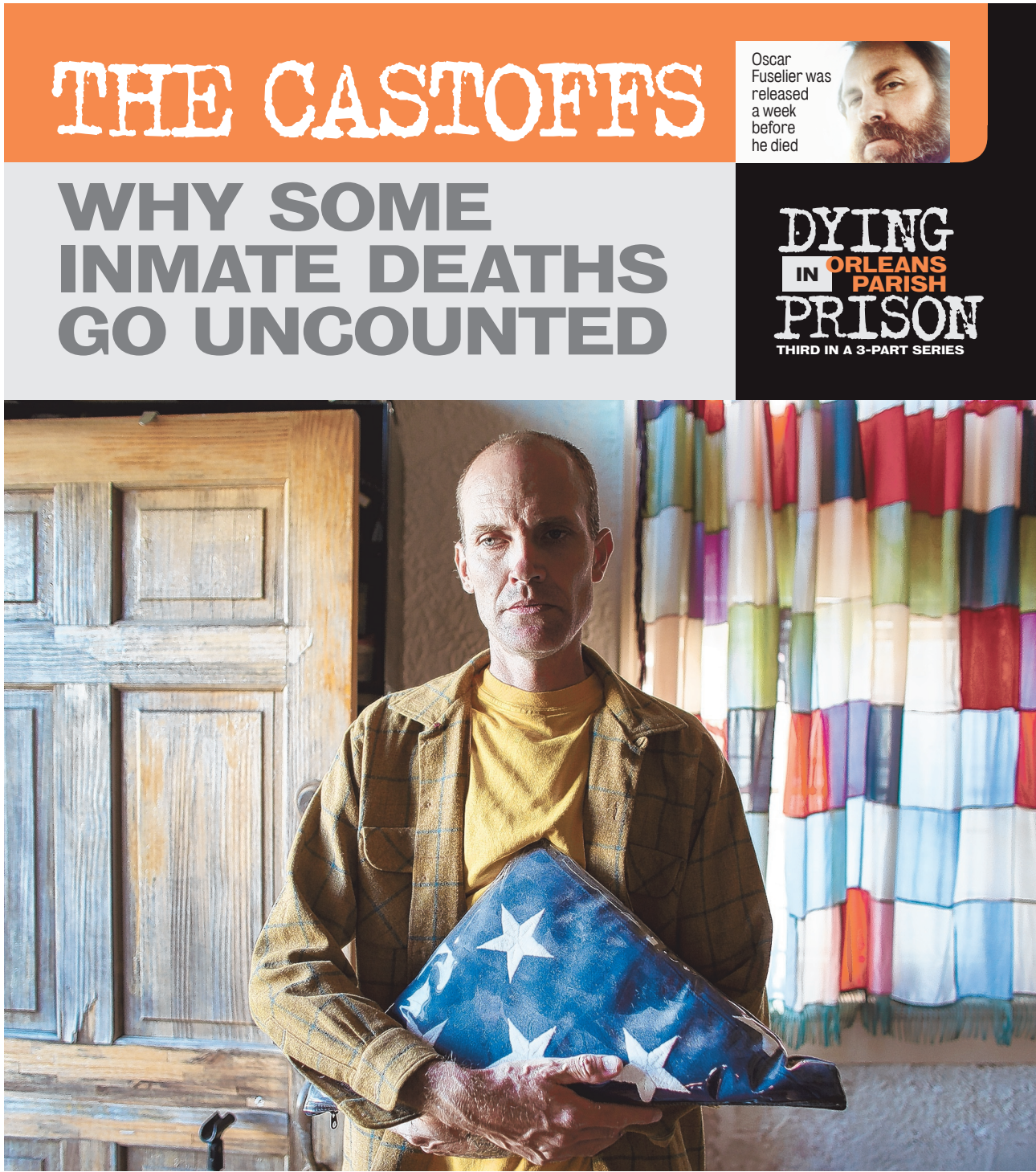
Rape victims in Louisiana can face thousands of dollars in medical bills for sexual assault exams and related medical costs, depending upon what hospital they go to for help.

It's a problem not only for victims, but for the state. That's

because federal law requires that victims not have to pay any out-of-pocket costs for these exams. Yet for the past nine years, Louisiana has received \$17.3 million in federal grant money on the premise that the state is compliant with that rule. It is not.

