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EXECUTIVE DIRECTOR

January 10, 2011

*by fax 318-442-9247
and regular mail*
Charles F. Wagner, Jr.
Rapides Parish Sheriff
701 Murray Street
Alexandria, LA 71301

Re: Public Records Act Request Related to Expansion of Rapides Parish Detention Center

Dear Sheriff Wagner:

This letter constitutes a public records act request pursuant to the Louisiana public records act, La. Rev. Stat. §44:1 *et seq.*, and Louisiana Constitution art. 12, § 3.

Rapides Parish may soon commit itself to a massive, expensive, and unnecessary expansion of its detention facilities—one that would burden Rapides Parish with the highest incarceration rate in Louisiana, which in turn has the highest incarceration rate in the nation. To help inform the public debate on the jail expansion, this public records act request seeks disclosure of the study and supporting data that some Rapides Parish officials tout as justifying this expansion project.

BACKGROUND

According to recent figures, one out of every 55 Louisiana residents is incarcerated—higher than any other state, and more than 270 percent higher than Louisiana’s own incarceration rate in the early 1980s.¹ Among other things, maintaining this incarceration rate is prohibitively expensive and requires governments to cut necessary services in order to keep more people imprisoned. A recent report by the Pew Center for the States found, for example, that nearly 1 out of every 13 dollars in the Louisiana state budget go to corrections.²

Currently, the Rapides Parish Detention Center I (“DC-I”) has 348 beds available for pretrial detainees.³ Additionally, the Rapides Parish Detention Center III (“DC-III”) holds approximately 381 sentenced prisoners.⁴ Given the parish’s population of 133,937,⁵ and assuming that all beds in DC-I and DC-III are filled, this means that the parish has an incarceration rate of 544 prisoners per 100,000 members of the general population. This

¹ Tim Morris, *Louisiana’s incarceration rate is No. 1 in nation*, THE TIMES-PICAYUNE (New Orleans), Mar. 3, 2009.

² THE PEW CENTER ON THE STATES, ON IN 100: BEHIND BARS IN AMERICA 2008, at 14 (February 2008).

³ Jeff Matthews, *Rapides sheriff wants more jail space; Police Jury will consider problem, funding*, THE TOWN TALK (Alexandria), Jan. 4, 2011.

⁴ Corrections Division, Rapides Parish Sheriff, <http://www.rpso.org/web/corrections.htm> (last visited Jan. 5, 2011).

⁵ U.S. Census Bureau, State & County QuickFacts (2009). <http://quickfacts.census.gov/qfd/states/22/22079.html> (last visited Jan. 4, 2011).

incarceration rate is higher than the rates for two of the four largest parishes in Louisiana,⁶ even though Rapides (according to the most recent figures compiled by the Louisiana Commission on Law Enforcement) currently experiences 494 violent crimes per 100,000 residents: a lower violent crime rate than all four of the largest parishes (Caddo has 988 violent crimes per 100,000 residents, Orleans has 901, East Baton Rouge has 801, and Jefferson has 649).⁷ Notably, Jefferson Parish—the major parish with the violent crime rate closest to Rapides’—has an incarceration rate less than half of Rapides’.

Nevertheless, Rapides Parish is considering building several hundred new beds, to increase its pretrial detention capacity from 348 to 874 pretrial detainees.⁸ This means that the Parish would have a combined total of 1255 beds, and an incarceration rate of 937 prisoners per 100,000—higher than any other parish whose incarceration rate has been publicly disclosed, including Orleans Parish’s rate of 893 prisoners per 100,000.⁹ New Orleans’ experience suggests that such an expansion would be a grave error.

In 2010, New Orleans Mayor Mitch Landrieu convened a Criminal Justice Working Group (“CJWG”) to identify an “optimal size” for OPP.¹⁰ To inform its decision, the CJWG commissioned a ten-year inmate population projection and policy simulation of alternative options by outside expert Dr. James Austin, a nationally-renowned expert on prison and jail population projections and prisoner classification systems. Using data provided by the Orleans Parish Sheriff, Dr. Austin made a ten-year base population projection and conducted simulations of the impact of various policy changes on that base projection.

In his policy simulations, Dr. Austin found that adopting various commonsense policy changes would significantly reduce OPP’s size requirements. These policy changes include many cost-effective, public safety-enhancing ideas that local advocates and other experts have long advocated: implementing a pre-trial services agency, reducing the number of state inmates, increased use of police summonses instead of jailing, greater efficiency in the processing of judicial dockets, and reduction in jail stays for probation violators. With these changes in place, Dr. Austin projected that Orleans Parish could meet all of the city’s reasonable needs with room for seasonal fluctuation, as well as house some state prisoners, with fewer than half of the beds the Parish currently operates. Relying on Dr. Austin’s policy simulations, the CJWG voted to approve a 1438-bed facility and recommended that the Orleans Parish Sheriff demolish or decommission the existing excess beds.

If, as appears likely, Orleans Parish relies on a new, smaller jail of 1438 beds, then New Orleans would have an incarceration rate of 405 prisoners out of 100,000—similar to East Baton Rouge, and markedly lower than Rapides’ current incarceration rate.

