

OFFICE OF INSPECTOR GENERAL  
CITY OF NEW ORLEANS



ED QUATREVAUX  
INSPECTOR GENERAL

July 6, 2015

Mayor Mitchell J. Landrieu  
City of New Orleans  
1300 Perdido St., 2<sup>nd</sup> Floor  
New Orleans, LA 70112

Sheriff Marlin N. Gusman  
Orleans Parish Sheriff's Office  
819 South Broad St.  
New Orleans, LA 70119

Dear Mayor Landrieu and Sheriff Gusman:

The City's recent action to stop work on the jail presents New Orleans with the opportunity to ensure that Phase II of the jail is completed both in compliance with the law and with community priorities to reduce the overall rate of incarceration in the City of New Orleans.<sup>1</sup> The City and the Sheriff's Office should work together as quickly as possible to accomplish these goals; operating a constitutional jail that meets the city's needs is within reach.

In February 2011 the New Orleans City Council granted the Orleans Parish Sheriff's Office a conditional use permit to construct a jail facility.<sup>2</sup> The ordinance was the product of a model legislative process intended to make recommendations regarding the jail's size and purpose. City officials should be commended for implementing a process by which representatives from local government engaged with citizens and experts to deliberate this important policy question.

The process began with the formation of the Criminal Justice Working Group by Executive Order.<sup>3</sup> It included representatives from the city's executive and legislative branches, criminal justice agencies, justice system experts, and community members. The Working Group considered jail population data, including the needs of sub-populations to be housed in the jail;

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<sup>1</sup> "Substantial completion" of the new jail facility was promised for June, however problems with the security system have pushed its opening to mid-August; opening the building has been delayed at least six times since construction began on the \$145 million jail. Testimony by OPSO legal counsel at Jones v. Gusman Consent Decree Status Hearing, March 26, 2015 and Paul Murphy and Jim Mustian, "Opening of new Orleans Parish Prison postponed again because of issues with vital security system," The New Orleans Advocate, June 9, 2015, accessed June 16, 2015, <http://www.theneworleansadvocate.com/news/12596135-123/opening-of-new-orleans-parish>. For the stop-work order, see: City of New Orleans vs Marlin N. Gusman, Petition for writ of mandamus and, in the alternative, petition for preliminary injunction and permanent injunction, No. 15-6070, Section No. L-6, June 24, 2015.

<sup>2</sup> City Ordinance, M.C.S. 24,282 (01/06/11). (Calendar Number 28,291.)

<sup>3</sup> Executive Order MJL 10-06.

the financial and social costs of the long history of over-incarceration in New Orleans; a new facility's ongoing costs to taxpayers; and best practices designed to reduce the needless incarceration of individuals who are not a risk to public safety.

Based on the evidence presented, the Working Group limited the capacity of the jail to 1,438 beds and required all existing jail buildings to be demolished or decommissioned, with one exception: the Temporary Detention Center could remain in use for an additional 18 months. The Working Group forwarded its recommendations to the City Council, which accepted the recommendations and crafted a conditional use ordinance that detailed the conditions under which the jail facility ("Phase II") could be built. The City Council passed the ordinance, and the Sheriff accepted and agreed to adhere to its provisions.

However, the Phase II facility fell short of the requirements of the conditional use ordinance: the entire building contained 60-bed pods that could not accommodate "any type of prisoner under any jurisdiction," including all sub-populations "except inmates that require acute mental health treatment" without a marked reduction in the total capacity outlined in the ordinance. As a result, in August 2014 the City Council reiterated the terms and intent of the conditional use ordinance by passing a resolution calling on the Sheriff to retrofit Phase II. The Council considered retrofitting Phase II to be the "most cost effective plan ... consistent with the mandate of Calendar Ordinance Number 28,291."<sup>4</sup>