Now Louisiana's governor, health leaders, lawmakers and victims advocates are looking to other states in their search for a remedy that would standardize rules for how rape exams are provided and how medical providers bill.

See RAPE VICTIMS, A-6



Oscar Fuselier was released a week before he died

DYING IN ORLEANS PARISH PRISON
THIRD IN A 3-PART SERIES

CHRIS GRANGER / STAFF PHOTOGRAPHER

Daniel Fuselier holds the funeral flag for his father, Oscar Fuselier, a Vietnam veteran. Fuselier died at 59, less than two weeks after he was beaten into a coma while in Orleans Parish Prison. His cause of death was listed as lung cancer.

Two deputies stood guard over the Vietnam War veteran, as he lay handcuffed to a hospital bed, comatose and brain dead.

A day earlier, Oscar Fuselier had been arrested for missing traffic court. He was placed in a cell at Orleans Parish Prison with violent offenders.

A teenager, being held on an armed robbery charge, harassed him for smelling like urine, then stomped him in the head.

Fuselier lost consciousness at the jail and never woke up.

On his third day at the hospital, nurses told the family to prepare for his death. Sheriff Marlin Gusman's office released him from custody. The guards left. Fuselier's

By Naomi Martin
Staff writer

son was glad to see them go, but he didn't know that the consequences of the Sheriff's Office's release would later torment him.

Fuselier, 59, died a week later, on Aug. 7, 2007, in a hospice, where a doctor listed the cause of death as lung cancer.

Because the Sheriff's Office no longer considered Fuselier in its custody, investigators did not seek an autopsy. And despite a confession from the teen and numerous witnesses, no one was prosecuted.

"It's like my dad fell through the cracks," Daniel Fuselier said.

See DEATHS, A-18

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Family frantically searches for inmate released by OPP while in intensive care

DEATHS, from A-1

Oscar Fuselier is one of seven OPP inmates since Hurricane Katrina whose deaths are not counted by Gusman's office.

Those seven inmate names don't appear on any official count of the jail's dead because Gusman's office had them released from custody after they were transferred to a hospital, a practice that critics say is an intentional circumvention of the public reporting requirements for in-custody deaths.

Those seven deaths raise the OPP death toll since 2006 to 44, a number that increases the jail's already high death rate.

NOLA.com and The Times-Picayune identified the seven additional deaths through an extensive review of autopsy reports, jail and court records and after interviews with attorneys who represent the families of dead inmates.

The Sheriff's Office says it has good reasons for releasing dying inmates. That way, relatives have full visitation rights and the understaffed Sheriff's Office doesn't have to deploy guards at the hospital.

Once the Sheriff's Office takes an inmate off its rolls, however, a death is subject to less scrutiny and there may be lapses in notification of families. Critics say it also misrepresents death statistics.

And in at least one case, news of a gravely ill inmate's release never reached the family, sending them on a frantic search for a week.

Inmate advocates and corrections health care officials say the practice also allows jails to manipulate death statistics and often prevents a thorough investigation into jail conditions that may have contributed to the inmate's death, even if it was of natural causes.

It's "disturbing and disingenuous" and "feels, frankly, like a cover-up," said Katie Schwartzmann, co-director of the MacArthur Justice Center and the lead attorney for OPP inmates whose lawsuit against the Sheriff's Office led to federal oversight through a consent decree with the U.S. Justice Department.

"To release someone in hours or days prior to their dying, when it is clear the person is about to die," she said, "seems like intentional circumvention of the public reporting requirements and creates misleading death statistics."

Gusman did not respond to requests for interviews for this series. When asked about specific jail deaths, Gusman spokesman Phil Stelly issued a written statement.

"Sheriff Gusman and his staff do not want any inmate to die. We strive every day to prevent this. One inmate death is one too many," the statement read.

'He was thrown away'

About a month after her brother went to jail for possession of cocaine, Bonita Williams got word from his social worker that he was free. She called the jail's automated line, which said that her brother, John Michael "Mike" Williams, had been released. She called enough times to finally get a person on the line, who again told her the computer said he had been released.

At 53, he was sickly. He had contracted HIV/AIDS. She called Interim LSU Hospital, where he went for treatment, and was told he was not there.

So Bonita Williams gathered up her relatives and they started searching for Mike.

For a week, they looked under bridges and combed the grassy areas near the jail. They visited homeless shelters and every hospital in the city, asking if anyone had seen or heard from him.

On Day 7, Nov. 8, 2013, Bonita Williams returned to Interim LSU Hospital and asked the receptionist in person whether her brother was there.

"He's been in here," the woman said.

When she got to her brother's room, he was emaciated and could not speak. She learned that he had been taken to the hospital from the jail unresponsive a week before.

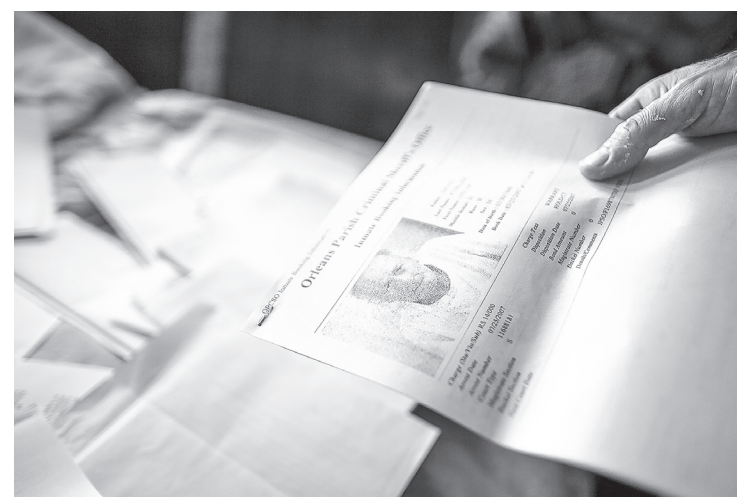


PHOTOS BY CHRIS GRANGER / STAFF PHOTOGRAPHER

Daniel Fuselier looks through family photos in September. His father, Oscar, died after he was attacked in a cell for violent offenders. Oscar Fuselier had been jailed for missing traffic court.

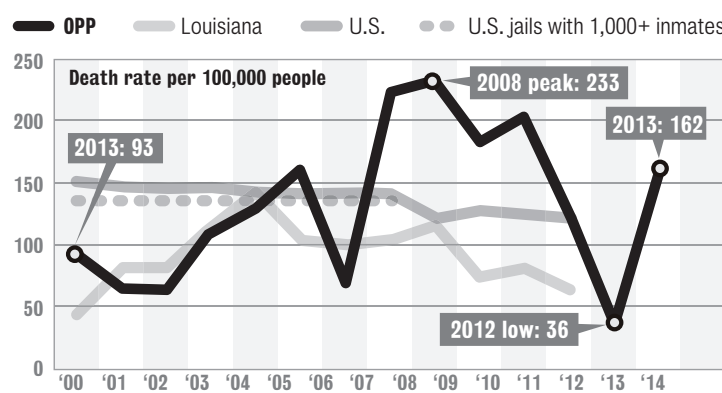


Photos, ABOVE, record Oscar Fuselier's life as a sailor in the Navy, a young father and a family member. The last image Daniel Fuselier has of his father, BELOW, is his booking photo.



How does Orleans Parish Prison's death rate compare?

Orleans Parish Prison's death rate often exceeds state and national averages. And OPP's death rate has been far worse than the average rate of similarly sized jails for four of the past nine years.



Source: Bureau of Justice Statistics and Orleans Parish Sheriff's Office STAFF CHART

His condition took a turn for the worse, and he was moved into the intensive-care unit. That's the day the Sheriff's Office asked a judge to release the inmate from his custody.

He died on Dec. 4, 2013.

"He was thrown away, and they just didn't care," Bonita Williams said. "That hurts."

'Excess deaths' since Katrina

The jail's death rate has ticked up since Hurricane Katrina,

when damage caused by flooding created starkly different jail conditions and inmate populations than before.

OPP's death rate has exceeded the national and state averages in all but one year from 2006 through 2011, the most recent year for which data is available.

receive proper care in the jail. But the family says they were never notified by the jail or the hospital where he was.

when damage caused by flooding created starkly different jail conditions and inmate populations than before.

