

Office of Inspector General

City of New Orleans

Evaluation of the City's Electronic Monitoring Program Administered by the Orleans Parish Sheriff's Office

Part I: Budget and Billing

**E. R. Quatrevaux
Inspector General**

Final Report

April 2, 2014

OFFICE OF INSPECTOR GENERAL

CITY OF NEW ORLEANS



ED QUATREVAUX
INSPECTOR GENERAL

April 2, 2014

Re: Evaluation of the City's Electronic Monitoring Program, Part 1. Budget and Billing

I certify that the inspector general personnel assigned to this project are free of personal or other external impairments to independence.

A handwritten signature in blue ink, appearing to read 'E.R. Quatrevaux', is positioned above the printed name.

E.R. Quatrevaux
Inspector General

EVALUATION OF THE CITY’S ELECTRONIC MONITORING PROGRAM,
PART 1. BUDGET AND BILLING

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EXECUTIVE SUMMARY

The Office of Inspector General of the City of New Orleans (OIG) conducted an evaluation of the City's Electronic Monitoring Program (EMP) administered by the Orleans Parish Sheriff's Office (OPSO).

Evaluators' primary objective for Part 1 of this evaluation was to review the EMP's annual budget allocation and expenditures and determine if City of New Orleans funds paid for the services agreed upon in the Cooperative Endeavor Agreement entered into between the City and OPSO. Evaluators reviewed a total of 359 files for juvenile and adult program defendants from April 1, 2012 through September 30, 2012.¹

Part 1 of this report presents the following major findings:

- OPSO reported expenditures that exceeded program revenues by over \$100,000 in 2011 and 2012;
- OPSO reported indirect costs that could not be verified or were miscalculated in their 2011 and 2012 program budgets;
- OPSO personnel costs included over \$100,000 for regularly scheduled overtime;
- OPSO charged the City more for monitoring than it originally proposed in 2009, more than it charged a grant for the same services, and more than a program administered by another law enforcement agency; and
- OPSO overbilled the City by approximately \$23,000 due to billing errors and billed the City more than \$65,000 for post-conviction monitoring.

Based on these findings, the OIG makes the following recommendations related to EMP budget and billing practices:

- OPSO should improve fiscal controls and monitor program revenues and expenditures to ensure that the EMP operates within its budget;
- The City should renegotiate the daily rate per participant; and
- The City and OPSO should increase financial controls and oversight to ensure invoices are accurate and include only defendants for whom the program is intended.

Part 2 of this report, to be released subsequently, will provide administrative and programmatic findings and recommendations.

¹ Some individuals had been enrolled in EMP multiple times. These defendants had multiple files that evaluators recorded as separate entries. For the purposes of this report, EMP participants are referred to as "defendants" because they were under court supervision.

I. OBJECTIVES, SCOPE, AND METHODOLOGY

The Office of Inspector General for the City of New Orleans (OIG) conducted an evaluation of the City's Electronic Monitoring Program (EMP) administered by the Orleans Parish Sheriff's Office (OPSO). The objectives of this evaluation were to identify the goals of the EMP program, identify and assess the program's performance measures; review the program's annual budget allocation and expenses; and examine alerts and OPSO responses in April 2013. Evaluators reviewed a total of 359 files for program defendants from April 1, 2012 through September 30, 2012, and recorded relevant information into separate databases for juveniles and adults. Part 1 of this report will present findings and recommendations related to EMP budget and billing practices. Part 2 of this report, to be released subsequently, will provide administrative and programmatic findings and recommendations.

For the OPSO Electronic Monitoring Program Budget and Billing report, evaluators conducted interviews of OPSO personnel, City officials, and Council members, and submitted questions in writing to judges from Juvenile, Municipal, and Criminal District courts. Evaluators reviewed relevant legal references and documents such as Cooperative Endeavor Agreements, invoices, budget descriptions, intake and disposition forms, and defendant files. Evaluators accessed OPSO's web-based monitoring service and generated reports for additional analysis. OPSO's online "Docket Master" system provided data regarding the status of adult defendants in Criminal District Court: failures to appear; subsequent arrests on new charges while participating in EMP; and start and end dates for court ordered monitoring were used to determine compliance with court orders.