Following Sheriff Gusman's formal request for funding to build another housing facility that would cost taxpayers \$84.9 million, in June 2015 the City issued a stop-work order for violating the terms of the conditional use ordinance requiring the new jail to meet the needs of all inmate populations (except acutely mentally ill inmates). The City continues to advocate for a retrofit that would address health care and housing needs for special populations at the same time that it continues to work to reduce the overall jail population.<sup>5</sup>

Public officials must be held accountable to the law, and New Orleans can no longer sustain its excessively high rate of incarceration in a state and country that are already global outliers in this regard. The federal consent decree legally mandates the City to achieve what should be an obvious imperative: maintaining a constitutional jail. But operating a constitutional jail also increases the price associated with detention.<sup>6</sup> In 2011 the total cost per day of detaining an

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<sup>4</sup> New Orleans City Council Resolution No. R-14-347, August 21, 2014.

<sup>5</sup> Richard Rainey, "The last straw: Why Mayor Mitch Landrieu halted Orleans Parish Prison project," NOLA.com, June 25, 2015, [http://www.nola.com/politics/index.ssf/2015/06/the\\_last\\_straw\\_what\\_spurred\\_ma.html](http://www.nola.com/politics/index.ssf/2015/06/the_last_straw_what_spurred_ma.html); and Jim Mustian, "Federal judge is unhappy about stop-work order for new Orleans Parish Prison, but won't get involved in the dispute for now," The New Orleans Advocate, June 26, 2015, <http://www.theneworleansadvocate.com/news/12747960-148/federal-judge-unhappy-about-stop-work>.

<sup>6</sup> *Jones v. Gusman*, 12-859 E.D. La., *Consent Judgment*, Doc. 183-1, March 18, 2013.

individual in the City's jail was \$47; in 2014 the cost had risen to \$74 per day following court mandated improvements and a departure from an outdated per diem funding structure.<sup>7</sup> The estimated cost for 2015 is even higher at \$110 daily for each inmate.<sup>8</sup> Achieving a constitutional jail without changing New Orleans incarceration policies is on track to cost taxpayers \$206,956 per day or approximately \$75.5 million per year.<sup>9</sup> The financial and opportunity costs of New Orleans excessive detention practices—not to mention the social costs to individuals, families, and communities—are simply unsustainable.

Exorbitant costs to maintain the jail are driven by the size of the population, which in turn impacts the city's ability to fund a safe, secure, and constitutional jail: the City and the Sheriff must continue to act on their commitments to reduce the jail population.<sup>10</sup> Ongoing reforms to the criminal justice system in New Orleans have shown success in reducing incarceration. Initiatives to reduce custodial arrests for select offenses, expedite prosecution of less serious offenses, and establish pretrial release services point to the dedicated efforts by the City, criminal justice officials, and community activists.<sup>11</sup> In five years, the average daily inmate count has been reduced by nearly half, from over 3,300 to approximately 1,882, and continued policy analysis is underway to reduce the incarceration rate further.<sup>12</sup> These hard-won efforts,

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<sup>7</sup> New Orleans Office of Inspector General, *Inspection of Taxpayer/City Funding to Orleans Parish Sheriff's Office in 2011* (New Orleans, LA: Office of Inspector General, 2013). At \$74 per day the cost of incarcerating the approximately 2,200 individuals detained per day in 2014 would be \$162,962 and \$59,480,969 per year. City of New Orleans, Office of the Mayor, *ResultsNOLA 2014: Year-End Performance Report, January 1 – December 31, 2014*, 34, accessed April 16, 2015, <http://www.nola.gov/getattachment/d7f457f3-1104-432b-ae22-459c9b3fef20/ResultsNOLA-Year-End-Report/>.