See DEATHS, A-19

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The Times-Picayune
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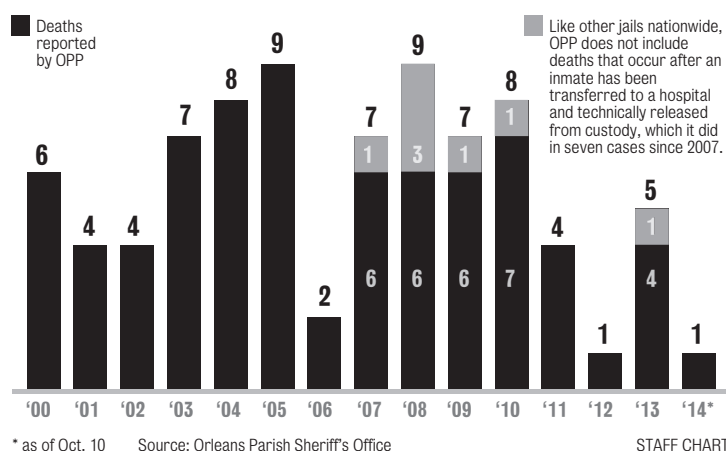
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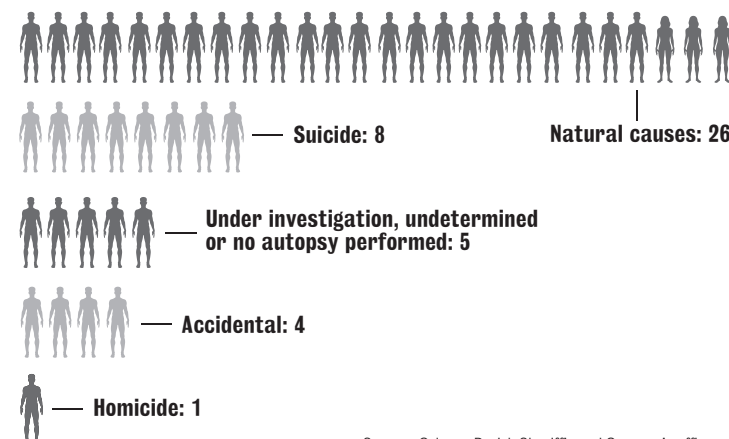
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CONTINUED

Number of inmate deaths in Orleans Parish Prison from 2000 to 2014



Causes of death for the 44 inmates who have died since Hurricane Katrina



Medical care in OPP faulted

DEATHS, from A-18

By another measure — comparing OPP's death rate with itself — it has gotten worse since Katrina. There were 154 deaths per 100,000 inmates, on average, from 2006 through 2013, compared with 104 on average from 2000 to 2005.

That death rate is also higher than comparably sized jails.

The Bureau of Justice Statistics, an information-gathering arm of the U.S. Department of Justice, found about 140 inmates died per 100,000 on average from 2000 to 2007 at jails with at least 1,000 inmates. About 97 per 100,000 prisoners died in Louisiana jails during that time period on average.

Gusman's office says OPP should be compared with the country's 50 largest jails, which had an average mortality rate of 170 deaths per 100,000 from 2000 to 2007. By that measure, OPP was below that level every year since 2000, except for the years from 2007 to 2010.

However, OPP's inmate population level ranked sometimes near the bottom of the 50 largest category and sometimes didn't make it onto the list at all, said Margaret Noonan, a statistician with the Bureau of Justice Statistics.

The city's jail population has declined dramatically since before the storm. In 2004, the average daily inmate population was 6,143, compared to 2,474 last year.

Dr. Marc Stern, the former medical director of Washington's state prison system and a U.S. Justice Department consultant, said the jail appeared to have "excess deaths" during certain years after Katrina, which raises the question of whether some were preventable.

A federal judge agreed that conditions at OPP merited a court-ordered overhaul, or consent decree, in June 2013. The raft of reforms takes aim at problems that critics say contribute to deaths: shoddy medical care, inadequate suicide precautions and safety provisions, a lack of supervision and poor classification of inmates to separate potential predators from potential victims.

Cause of death

Of the 44 inmate deaths since 2006, most have been ruled a result of natural causes.

But that doesn't mean they weren't preventable, Stern said. That's why thorough reviews after deaths are critical to determine whether the root cause of the death was something fixable, like improving CPR response times or changing medicine administration policies.

