RESOLUTION
NO. R-14-527
CITY HALL: November 20, 2014

BY: COUNCILMEMBERS GUIDRY, WILLIAMS, AND CANTRELL

A RESOLUTION, calling for the safe and expeditious removal of all youth from Orleans Parish Prison to the City of New Orleans’ Youth Study Center.

I. WHEREAS, Juveniles at Orleans Parish Prison Suffer From Unconstitutional Conditions of Confinement; and

WHEREAS, for the purposes of this resolution, a “youth” is person who was 14, 15, or 16 when he or she allegedly committed an offense that caused him or her to be transferred from juvenile court jurisdiction to criminal court jurisdiction, and who has not yet reached the age of 18; and

WHEREAS, the Orleans Parish Prison is currently under a federal consent decree due to unconstitutional conditions of confinement; and

WHEREAS, these unconstitutional conditions of confinement were initially raised in a complaint filed by three youth who were housed at OPP; and

WHEREAS, in his order approving the consent decree, federal Judge Lance Africk found that over half of the youth in OPP were housed in protective isolation because of the grave risk that youth at OPP will be victims of physical and sexual abuse; and

WHEREAS, youth housed in protective custody in OPP are regularly isolated in their cells for 23 hours each day; and

WHEREAS, isolation of the sort experienced routinely by youth at OPP is known to cause acute mental distress, including paranoia, anxiety, and depression – and, in his order approving the consent decree, Judge Africk in fact specifically mentioned a youth whose isolation placed him at heightened risk of suicide; and

WHEREAS, according to the Federal Bureau of Justice Statistics, youth under 18 who are housed alongside adults have the highest suicide rate of all jail inmates, are 19 times more likely to commit suicide than adult inmates, and are 36 times more likely to commit suicide than youth held in specialized facilities that do not house criminal defendants; and

WHEREAS, in October of this year, a youth held in the criminal sheriff's custody in Iberia Parish in fact did commit suicide; and

WHEREAS, Judge Africk found a “staggering frequency of violence” and “an extraordinarily high level of rapes and sexual assaults” at OPP overall, and youth are at a heightened risk of victimization; and

WHEREAS, youth who are incarcerated with adults are the most at-risk group for sexual assault while in confinement according to a report from the National Prison Rape Elimination Commission; and
WHEREAS, youth who are incarcerated with adults are twice as likely as adults to report being beaten or abused by prison guards, and are 50% more likely than adults to report being attacked by adult inmates with a weapon; and

II. WHEREAS, Public Safety Is Harmed By Inflicting Unconstitutional Conditions on Youth and Depriving Them of an Education; and

WHEREAS, youth at OPP are not given the opportunity to pursue high school diplomas, are deprived of their right to special education services, and are sometimes allowed to attend classes only three hours a week – if at all; and

WHEREAS, a study by the federal Centers for Disease Control found that holding youth in custody alongside adult criminal defendants actually hurts public safety by increasing the incidence of subsequent arrests among those youth, including for violent crime; and

WHEREAS, whatever offenses they are alleged to have committed, youth held prior to trial are presumed to be innocent, the huge majority of them will return to our community, and it is in the interest of the City of New Orleans to ensure that they return safe, healthy, and well-educated; and

WHEREAS, it is in fact estimated that approximately 38% of youth held alongside adults at OPP return to our community without ever being held in the custody of the Department of Corrections, and it is critically important that we be able to reintegrate those youth into educational and vocational training settings; and

WHEREAS, reintegration of youth is made even more difficult by conditions of confinement that deprive children of an education, put them at risk of brutalization, and exacerbate or inflict mental distress and illness; and

III. WHEREAS, OPP Has Neither the Facilities Nor the Programming to House Youth Safely, Constitutionally, and Cost-Effectively; and

WHEREAS, it is in the interest of the City of New Orleans to bring OPP into compliance with the federal consent decree as swiftly as practicable; and

WHEREAS, the consent decree requires that youth housed at OPP be kept separately from adults, and be given “developmentally appropriate mental health and programming services”; and

WHEREAS, after more than a year under the consent decree, it appears that no meaningful steps have yet been taken to provide developmentally appropriate services for youth at OPP; and

WHEREAS, in February of 2011, the New Orleans City Council adopted an ordinance granting a conditional use permit to OPSO for the construction of a 1,438 bed facility (known as the “Phase II” facility) that was capable of accommodating any type of prisoner – including special populations, like youth; and

WHEREAS, Phase II does not meet the City Council’s mandate, and it appears that Phase II as currently constructed cannot appropriately accommodate special populations including youth; and
WHEREAS, holding youth at OPP is particularly inefficient, because jailed youth must be kept entirely sight- and sound-separated from adults under both federal law and the consent decree, which would mean that entire 60-person tiers of OPP would be reserved for a handful of boys or girls;

WHEREAS, the City of New Orleans is now in the unfortunate position of having to identify cost-effective, constitutional, and safe plans for housing special populations; and

WHEREAS, continued sensible reductions in our jail population – including youth who can safely and securely be housed elsewhere – will help to ensure that the City of New Orleans does not continue to hold its citizens in jail unnecessarily, will lower the deputy-to-prisoner ratio in the jail, and could prevent the City and OPSO from having to construct an additional and costly jail facility; and

IV. WHEREAS, New Orleans Has an Alternative Confinement Facility that Can Safely and Constitutionally Accommodate Juveniles; and

WHEREAS, the Youth Study Center (YSC) is a facility operated directly by the City of New Orleans for the housing of pre-trial juveniles and transfer youth; and

WHEREAS, the leadership and staff of the YSC have demonstrated that they are able to provide programming for youth in a safe, secure, and constitutional environment; and

WHEREAS, the YSC regularly operates at approximately half of its maximum capacity, meaning that it has many vacant cells which could be used for transfer youth; and

V. WHEREAS, the Mayor’s Office Has Constituted a Working Group To Consider the Feasibility of Removing All Youth From Orleans Parish Prison and House Such Youth at an Alternative Facility; and

WHEREAS, this Council believes its position should be clearly stated before such working group renders a decision; NOW THEREFORE

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEW ORLEANS that OPSO Sheriff Marlin Gusman and the City of New Orleans should take any and all necessary steps to remove all youth from Orleans Parish Prison and house such youth at the Youth Study Center, with the understanding that additional resources may be necessary to facilitate this transfer; and

BE IT FURTHER RESOLVED that the Youth Study Center be officially designated as the appropriate facility in Orleans Parish for the housing of youth who are prosecuted as adults and detained prior to trial; and

BE IT FURTHER RESOLVED that this resolution shall have no effect on the transfer of jurisdiction over prosecution from juvenile to criminal court, but is concerned only with the place in which transfer youth are detained prior to trial; and

BE IT FURTHER RESOLVED that copies of this Resolution should be sent to the following individuals: Judge Lance Africk of the Eastern District of Louisiana; Susan W. McCampbell, Lead Monitor for the Orleans Parish Prison consent decree litigation; Marlin Gusman, Orleans Parish Criminal Sheriff; Mitchell J. Landrieu, Mayor of the City of New Orleans; Sharonda R. Williams, New Orleans City Attorney; Laura Coon, Senior Trial Attorney.
at the U.S. Department of Justice, Civil Rights Division; and Katie Schwartzmann, Co-Director; Roderick and Solange MacArthur Justice Center.

THE FOREGOING RESOLUTION WAS READ IN FULL, THE ROLL WAS CALLED ON THE ADOPTION THEREOF AND RESULTED AS FOLLOWS:

YEAS:

NAYS:

ABSENT: