

**To: Professor Armstrong**  
**From: Handsome Monica**  
**Date: December 7, 2021**  
**Re: Assignment #3 - Pre-Litigation Memo**  
**Orleans Parish Prison**

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History & Timeline

While many events, such as Hurricane Katrina, overcapacity, questionable building projects, and improper relocation practices have highlighted Orleans Parish Prison's inability to function properly between the years 2005 and 2013, this memo focuses on more recent events within the past seven years - beginning in 2014.

Marlin Gusman ("Gusman"), the current Orleans Parish Sheriff, assumed office in 2004.<sup>1</sup> Incumbent Gusman is currently in a run-off election against Democratic Candidate, Susan Hutson. Gusman's fate will be decided on December 11, 2021, and, if defeated, Gusman's term will conclude on May 1, 2022.<sup>2</sup> Beginning in 2014 when Gusman was reelected as Sheriff, Gusman's reelection strategy was a promise to comply with a consent decree<sup>3</sup> by opening a new 1,438-bed jail by June 2014.<sup>4</sup> Gusman eventually revealed his proposal for a Phase III building, while Mayor Landrieu proposed a retrofit of the Phase II building.<sup>5</sup> On August 1, 2014, New Orleans City Council would vote to retrofit Phase II in order to accommodate sick and mentally ill patients but rejected the Phase III building.<sup>6</sup> City Council also called on Gusman to return people from Plaquemines Parish back to Plaquemines Parish custody, and to return people serving state sentences who are not in a work-release, community service or re-entry program back to a state facility.<sup>7</sup>

Gusman's decisions continued to result in backlash when 180 people awaiting trial in New Orleans were transferred to East Carroll and Franklin parishes on September 11, 2015, causing them to miss court dates and be far away from their families and attorneys.<sup>8</sup> On a slightly more positive note, the new Phase II jail building would open four days later.<sup>9</sup> The pressure on Gusman was

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<sup>1</sup> [https://ballotpedia.org/Marlin\\_Gusman](https://ballotpedia.org/Marlin_Gusman)

<sup>2</sup> Id.

<sup>3</sup> <https://opprc.wordpress.com/the-context/timeline/> (Consent Judgment over OPP conditions requiring improvements to the jail's medical and mental health care takes effect on October 21, 2013)

<sup>4</sup> Id.

<sup>5</sup> [https://www.nola.com/news/crime\\_police/article\\_bcc20dc6-2cd8-5df2-9381-6b0771debe96.html](https://www.nola.com/news/crime_police/article_bcc20dc6-2cd8-5df2-9381-6b0771debe96.html)

<sup>6</sup> [https://www.nola.com/news/crime\\_police/article\\_a7ba3e22-eade-582c-a705-b70c6d110f2c.html](https://www.nola.com/news/crime_police/article_a7ba3e22-eade-582c-a705-b70c6d110f2c.html)

<sup>7</sup> Id.

<sup>8</sup> [https://www.nola.com/news/crime\\_police/article\\_3ecc19f7-7799-58a6-ac96-7909c5008d3a.html](https://www.nola.com/news/crime_police/article_3ecc19f7-7799-58a6-ac96-7909c5008d3a.html)

<sup>9</sup> [https://www.nola.com/news/article\\_79119f42-3e5d-5e83-b650-179c48a0a969.html](https://www.nola.com/news/article_79119f42-3e5d-5e83-b650-179c48a0a969.html)

still looming, though. Orleans Parish Prison Reform Coalition ("OPPRC") urged Judge Lance Africk, who is overseeing the consent decree, to use the 2013 Judgment to enforce a jail with no more than 1,438 beds. The OPPRC also requested that "Gusman return 300 people serving state sentence to state custody, that people awaiting trial in New Orleans held in Northern Louisiana be returned to New Orleans, that people under 18 years old be sent to the Youth Study Center, and that mental health facilities be included in the 1,438-bed jail building."<sup>10</sup>

Disapproval of Gusman continued to increase in February of 2016. Not only was the level of violence in the New Orleans Justice Center deemed "absolutely unacceptable" during a status hearing in federal court<sup>11</sup>, but a class action lawsuit against Gusman - alleging the withholding of overtime pay for deputies - was certified.<sup>12</sup> Moreover, concerns of fire safety standards in the new Phase II building unsurprisingly became the next issue for Gusman. In April of 2016, Judge Africk would order Gusman to immediately address fire safety at Orleans Justice Center - noting that the Sheriff's Office had yet to conduct a fire drill, even though the facility opened in September of the previous year.<sup>13</sup>

