

## EXECUTIVE SUMMARY

The New Orleans jail has been subject to federal court oversight for more than 50 years to address chronic problems, including violence, poor sanitation, readily available contraband, understaffing and inadequate training. Improving jail conditions is essential to (1) ensure the safety and security of people in custody, most of whom are awaiting trial and have not been convicted, and (2) avoid wasting public resources that could go toward the community's many unmet needs.

The jail has made strides in complying with court-mandated reforms in recent years, thanks to the City of New Orleans' effort to reduce the jail population and court orders to substantially increase jail funding and appoint a corrections expert to temporarily run the jail. With this progress, the Orleans Parish Sheriff, who is back in charge of jail operations, and the City, which provides most of the jail's funding, can begin envisioning a future without the need for federal oversight. On a technical level, this will require the jail to reach substantial compliance with more than 170 reforms mandated by the federal court in a 2013 settlement, or consent decree, and maintain it for at least two years. But true sustainability will also require rethinking how the Sheriff and the City govern the jail.

While the City provides about 80% of the jail's funding, it has no control over how the Sheriff runs the jail. Conversely, the Sheriff's ability to improve jail conditions is limited by the City's control of the purse strings. Over the decades, the inherent tension in this relationship at the heart of New Orleans' jail governance structure has led to periodic power struggles and ineffective problem solving. The result has been a cycle of backsliding on jail performance.

Breaking this cycle will require motivated, visionary leaders, coupled with a stronger governance structure to support them. This means reconsidering the distribution of powers, responsibilities and accountability of the entities and individuals involved in the jail, with a goal of more effective decision-making and improved outcomes for both people in custody and the public.

Federal courts face legal limitations on their ability to impose governance changes on jails. Thus, improving

the jail's governance will largely be up to the City, the Sheriff and the Louisiana State Legislature, which has substantial control over the current governance structure. The recent improvements in funding and performance have placed New Orleans in perhaps the best position in generations to achieve and maintain a constitutional jail. In addition, voters have elected a new Sheriff who has vowed to pursue full compliance with the consent decree and seek an agreement with the City to resolve areas of past conflict. Against that backdrop, this report examines how to improve the governance structure for the New Orleans jail to support long-term performance gains and the effective use of taxpayer dollars. BGR conducted the research for this report before the new Sheriff took office May 2 and intends the recommendations to help the Sheriff and the City develop a stronger relationship and deal with problems that have persisted for decades.

### Report Highlights

**Legal Framework.** Louisiana law establishes shared responsibility for the jail between the Sheriff and the City, but it does not describe how the two should cooperate on ensuring jail quality and adequate funding. Nor does it specify how the two entities should be accountable for carrying out their respective duties. The Sheriff is an independent elected official, established in the State constitution, and the City has no direct control over the Sheriff's powers and responsibilities. State statutes set forth the Sheriff's powers relative to operating the jail, as well as the City's obligation, in its role as the general government for Orleans Parish, to provide a "good and sufficient jail" and fund it. The City pays for most jail expenses, from food to medical care to jail employee salaries. In 2019, the City provided \$66.1 million, or 81% of total jail operating revenue. This amounted to nearly 10% of the City's General Fund budget, making the jail the third largest allocation behind the police and fire departments.

**Historical Power Struggles.** In 1969, a group of incarcerated persons sued the City, alleging that unsafe, unsanitary and overcrowded conditions at the jail violated their constitutional rights. A federal court ruled in their favor and ordered the City to correct the problems. The jail has essentially been under federal oversight ever since. During this era, the City and Sheriff

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have periodically battled over the jail’s management, budget and facilities. In a rare area of agreement, both parties rejected the court’s proposal of a City-run jail in the 1970s. Instead, the Sheriff accumulated new powers without a corresponding increase in accountability measures. Meanwhile, the City’s tendency to underfund the jail prolonged the period of court intervention. The jail’s rate of substantial compliance with the current slate of 174 reforms stood at just 11% in 2016, when the court approved an agreement to temporarily relieve the Sheriff of most jail duties and appoint a corrections expert to run the jail. This roughly coincided with a court order for the City to more than double its jail funding. The compliance rate increased to 68% in 2020, when the court reinstated the Sheriff’s full duties to operate the jail. This set the stage for the potential end of court oversight if the progress continues. However, a subsequent drop in the compliance rate and the tragic deaths of two people in custody in June 2022 illustrate the difficulties the jail has had in maintaining performance gains.