<sup>8</sup> Despite a decrease in number of inmates, the yearly costs have increased; the cost per inmate has risen due to costs associated with bringing the jail up to constitutional standards required by a federal consent decree. These costs include a \$15.6 million medical and mental health contract, housing of acute mentally ill inmates at the Hunt facility, recruitment and hiring of additional deputies to address staffing shortages, federal monitors, and the creation of specific human resources and administrative staff positions. The City attempted to nullify the five-year \$83 million health care contract with Correct Care Solutions and is reportedly renegotiating terms. Jim Mustian, "Siding with sheriff, judge denies city challenge to Orleans Parish Prison health care contract," *The New Orleans Advocate*, June 9, 2015, accessed June 15, 2015, <http://theadvocate.com/news/12505767-123/siding-with-sheriff-judge-denies>.

<sup>9</sup> The City estimated expenses for jail operations and facilities at \$75,538,922 in the application for the MacArthur Foundation Safety and Justice Challenge grant proposal.

<sup>10</sup> The national average for staffing jails is one jail employee for every 3.3 inmates; higher inmate populations require more staff, which is typically the largest cost in funding a jail. Vera Institute of Justice, "The Price of Jails: Measuring the Taxpayer Cost of Local Incarceration," May 2015, accessed June 16, 2015, <http://www.vera.org/pubs/price-of-jails>.

<sup>11</sup> The Data Center, "The New Orleans Index at Ten, Criminal Justice: Changing Course on Incarceration," June 2015, accessed June 17, 2015, <http://www.datacenterresearch.org/the-new-orleans-index-at-ten-collection-2/>.

<sup>12</sup> The City was recently awarded a grant from the MacArthur Foundation that will support a six month study to identify policies that reduce incarceration rates. Jeff Adelson, "Grant to fund new study that aims to reduce incarceration rates at Orleans jail," *The New Orleans Advocate*, May 28, 2015, accessed June 15, 2015, <http://theadvocate.com/news/neworleans/neworleansnews/12479122-123/grant-to-fund-new-study>. James Austin, Wendy Ware, and Roger Ocker, "Updated Orleans Parish Prison Ten-Year Inmate Population Projection,"

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supported by City leadership and residents, should not be undermined by the construction of an additional jail facility that increases capacity when trends indicate progress can be achieved to reach population reduction goals.

The slow progress in completing the transition to the new jail facility has been further complicated by a lack of transparency on the part of the Orleans Parish Sheriff's Office. The Sheriff has been slow to comply with judge's orders, city officials have frequently lacked the information necessary to make policy decisions and plan for long-term improvement, and little information has been made available to the public. The upward trend in cost is a justifiable community concern; taxpayers bear the burden of incarceration expenses, which reduce the availability of public monies for other government services.

The safety of citizens detained at the jail is of grave concern. The appalling conditions in the current jail have been well-documented by the Department of Justice and others, and the new facility should be readied as quickly as possible.<sup>13</sup> But the jail should not be occupied as is: the law should be followed. As an elected law enforcement official, the Sheriff has the highest obligation to follow the law and to use the powers granted to him responsibly and transparently. For its part, the City has the responsibility to ensure that the Sheriff complies with the provisions of the ordinance so that the Phase II building meets the needs of the City. In issuing the stop-work order, the City took the same legal action it would take with any builder in response to ongoing construction not in compliance with a conditional use ordinance.

The dangerous and deplorable conditions in the current jail facilities persist as New Orleans awaits the opening of the new jail, and it is essential that the Phase II building provide safe, secure, and constitutional conditions of confinement. But it should also be in compliance with the law, a law that reflects a deliberate policy decision reached through an open and transparent legislative process. I call on the Mayor and the Sheriff to cooperate, in good faith and expeditiously, to ensure that the new jail opens in compliance with local law and as soon as possible.

Sincerely,



E.R. Quatrevaux

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October 2011. The most recent population estimate is from January through May, 2015 daily inmate count data from the Orleans Parish Sheriff's Office.

<sup>13</sup> Jones v. Gusman, 12-859 E.D. La., *Plaintiff's Joint Proposed Findings of Fact and Conclusions of Law*, Doc. 140, February 14, 2013.