This evaluation was performed in accordance with Principles and Standards for Offices of Inspector General for Inspections, Evaluations, and Reviews and includes findings and recommendations relating to the efficiency and effectiveness of the OPSO's management and administration of the Electronic Monitoring Program paid for by the City of New Orleans ("City").²

OIG evaluators were assisted in the preparation of this report by the cooperation of City and OPSO employees and officials, as well as Criminal District Court and Juvenile Court judges and staff.

² "Quality Standards for Inspections, Evaluations, and Reviews by Offices of Inspector General," *Principles and Standards for Offices of Inspector General* (Association of Inspectors General, 2004).

II. INTRODUCTION

Electronic Monitoring (EM) is the use of electronic monitoring equipment to track defendants' locations and assess their compliance with court-ordered geographic restrictions. Numerous states have authorized electronic monitoring programs as an accepted alternative to traditional incarceration in state or local correctional facilities.³ Administered efficiently and effectively, electronic supervision of defendants provides jurisdictions with an alternative to the high cost of custodial care.⁴ Electronic monitoring programs generally allow defendants to continue to work, attend school, and otherwise avoid the negative effects of being detained in a correctional facility while awaiting case disposition. EM has been an alternative to pretrial detention in New Orleans since at least 2004.

In 2010 OPSO entered into a Cooperative Endeavor Agreement with the City to provide EM services.⁵ OPSO contracted with Omnilink Systems, Inc. to provide leased equipment and monitoring services. The monitoring services included monitoring technology and alerts twenty-four hours per day, seven days per week, and technical support. Monitoring devices or "ankle bracelets" were placed on defendants and used Global Positioning System (GPS) as well as cellular tracking to locate and monitor the movements of individuals twenty-four hours a day. The devices recorded defendants' location every 60 seconds, and every 15 minutes their location was reported to monitoring deputies through the Omnilink monitoring service via computer or mobile device.⁶ The system also had the ability to report data in real time.

The Deputy Mayor for Public Safety oversaw the EMP on behalf of the City. He was the point of contact for the CEA, received OPSO invoices, authorized payment, and met additional administrative obligations on the City's behalf.⁷

³ More than 40 states and Washington, D.C. have adopted laws to regulate the use of electronic monitoring.

⁴ During the period of this evaluation, the per-diem (per inmate, per day rate) for incarceration in Orleans Parish Prison (the City jail) was \$22.39, established by the Settlement Judgment, *Hamilton v. Morial*, March 26, 2003. The cost of incarceration also included other costs, such as medical costs, that more than doubled the actual per inmate per day cost. For an examination of the per person daily rate of incarceration in New Orleans, see Office of Inspector General, "Inspection of Taxpayer/City Funding to Orleans Parish Sheriff's Office in 2011" (New Orleans, June 6, 2013). The EMP fee for juvenile defendants was \$14.75 per day and \$13.25 per day for adult defendants.

⁵ Subsequent CEAs were signed by OPSO and the City in 2011, 2012, and 2013. The scope of this evaluation was limited to the 2011 and 2012 CEAs.

⁶ Collectively, three OPSO deputies and one NOPD officer will be referred to as "monitoring deputies." The NOPD officer was assigned to EMP, but she maintained an office in the Juvenile Court building; she only reported to the EMP office as needed to obtain equipment.

⁷ Evaluators use EMP to refer to the New Orleans electronic monitoring program administered by the Orleans Parish Sheriff's Office.

III. FINDINGS

BUDGET

The CEA signed in 2011 limited the total amount OPSO could invoice the City to a maximum of \$50,000 per month. At a rate of \$13.25/day for adults and \$14.75/day for juvenile defendants, City funding could provide electronic monitoring for up to seventy-one adult defendants and forty-five juvenile defendants for thirty-one days each month.⁸ In 2012 the City reduced the appropriated amount by approximately 14 percent, resulting in a maximum invoice of \$43,000 per month. The decrease in OPSO's budget reduced the number of defendants who could be monitored in a month to fifty-four adults, assuming forty-five units remained assigned to Juvenile Court.⁹

In June 2012, 124 units were available; 45-50 were reserved for Juvenile Court, and the balance were available for the other courts to use on a "first come, first serve" basis.¹⁰ Beginning in December 2011, OPSO received an \$110,000 "expansion grant" from the New Orleans Police and Justice Foundation (NOPJF) for 20 additional units, to be deployed when all City units were in use.¹¹ As a result, a total of 144 units were available for use by Juvenile, Municipal, and Criminal District Courts during 2012.¹² The NOPJF Expansion Grant also provided deputies with laptops and wi-fi access so they could remotely access the monitoring program's database when out of the office.