"A well-functioning jail takes every death very seriously," Stern said.

In one example, Richard Scarce, 60, died in January 2010 of a urinary tract infection, which is a natural death. But the infection came after he starved himself and refused to drink water, telling staff that he wanted to die, according to testimony by Dr. Bruce Gage, a mental-health corrections expert who testified last year in consent decree hearings on behalf of the U.S. Justice Department and the MacArthur Justice Center, which represents inmates.



"I just feel they didn't care, and I know he's not the only one the prison has done this to," said Bonita Williams, whose brother John Michael Williams died in December 2013 after a month in Orleans Parish Prison. Although the prison sent Williams to Interim LSU Hospital unresponsive, the Sheriff's Office never contacted his family.

PHOTOS BY CALLAGHAN O'HARE / STAFF PHOTOGRAPHER

Deaths not counted

Mary Howell, an attorney who has repeatedly sued the Sheriff's Office over inmate deaths, said: "There is no legitimate law enforcement reason to try and fudge these numbers."

She called it "unconscionable" that the Sheriff's Office does not count the death of Cayne Miceli. Miceli, 43, was tied down for hours in five-point restraints, despite the jail being aware that she had asthma. She complained of trouble breathing and lost consciousness. Within 12 hours of her Jan. 4, 2009, booking, she was taken by ambulance to the hospital and never woke up.

Unlike in other cases where inmates were released from custody, an autopsy was performed. A pathologist in former coroner Dr. Frank Minyard's office ruled the death drug-related after finding needle marks on her arms and later had to reverse himself, but a toxicology report later disproved that finding.

The needle marks were from Miceli's medical treatment while she was on life support, a second independent autopsy conducted in Alabama found.

Because she was booked on a minor offense — for biting a hospital guard's ankle when she thought she was being discharged too soon — the Sheriff's Office released her from custody on its own Jan. 5, 2009, when she was on a ventilator at the hospital. She was taken off life support the next day.

"The final cause of death was bronchial asthma," which turned deadly when she was restrained for hours, Howell said in an email. "It is deeply troubling that there is even a question now being raised by the Sheriff's Office as to whether or not her death would be considered to be an 'in-custody' death at OPP."

The Sheriff's Office settled a wrongful-death lawsuit by awarding Miceli's family \$600,000 in July, before the case was scheduled to go to trial.

In Fuselier's case, there was not only one criminal investigation by sheriff's deputies, but a second one later by a New Orleans police detective. Despite those probes — which included a confession by the inmate who kicked Fuselier and numerous witness statements — no one was prosecuted, records obtained by NOLA.com and The Times-Picayune show.

The Sheriff's Office decision to release Fuselier from custody and then its failure to follow up with doctors about conducting an autopsy led to his death being deemed a result of natural causes. So when a NOPD homicide detective reviewed the case — a month after Fuselier was cremated — he noted the hospice doctor's finding of lung cancer and closed the case.

Fuselier's family sued the Sheriff's Office, claiming he died of the beating after he was "thrown to the wolves." The Sheriff's Office argued he died of lung cancer. After both sides secured medical experts claiming they were correct, they reached a confidential financial settlement in 2010.

The lack of an autopsy stunned one longtime pathologist.

"If a case ever cried out to be autopsied it's this one," said Dr. Gregory Davis, a pathology professor and assistant state medical examiner in Kentucky. "There was a real failure of communication in this case."

Richard Jackson, 18, the cellmate who told deputies he kicked Fuselier, was initially rebooked on a battery charge. But prosecutors later refused the charge, and declined to bring a homicide case, citing the doctor's finding of a natural death. So he was released from OPP.

"What this kid did, and they ended up just cutting him loose," Fuselier's son, Daniel Fuselier, 42, said. "I didn't know how to feel, just hopeless."

Staff writer Richard A. Webster contributed to this report.

"For him to have died of dehydration and not eating and to be lying on the floor for days and then to not seek involuntary treatment for this individual is just egregious," Gage told a federal judge last April. "He repeatedly expressed his wish to be dead and to die — and he made that happen, and he was not stopped."

Two more inmates whose 2009 deaths were ruled natural could likely have been saved had staff checked on them sooner, Gage testified.