## Inspector General

Encl: Figure 1, Costs Associated with Operating Orleans Parish Prison, 2012–2015

Figure 2, Cost per inmate and jail population, 2012–2015

Figure 3, Daily population for inmates in Orleans Parish Prison, 2015

**Figure 1.** Costs Associated with Operating Orleans Parish Prison, 2012–2015

Year	City General Fund Expenditures	City In-Kind Support <sup>14</sup>	Total City Support <sup>15</sup>	OPSO Expenditures <sup>16</sup>	Daily Inmate Population <sup>17</sup>	Daily City Obligated Inmates	Daily Non-City Inmates	Daily Cost per Inmate <sup>18</sup>	Daily Cost for All Inmates
<b>2012 Actual</b>	\$21,608,813	\$6,505,856	\$28,114,669	\$52,577,898	2,804	1,943	861	\$51	\$144,049
<b>2013 Actual</b>	\$21,803,124	\$6,692,272	\$28,495,396	\$50,120,945	2,476	1,819	657	\$55	\$137,318
<b>2014 Adopted</b>	\$24,184,338	\$6,852,996	\$31,037,334	\$59,480,969	2,206 <sup>19</sup>	1,666	561	\$74	\$162,962
<b>2015 Estimate</b>	\$28,584,338	\$7,090,318	\$35,674,656	\$75,538,922 <sup>20</sup>	1,882 <sup>21</sup>	1,448	434	\$110	\$206,956

<sup>14</sup> General Fund Expenditures and In-Kind Support - City of New Orleans, *2014 Annual Operating Budget*, 541-542 (2013); City of New Orleans, *2015 Annual Operating Budget*, 530-532. City In-Kind Support includes payments for the following categories: Fuel, Entergy, Unemployment, Workers Compensation, and Hospitalization.

<sup>15</sup> Orleans Parish Sheriff's Office (OPSO) Criminal Division also receives revenue from the following sources: Department of Corrections and Out of Parish inmate reimbursements, State Supplemental Pay, Telephone charge surplus, Work Release, Bail Bonds and Fees, "Other," Commissary, and Grants. Historical sources of revenue that will not be carried over to FY 2015 include Federal reimbursements (there have been no federal prisoners since 2012), and Court Security cooperative endeavor pay, due to the program being discontinued by OPSO. OPSO testified to the Council if its intent to cease managing the Electronic Monitoring program in 2015, however oversight has not yet changed hands.

<sup>16</sup> Expenditures include all categories reported by OPSO except Civil Division expenditures; this may not represent the exact cost to run the jail, however a more precise budget with line items is not available. *City Council Hearings on 2015 Proposed Budget, November 13, 2014*; accessed March 11, 2015, [http://cityofno.granicus.com/MediaPlayer.php?view\\_id=7&clip\\_id=1954&meta\\_id=264957](http://cityofno.granicus.com/MediaPlayer.php?view_id=7&clip_id=1954&meta_id=264957).

<sup>17</sup> Ibid. The number of inmates on any given day fluctuates from month to month.