⁸ The cost for one adult was \$410.75, and the cost for one juvenile was \$457.25 for each month of thirty-one days. However, fluctuations occurred as people were enrolled and discharged from EMP throughout the month.

⁹ The 2012 CEA required that "not less than fifty-five (55) electronic monitors ... be available for use by juveniles;" however, based on statements from OPSO and Juvenile court, the number of monitors available for juveniles was closer to forty-five units.

¹⁰ OPSO included this information in its presentation to the City Council Criminal Justice Committee on June 27, 2012.

¹¹ In 2010 grant funds were awarded to the Business Council of New Orleans by the Bureau of Justice Assistance in response to a Congressionally Selected Award pursued by the Business Council and the New Orleans Crime Coalition. NOPJF was the fiscal administrator of the grant and entered into a CEA with OPSO to expand the EMP.

¹² The District Attorney's office also had the ability to use the EMP as part of a plea bargain agreement or for a defendant participating in the Pretrial Diversion program. These defendants paid their own fees for the service, and the units provided were in addition to the City's allotted monthly units. According to the contracts signed by the defendants in the "self pay" program, adults paid a \$185.50 deposit and juveniles paid a \$206.50 deposit in addition to a weekly fee.

Finding 1. OPSO’s reported expenditures for EMP exceeded program revenues by over \$100,000 in 2011 and 2012.

In October 2012 evaluators requested OPSO’s budget and expenditures for EMP, including an “itemized list of costs for administering the program, including personnel and operating expenses.” OPSO’s attorney responded that the documents were not “ordinarily kept or prepared in the format” requested and were “not available at this time.” The attorney then explained that staff had been instructed to prepare the documents in the requested format. Evaluators received the revenue and expenditures for fiscal years 2011 and 2012 in February and April 2013, four and six months after the October 2012 document request.

The sources of revenue listed by OPSO included funds received from the CEA with the City, “Voluntary Participants & Damage Restitution,” and “EMP Expansion Grant.” The City CEA revenues were based on the actual number of defendants invoiced to the City in 2011 and 2012. Defendants who participated as part of a diversion program were considered “voluntary participants,” and they paid their own monitoring expenses. “Damage Restitution” was revenue generated by judges who ordered defendants to pay for lost or damaged equipment.

Figure 1: EMP Revenues (2011-2012)

	<u>2011</u>	<u>2012</u>
<u>Revenue Sources</u>		
CEA (City)	\$555,393.50	\$486,687.00
Voluntary Participants & Restitution	\$185.50	\$2,132.75
EMP Expansion Grant	\$0	\$79,228.00

According to OPSO budget documents, program expenditures included personnel costs, communication costs for four cell phones, 5 percent of the electricity costs for the EMP office located in the Intake Processing Center, vehicle maintenance for four vehicles, 50 percent of service charges for background checks, the monitoring services contract with Omnilink, supplies, public liaison, technical support, rent, and pest control.

According to budget information provided by OPSO, the operational expenditures of EMP were approximately \$681,830 in 2011 and \$682,470 in 2012, exceeding both the \$600,000 annual budget appropriation pursuant to the CEA and the actual revenue generated by invoices to the City.¹³

¹³ The CEA limited the EMP budget to \$50,000 per month for twelve months, equaling \$600,000 annually. In 2011 and 2012, the actual revenues were less due to budget cuts imposed by the City and actual invoices for services

The expenditures provided by OPSO are summarized in Figure 2 below.