About a year later, on May 18, 2017, and in response to Gusman's persistence in building Phase III, "dozens of community members testified at a City Council meeting in opposition to the jail expansion and in support of the alternative proposal to retrofit the jail. In a 5-1 vote, City Council voted to refer only the jail expansion proposal on to the City Planning Commission, adding a last-minute amendment to study the possibility of swapping out beds in order to maintain the 1,438-bed cap."<sup>14</sup>

#### Current Status

Built in the urban area of New Orleans, Orleans Parish Prison ("OPP")<sup>15</sup> is a parish wide jail located at 2800 Gravier St, New Orleans, LA 70119. As of December 5, 2021, OPP's population consists of 805 inmates.<sup>16</sup> However, OPP is able to accommodate at least 1,438 men and women.<sup>17</sup>

Ranked one of the "worst prisons in the United States,"<sup>18</sup> OPP has averaged nearly *three* deaths a year from 2014 to 2019 -

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<sup>10</sup> <https://opprc.wordpress.com/the-context/timeline/>

<sup>11</sup> [https://www.nola.com/news/article\\_4dfeldac-595f-53c6-b11d-9b98c01b16c2.html](https://www.nola.com/news/article_4dfeldac-595f-53c6-b11d-9b98c01b16c2.html)

<sup>12</sup> <https://opprc.wordpress.com/the-context/timeline/>

<sup>13</sup> [https://www.nola.com/news/article\\_da395f4e-3dbd-5b95-b255-edb2ec0ebae6.html](https://www.nola.com/news/article_da395f4e-3dbd-5b95-b255-edb2ec0ebae6.html)

<sup>14</sup> <https://opprc.wordpress.com/the-context/timeline/>

<sup>15</sup> Website for Orleans Parish Prison: <https://www.opso.us>

<sup>16</sup> [https://www.nola.com/news/politics/elections/article\\_dd1046f6-5532-11ec-932e-9b5aecfc91ab.html](https://www.nola.com/news/politics/elections/article_dd1046f6-5532-11ec-932e-9b5aecfc91ab.html)

<sup>17</sup> Id. (OPP's capacity number is based on the total number of available beds)

<sup>18</sup> <https://www.motherjones.com/politics/2013/05/10-worst-prisons-america-orleans-parish-opp/>

fourteen deaths in total. Most notably, half (seven) of these deaths occurred in 2017.<sup>19</sup> All of these fourteen deaths show some commonality: twelve (12) black men, one (1) white man, and one (1) unknown; thirteen (13) males and one (1) female; seven (7) medical deaths, four (4) drug-related deaths, and three (3) suicides.<sup>20</sup>

To sum up these statistics, the majority of deaths at OPP come from black men with medical issues. Continuing with trends, the data shows that only two (2) of deaths occurred post-conviction,<sup>21</sup> while seven (7) deaths occurred within the first eighty-one (81) days of incarceration.<sup>22</sup>

Awareness of OPP's inadequate jail operations have been heightened ever since Hurricane Katrina. Even till this day, OPP's operations and staff numbers and regiment remain the biggest concern for advocacy groups. In July of 2020, a lawsuit was filed against Sheriff Gusman after a prisoner died in OPP custody after a fentanyl overdose in 2018.<sup>23</sup> The complaint alleged that OPSO employees "failed to protect Patterson," specifically that "OPSO personnel failed to properly screen people being booked into the jail."<sup>24</sup> Additionally, the complaint alleged that "OPSO staff failed to properly monitor the prisoners' living area, either in person or by video, ...failed to prevent the overt use of drugs in the living area, ...inadequate medical and mental health services at the jail, lack of treatment for drug addiction, and inadequate training and supervision of personnel responsible for screening and monitoring prisoners and providing medical services."<sup>25</sup>

Issues, similar to the complaints in the above-mentioned lawsuit, have prompted advocacy groups to prevent Gusman from initiating Phase III of the jail<sup>26</sup> - which is warranted by the 2013 Consent Decree. In October of 2021, the New Orleans City Planning Commission held a public hearing to discuss the plan to build Phase III of the Orleans Justice Center.<sup>27</sup> OPPRC argued that an additional building to house an extra eighty-nine (89) inmates is unnecessary for a couple reasons: (1) New construction could lead to greater incarceration; (2) Existing buildings are already understaffed with too few trained and responsive custody staff members to ensure

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<sup>19</sup> [https://www.incarcerationtransparency.org/?page\\_id=239](https://www.incarcerationtransparency.org/?page_id=239)

<sup>20</sup> Id.