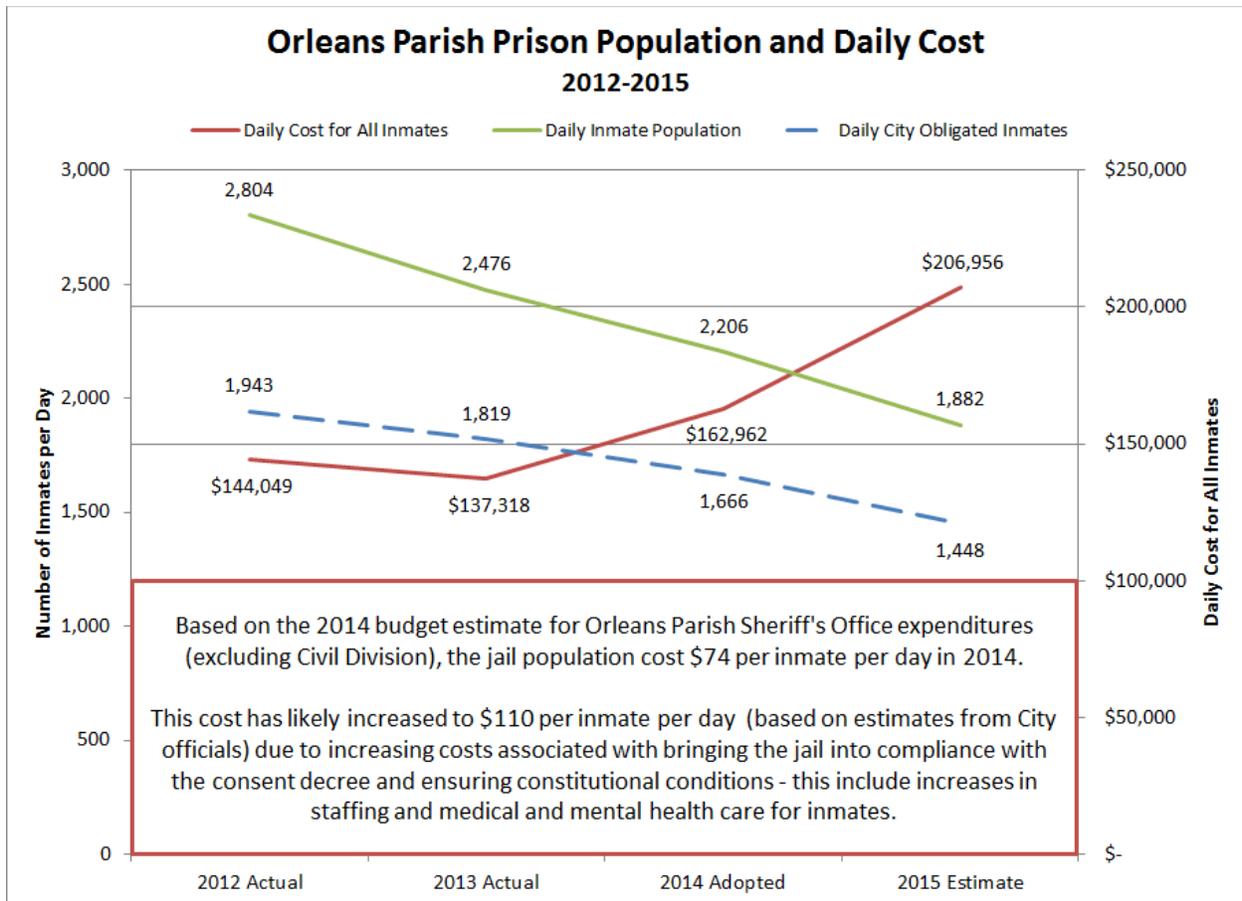
<sup>18</sup> Daily cost per inmate is calculated based on reported operating expenditures from OPSO (except Civil Division); daily operating expenses were divided by the average number of daily inmates for each year.

<sup>19</sup> City of New Orleans, Office of the Mayor, *ResultsNOLA 2014: Year-End Performance Report, January 1 – December 31, 2014*, 34, accessed April 16, 2015, <http://www.nola.gov/gerattachment/d7f457f3-1104-432b-ae22-459c9b3fef20/ResultsNOLA-Year-End-Report/>. This average daily inmate population is provided for the full year in the ResultsNOLA report, so it is being used for the 2014 average daily count.

