

EXECUTIVE SUMMARY

The Office of Inspector General (OIG) evaluated policies and practices of the New Orleans Police Department (NOPD), the Orleans Parish Sheriff's Office (Sheriff), the New Orleans Municipal Court, and the City Attorney's Office relating to the arrest, detention, and prosecution of municipal code violations and traffic offenses. The objectives of this evaluation were to determine costs incurred by the City as a result of these practices and to assess the impact of policies adopted by the City, including an ordinance enacted in 2008 to reduce the number of arrests.

The City of New Orleans is responsible for the costs of housing and medical care for detainees awaiting trial on municipal code and state law charges and for inmates serving sentences for municipal code offenses. The City pays a per diem for every individual booked at the Orleans Parish Prison (OPP), which is operated by the Sheriff.

One of the factors contributing to the high costs of New Orleans' criminal justice system is the City's longstanding practice of arresting and jailing unusually high numbers of individuals charged with low-level, nonviolent offenses. In recent years, the City has begun to implement policy changes aimed at reducing the arrest rate for municipal code violations so that resources can be focused on serious crime. The City enacted an ordinance in 2008, requiring NOPD officers to: (1) issue summonses in lieu of arresting individuals for most municipal code violations; (2) prepare a written justification for every municipal code arrest; and (3) report the total numbers of municipal code arrests versus summonses on a quarterly basis. In addition, a change was enacted to a state law in 2010 to make it clear that police officers have discretion not to arrest individuals on out-of-parish traffic warrants for minor infractions, such as unpaid traffic fines.

We analyzed OPP booking records for the approximately 30,000 arrests made by the NOPD in the six-month period from July 1, 2009 through December 31, 2009, to evaluate whether NOPD practices reflected the policy changes intended to reduce arrests for minor infractions. Our analysis showed that:

- The City's arrest rate in 2009 was more than three times the national average for cities with more than 250,000 inhabitants.
- Thirty-six percent of the approximately 60,000 arrests made by the NOPD in 2009 were for municipal code violations or traffic offenses.
- The City paid the Sheriff more than \$3 million in 2009 for detaining individuals arrested for municipal code violations or traffic charges.
- More than fourteen percent of the NOPD arrests in 2009 resulted from out-of-parish warrants for minor offenses, such as unpaid traffic fines.

OIG staff also reviewed a number of arrest reports and interviewed NOPD officials to determine what steps the NOPD had taken to implement the requirements contained in the 2008 ordinance for written justifications and quarterly reports of municipal code arrests. We found that:

- The NOPD arrest reports contained no written justifications or descriptions of circumstances that warranted arrests made for municipal code violations;
- The NOPD had not implemented a system to track and report summonses versus arrests for municipal code offenses; and
- In October 2010, the NOPD's policy research division had not instructed officers that the law no longer required them to arrest individuals for out-of-parish warrants, and was awaiting an opinion from the City Attorney to interpret the change in law.

The OIG analyzed records showing time served in OPP for individuals arrested from July 1, 2009 through December 31, 2009, and sentenced to jail as punishment for municipal code offenses. We also interviewed representatives of the City Attorney's Office, which prosecutes municipal code violations, concerning the City's prosecutorial policies and practices. We found that:

- The most common offenses for which these individuals were jailed, in order of frequency, were public drunkenness, disturbing the peace, criminal trespass, obstructing a public way, and begging;
- During a six-month period, 1,270 individuals were arrested multiple times on charges for non-violent behavior associated with alcoholism and mental illness;
- The City Attorney's Office had not implemented effective diversion programs as an alternative to imprisonment;
- In 2009, the annual cost to the City for sentencing petty offenders to jail was approximately \$1.4 million.

The OIG reviewed the City's funding of OPP operations, which is based on a per diem paid to the Sheriff for each City detainee. This per diem arrangement is the result of a consent decree in a federal lawsuit initiated by prisoner advocates alleging unconstitutional conditions and practices at OPP. The Sheriff sought court action through this lawsuit to force the City to increase funding for the care of prisoners. The City and the Sheriff agreed in 2003 on a per diem of \$22.39 for each inmate. The evidence suggests that this per diem amount is inadequate to sustain the operation of the jail and the Sheriff has requested an increase from the City. The OIG found that:

- The City lacks sufficient information about the Sheriff's expenditures for jail operations to make an informed assessment of the level of funding it should provide to house prisoners.
- The per diem funding arrangement provides a disincentive for the Sheriff to correct inefficient information systems that delay the release of some detainees.

Based on these findings, the OIG concluded that in 2009, the City continued to arrest and jail too many individuals for non-violent, low level misdemeanors, diverting criminal justice resources that

could have been used to combat serious crime. The City has taken steps, including the enactment of the 2008 ordinance, to change these wasteful and ineffective policies, but a concerted effort must be maintained to change long-standing practices. The OIG made the following recommendations:

1. The NOPD should ensure that all police officers understand and comply with recent changes in policy and law regarding arrests for municipal and traffic violations, attachments, and out-of-parish warrants.
2. The City Attorney's Office should develop a capacity to screen municipal charges and implement diversion programs and sentencing alternatives.
3. The City should establish alternatives for enforcing municipal code compliance, including decriminalization of some offenses.
4. The City and the Sheriff should establish a method for funding OPP operations on the appropriate level based on a transparent budget and cost-effective operational practices.

A draft of this report was provided to the New Orleans Police Department, the Orleans Parish Sheriff's Office, the Municipal Court, and the City Attorney's Office for review and comment prior to publication. Of these entities, only the City Attorney's Office chose to submit a response, which is attached to this report as Appendix A.