<sup>21</sup> Id.

<sup>22</sup> Id.

<sup>23</sup> *Johnson v. Gusman*, USDC (E.D. La.), Case No. 2:19-cv-13949-MLCF-JCW

<sup>24</sup> <https://www.prisonlegalnews.org/news/2020/jul/1/orleans-parish-sheriff-wellpath-sued-over-louisiana-jail-prisoners-fatal-overdose/>

<sup>25</sup> Id.

<sup>26</sup> <https://opprcnola.org/phase3>

<sup>27</sup> <https://www.wvno.org/news/2021-10-12/controversial-new-orleans-jail-expansion-to-be-discussed-in-public-hearing>

treatment and safety; (3) and the city of New Orleans can simply not afford it.<sup>28</sup>

The city's need to retrofit the Phase II building in order to accommodate mentally ill patients and save money is evidenced by Postlethwaite & Netterville's - LA Legislative Auditor - audit of OPSO's Annual Financial Report.<sup>29</sup> However, Gusman hasn't completely failed as Orleans Parish Sheriff. In 2017, OPSO received notice of its continued accreditation for excellence in healthcare services from the National Commission of Correctional Healthcare ("NCCHC").<sup>30</sup>

As for OPP transparency, it is no surprise that information regarding OPP is not very difficult to collect - most likely due to the amount of scrutiny and not only local but national attention it receives. OPSO's very own website provides daily updates or briefings on OPP operations and other significant matters - specifically from Gusman himself or other jail/city officials.<sup>31</sup> The OPSO website also provides links (similar to that of an 'inmate locator website') in order obtain inmate information, such as mail instruction, adding funds, inmate inquiry, phone services, etc.<sup>32</sup> After experiencing firsthand how difficult it can be to obtain the slightest information from other parish sheriff's offices around Louisiana, it was slightly shocking to see the amount of information readily available concerning OPSO and OPP. This makes sense, though, since advocacy groups and local media - such as OPPRC and Nola.com - have burdened OPSO with so much scrutiny and publicized articles that OPSO likely feels compelled to provide as much information as possible in an attempt to refrain from more hardships.

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<sup>28</sup> Id.

<sup>29</sup> <https://www.opso.us/rokdownloads/pdf/OPSO%20FS%202019%20LLA%20Approved.pdf> (OPSO Annual Report Audited by Postlethwaite & Netterville - OPSO Revenues: \$87,643,800; Expenditures: \$87,726,242)

<sup>30</sup> [https://www.opso.us/index.php?option=com\\_content&view=article&id=545%3Aorleans-parish-sheriffs-office-receives-national-accreditation-for-healthcare-standards&catid=131%3Apress-release&Itemid=45](https://www.opso.us/index.php?option=com_content&view=article&id=545%3Aorleans-parish-sheriffs-office-receives-national-accreditation-for-healthcare-standards&catid=131%3Apress-release&Itemid=45) ("...OPSO was in full compliance with the stringent standards of healthcare service set forth by the NCCHC.")

<sup>31</sup> [https://www.opso.us/index.php?option=com\\_content&view=category&id=1&layout=blog&Itemid=50](https://www.opso.us/index.php?option=com_content&view=category&id=1&layout=blog&Itemid=50)

<sup>32</sup> Id.

### Assignment #1

Seeking death statistics from six (6) separate jails, prisons, or juvenile facilities has been one of the most frustrating assignments I've ever tried to complete. After nearly a semester of attempting to locate the proper custodian, how to contact that *proper* custodian, patiently waiting for a response after multiple delays, receiving responses that were anything but the necessary forms, or receiving no responses at all, I have unfortunately received one response, respectively, from Red River Parish Sheriff's Office.<sup>33</sup> As for Orleans Parish Prison, I received a 2019 CJ-9A Form, which was already received last year. However, three (3) deaths were recorded in 2020.<sup>34</sup> As of 2021, at least one OPP inmate has also died.<sup>35</sup> No other deaths, which have not already been documented in previous years, were found via internet search concerning Richland Parish Detention Center (Male and Female), Ware Youth Center, and Juvenile Justice Intervention Center.

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<sup>33</sup> Zero deaths recorded in 2020.

<sup>34</sup> <https://thelensnola.org/2021/02/09/after-improvements-monitors-warn-that-conditions-at-the-new-orleans-jail-may-be-backsliding/>

<sup>35</sup> <https://www.wdsu.com/article/orleans-parish-sheriffs-office-investigating-inmate-death/36805479>