⁶ See JAMES AUSTIN, WENDY WARE & ROGER OCKER, ORLEANS PARISH PRISON TEN-YEAR INMATE POPULATION PROJECTION, t. 9 (Nov. 2010) (hereinafter “AUSTIN REPORT”).

⁷ Louisiana Comm’n on Law Enforcement, 2008 Louisiana Index Crimes Reported to the FBI (June 29, 2010), available at http://lcle.la.gov/programs%5Cuploads%5Ccrime_rate_by_parish_2008.pdf.

⁸ Billy Gunn, Judge: Pretrial prisoners in Rapides Parish put back on street because of jail space shortage, THE TOWN TALK (Alexandria), Jan. 3, 2011.

⁹ See AUSTIN REPORT, t. 9.

¹⁰ Mayor Mitch Landrieu names panel to recommend ‘optimal size’ for parish prison, THE TIMES-PICAYUNE (New Orleans), Sept. 23, 2010.

Media reports suggest that this massive expansion of Rapides Parish's detention facilities is supported by a study.¹¹ To our knowledge, however, this study has not been publicly released. Moreover, its call for an incarceration rate so out of proportion with Rapides' population appears inconsistent with the work done by nationally-renowned experts in New Orleans. This is why the ACLU is filing this public records act request. We seek to obtain this study and any reports or calculations that cover related subjects, identify the basis for the 874-bed target number, and obtain the data relied upon by this study or studies.

RECORDS REQUESTED

The ACLU is seeking disclosure of any and all record(s)¹² created after January 1, 2005, that constitute:

1. A study, report, calculation, or other document:
 - a. estimating Rapides Parish's future prisoner population;
 - b. identifying an optimal size for the Parish's detention facilities; or
 - c. estimating costs associated with constructing additional detention facilities or expanding existing detention facilities.
2. A description or summary of any studies, reports, or calculations responsive to request 1 above.
3. Data or data compilations relied upon by any studies, reports, or calculations responsive to request 1 above.

Thank you for your consideration of this request. Under the provisions of R.S. 44:32, if you raise a question as to whether any of the records requested is a public record, you are required to notify in writing the person making the request of your determination and the reasons, including the legal basis therefor. Notice shall be made within three days of the receipt of the request, exclusive of Saturdays, Sundays and legal public holidays. If you claim exemption for a record or records under the Public Records Act, or any other statute, include for each record the section of law under which exemption is claimed and your reasons for believing the statute is applicable to the record.

Under the provisions of R.S. 44:33, if the public record is not immediately available, you are required to certify this in writing promptly, and in your certificate fix a day and hour within three days, exclusive of Saturdays, Sundays and legal public holidays, for the exercise of the right granted in the Public Records Act.

Under R.S. 44:34, "If any public record applied for by any authorized person is not in the custody or control of the person to whom the application is made, such person shall promptly

¹¹ Jeff Matthews, *Rapides sheriff wants more jail space: Police Jury will consider problem, funding*, THE TOWN TALK (Alexandria), Jan. 4, 2011.

¹² The term "records" as used herein includes all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, videotapes, audio tapes, faxes, files, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, technical specifications, training manuals, or studies.

(4)

certify this in writing to the applicant, and shall in the certificate state in detail to the best of his knowledge and belief, the reason for the absence of the record from his custody or control, its location, what person has custody of the record and the manner and method in which, and the exact time at which it was taken from his custody and control. He shall include in the certificate ample and detailed answers to inquiries of the applicant which may facilitate the exercise of the right granted by this Chapter.”


If you are invoking R.S. 44:34 to deny this request, please answer the following questions in detail:

1. Is a copy of the requested public record usually located in your office?
2. Why is your copy of the requested public record absent from your office?
3. Where is your copy of the requested public record?
4. Who has received a copy of the requested public record?
5. How and from whom did the present custodian gain control of your copy of the requested public record?
6. What was the exact time your copy of the public record was taken from your custody and control?
7. When will your copy of the requested public record be returned to your office?
8. Is there any other public official who has a copy of the requested record?
9. What is/are the name(s) of anyone who has a copy of the requested public record?
10. What is/are the location(s) where the public record can be viewed?
11. What are the hours and dates when the requested public record can be viewed?

We request that any and all documents that are available, or that can be made available, be produced in electronic form. This request includes any documents that are in paper form but that can be scanned to electronic form, as well as digital copies of any recordings. Please produce all documents available electronically on the enclosed CD-ROM disc, to prevent incurring unnecessary copying costs. For those documents that cannot be produced in electronic form, if the cost of copies does not exceed \$50.00, proceed without further approval and send us an invoice with the records; otherwise, call to advise and gain approval to proceed. As you are aware, failure to abide by the Public Records Law may result in certain penalties and the award of attorney's fees. We trust that you will comply without the necessity of any further action on our part.

Thank you for your prompt attention to this matter.

Sincerely,



Marjorie R. Esman
Executive Director