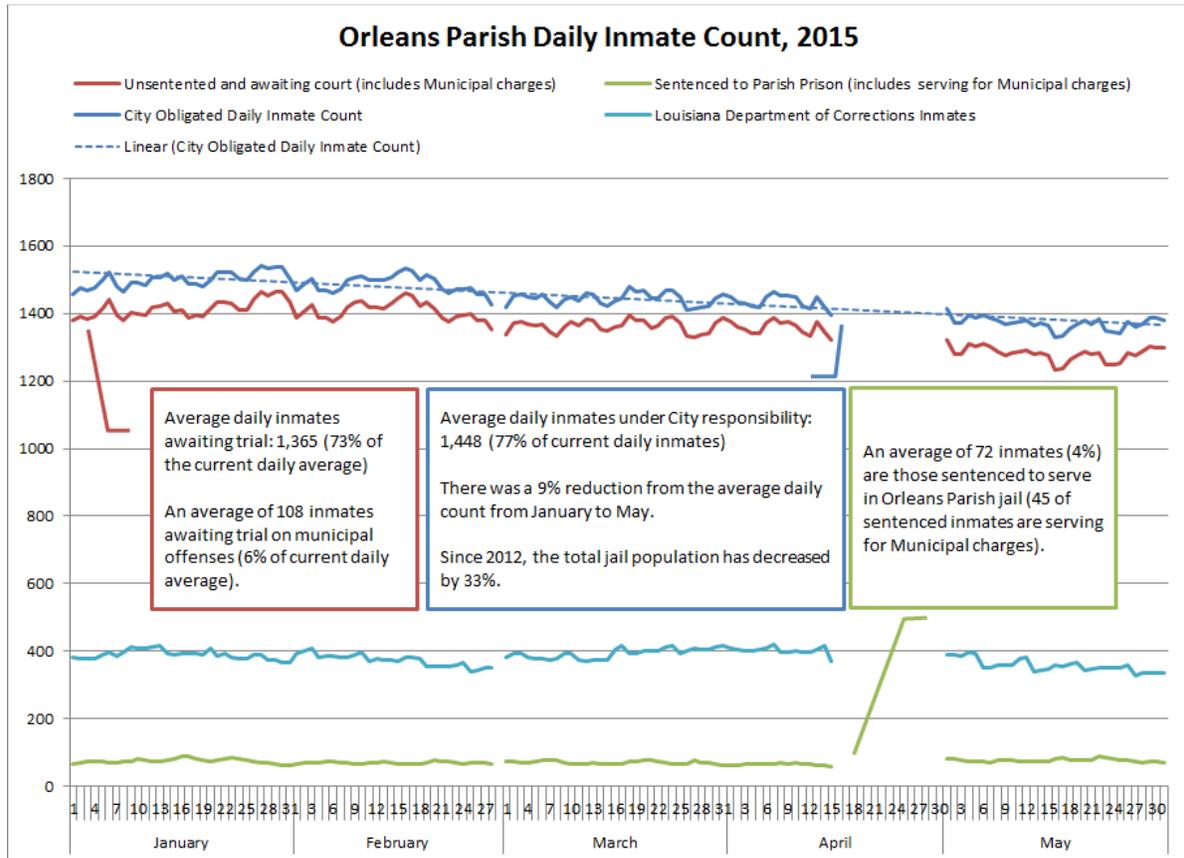
<sup>20</sup> The estimate included in the MacArthur Foundation grant is likely a more representative figure for 2015.

<sup>21</sup> Average daily counts include January through May 2015 data from OPSO.

**Figure 2. Cost per inmate and jail population, 2012–2015**



**Figure 3: Daily population for inmates in Orleans Parish Prison, 2015<sup>22</sup>**



<sup>22</sup> The City of New Orleans is obligated to pay for housing pre-trial detainees and local inmates sentenced to serve at Orleans Parish Prison. Orleans Parish Sheriff also currently houses an average of 381 state inmates (not including 51 work release and 2 Community Service DOC inmates). The cost of \$110 per day is approximately \$86-\$88 more than the \$22.39 and \$24.39 the State of Louisiana pays the City to house Department of Corrections prisoners. Based on current estimates, the City could be paying \$13.6 to \$13.8 million per year for DOC inmates.