More than an hour passed after the deaths of Raymond Martello, 49, who died of lung congestion, and John Sanchez, 54, who died of heart disease, before the guards noticed, he testified, which was "well beyond the time when they might have been able to be saved."

The review process

Gage said the jail should have learned upon investigating these deaths that staff needed to monitor inmates more closely in the intake and screening area.

But in April 2010, Michael Hitzman, 31, who told guards he had smoked heroin and ingested crack cocaine earlier that day, was not assessed by a mental-health professional. He was instead placed in an isolation holding cell in the intake and processing center.

Within two hours of being booked, he tied his shirt to his cell door and hanged himself. He was not found until he had been dead for more than an hour, according to Gage's testimony.

"Had these people been detected earlier, it's possible that they could be alive today," he said of Hitzman, Martello and Sanchez.

Gusman's office says his staff investigates every death thoroughly to determine how to improve operations in the future. In a written statement, office spokesman Stelly said, "Our reviews will include security, medical and psychiatric staffers as well as the sheriff and his executive staff. We will review the circumstances as well as our procedures and take corrective actions with an eye toward preventing further occurrences."

The U.S. Justice Department and inmate advocates have criticized the review process, calling it inadequate. In some cases, the medical director has been in the position of evaluating his own performance.

The National Commission on Correctional Health Care, an accrediting agency, says in-custody death investigations should be conducted by an outside team, or at least a staff member who was not involved in the deceased person's care.

The commission recommends that reviews seek to answer questions regarding whether the medical response could be improved upon, as well as whether the jail operations, policies and procedures contributed to the death.

Any changes that result from



John Michael Williams' family members look through pictures of John Michael, who died at 53. Williams, who had HIV/AIDS, was not able to recognize anyone by the time his family found him. He died weeks later. He was released by Orleans Parish Prison while in intensive care at LSU Interim Hospital.

reviews should be communicated to all staff. "The intent of the standard is that preventable deaths are avoided," the document states.

After losing accreditation in 2008, OPP gained it again last year, a designation that lasts through 2016.

Some aren't investigated

While the Sheriff's Office mortality reviews have been criticized, some deaths have not been investigated at all or lack key components of a thorough death probe.

There was no autopsy in two of the seven cases found. In six of the cases, there were no mortality reviews, detailed internal probes conducted separately from any administrative investigation or autopsy, which determine whether jail policies, procedures or staff misconduct contributed to the death.

Conducting mortality reviews is a national best practice aimed at preventing further deaths.

A public relations representative for the sheriff confirmed the lack of mortality reviews for the six deaths, and indicated a written statement on those cases was forthcoming.

NOLA.com and The Times-Picayune sought more information on Aug. 13, Aug. 20, Oct. 8 and Oct. 13. Neither Gusman's office nor his outside public relations firm responded to inquiries.

The Bureau of Justice Statistics defines in-custody deaths as those that happen inside a physical lockup or elsewhere, like a hospital, when the patient is still in the custody of the jail.

There are gray areas when a Sheriff's Office can drop charges against an ill inmate or have them released through a court order as they're hospitalized, said Noonan, who reports on U.S. in-custody deaths for the Bureau of Justice Statistics.

"In cases of suicide, we ask them to count them because it basically started in the jail," she said. But in nonsuicide cases where the patient is in the hospital for more than a few days, "it gets a little bit murkier" as to whether they should still be considered inmates.

Corrections offices submit their data to the bureau voluntarily, and the agency does not audit the numbers. It does not have oversight or law-enforcement powers.

At OPP, the sheriff has the authority to release anyone held on a misdemeanor charge without posting a financial bond.

For those accused of felonies, he must seek a bond from a judge, which records show can be obtained without the signature of the obligated person.

In the case of Williams, Gusman's office secured a \$2,500 bond to get him released from custody when his complications from HIV turned grave.

But by the time the bond paperwork was drawn up, Williams was too sick to sign.

With his condition so grave it was clear he would not be able to walk out of the hospital, and his family unaware he was on his death bed, the bond arrangement only served to ensure Williams' death was not counted.

And while his death is indisputably the result of natural causes, Williams' family fears he didn't have adequate access to medications — a pervasive problem at OPP, where inadequate health care was cited as one of the reasons the jail is under a federal court order mandating widespread reforms.

Whether there were any failures or mistakes on the part of jailers may never be known because an investigation was never undertaken.