**Comparison to Other Parishes.** As in Orleans Parish, every Louisiana parish government must provide a jail that an independent, elected sheriff runs. But sheriffs in the other 63 parishes have far more expansive duties and financial autonomy. They serve as the chief law enforcement officer and the property tax collector in their parishes. By contrast, the New Orleans Police Department (NOPD) is the chief law enforcement agency in Orleans Parish, and the City is the tax collector. Despite having fewer responsibilities, the Orleans Parish Sheriff enjoys many of the same powers as other sheriffs. However, the Orleans Sheriff has far less control of the office’s funding.

**National Comparison.** The New Orleans jail governance structure is an outlier on several issues when compared to 20 peer counties across the country. Unlike in New Orleans, all the peer counties approve the entire jail budget, audit all jail expenditures, and handle most jail purchasing and contracting, even for jails run by elected sheriffs. Essentially, the City of New Orleans has the same jail funding responsibility common among other

large U.S. counties, but not the basic financial oversight and accountability inherent in their closer sheriff-county relationships. New Orleans also lacks a local entity that provides external oversight of jail performance, an emerging trend in the peer counties.

**Key Deficiencies.** These comparative analyses, combined with a review of recommended practices, highlight four key deficiencies in today's New Orleans jail governance structure:

1. **[There is inadequate coordination and strategic planning to identify and meet the jail's operating and capital needs.](#)** This manifests in several problems, including the City's historical tendency to underfund the jail, disagreements about compensation and training for jail employees, and ongoing disputes about rebuilding jail facilities damaged 17 years ago during Hurricane Katrina.
2. **[There are insufficient accountability measures to ensure the City adequately funds the jail and the Sheriff's Office uses the funding efficiently and effectively.](#)** The federal court has repeatedly found the City's jail funding to be inadequate over the decades and ordered the City to increase its allocations. Absent a court order, there is not a clear process for ensuring the adequacy of the City's budget support. Furthermore, the limited accountability for the Sheriff's spending can contribute to underfunding if the City has unresolved concerns about where its money goes or the effectiveness of the Sheriff's jail management.
3. **[There are inadequate safeguards to support the appointment of an effective jail administrator.](#)** The Sheriff currently has full discretion to fill this critical position with no input from the City or check on the administrator's qualifications.
4. **[There is insufficient external oversight of jail performance.](#)** While the Sheriff is ultimately accountable to voters through the electoral process, citizens generally lack direct knowledge of jail operations and conditions. This limits their ability to evaluate the Sheriff's performance. Some form of local external oversight will be

necessary to fill the void when the consent decree ends and federal jail monitors cease issuing their detailed reports on jail conditions.

### **Summary of Recommendations**

To remedy these flaws in the governance structure and help achieve and sustain constitutional jail operations, the Sheriff, the City and the Legislature must develop a level of collaboration that has often been absent during the decades of judicial oversight. State lawmakers and local policymakers owe it to the public and people in custody to make the governance changes necessary to help ensure safe and secure conditions of confinement and efficient and effective use of taxpayer dollars.

[In the near term, BGR recommends that the City and Sheriff seek a binding, multi-year agreement that encompasses several governance reforms.](#) The reforms would establish (1) a collaborative, strategic planning process that addresses the budget, employee compensation and other jail needs, (2) greater fiscal transparency and accountability for both the City and Sheriff, (3) appropriate supports for, and City participation in, the selection of the top jail administrator, and (4) an independent local entity to oversee jail performance.

Subsequently, the Legislature should establish the reforms in State law to ensure they will endure beyond the term of any agreement and the tenures of individual sheriffs, mayors and City Council members. State lawmakers also should require reforms in any key areas where the City and Sheriff either do not reach agreement or lack the power to make permanent changes, such as establishing local external oversight of the jail to replace federal oversight once the consent decree ends.

BGR limited its analysis of potential solutions to measures that could be implemented relatively quickly by modifying the current governance structure. The report does not assess complex changes, such as the City running the jail, or the Sheriff gaining financial independence from the City and taking over law enforcement duties from NOPD to align with other Louisiana sheriffs. However, consideration of larger-scale changes may be necessary if the near-term options do not result in lasting progress on jail performance.