Figure 2: EMP Expenditures (2011-2012)

	<u>2011</u>	<u>2012</u>
<u>Expenditures</u> ¹⁴		
Personnel Costs	\$212,749.81	\$271,196.78
Monitoring Contract	\$233,825.67	\$225,072.99
Rent (782 sq ft x \$15 per sq ft per month)	\$140,760.00	\$140,760.00
Technical Support	\$28,899.33	\$27,841.16
Communications	\$4,614.72	\$4,615.16
Electricity	\$4,527.60	\$4,580.70
Background Check service (50%)	\$3,120.00	\$3,120.00
Vehicle Maintenance	\$7,487.77	\$2,444.63
Supplies (5%)	\$1,282.67	\$2,237.72
Public Liaison (1%)	\$300.00	\$300.00
Pest Control	\$300.00	\$300.00
TOTAL REVENUES:	\$555,579.00	\$568,047.75
TOTAL EXPENDITURES:	\$681,829.09	\$682,469.14
Program Deficit	(\$126,250.09)	(\$114,421.39)

Finding 2. OPSO reported indirect costs for EMP that could not be verified or were miscalculated, including over \$140,000 per year in rent.

Rent

The EMP office is located in the Intake Processing Center (IPC), 2801 Perdido Street. Industry standard for calculating a yearly rental amount is to multiply the rental rate per square foot times the square footage of the rental space. However, instead of calculating rent for the year, OPSO calculated rent by charging \$15 per square foot *per month* for the EMP office, which measured approximately 782 square feet. Using this formula, OPSO listed an expenditure of \$140,000 per year as part of the EMP expenditures.

provided. The Monitoring Supervisor, the Captain who supervised the monitoring deputies, used the monthly allocation to determine the available number of units each month.

¹⁴ OPSO did not bill the City for these expenses, but all program expenses should be covered by the per diem rate agreed upon by the City and OPSO in order to maintain a balanced program budget.

OPSO personnel told evaluators that they based the rental charge on the standard \$15 rate for commercial leases along Tulane Avenue. Evaluators consulted real estate quarterly reports to determine the standard rate for commercial leases. The quarterly reports listed *annual* Central Business District commercial lease rates ranging from \$13.75 to \$20.00 per square foot, depending on location and amenities; Tulane Avenue's \$15 rate falls within this range.¹⁵

At an *annual* rate of \$15, the rental expense for OPSO would have been \$11,730, or 8 percent of OPSO's \$140,000 annual rental expenditure. OPSO's rental rate of \$140,000 divided by 782 square feet resulted in an *annual* cost of \$179 per square foot. At \$179 per square foot, OPSO's Intake Processing Center would be listed in the real estate quarterly report as "the highest priced office space in the New Orleans metropolitan area" according to the author of the quarterly report.

OPSO overestimated EMP expenditures by almost \$260,000 in rent for 2011 and 2012. Furthermore, according to the assessor's records, the City owns 2801 Perdido Street.¹⁶ If that is the case, the OPSO should not have included rent as an indirect program cost for the City's EMP.

Electricity

OPSO attributed 5 percent (or approximately \$4,550) of the IPC's annual electricity expenses to the EMP. However, the office space allocated to EMP (782 square feet) represented only 2 percent of the total square footage of the IPC (39,000 square feet).¹⁷ Therefore, OPSO's estimate for the cost of EMP electricity was more than double the expected cost based on the square footage of the office. The cost for electricity would have been approximately \$1,800 per year based on 2 percent of the building's total size and the annual costs for electricity in 2012.

Vehicle Maintenance

OPSO also calculated expenses for "vehicle maintenance" for four vehicles in the program budget; however, the Monitoring Supervisor stated that only three vehicles were assigned to EMP. The Monitoring Supervisor was assigned a vehicle and monitoring deputies used two other vehicles when they responded to alerts.

¹⁵ Bruce Sossaman, "Office Occupancy and Absorption Survey" (Equity Office Properties, New Orleans, 4th Quarter 2012). Evaluators calculated OPSO's rent based on the *annual* calculation used by realtors instead of the *monthly* calculation used by OPSO.

¹⁶ OIG, "Inspection of Taxpayer/City Funding to OPSO in 2011." FEMA recovery grant funds paid for renovating the jail's former kitchen into the IPC.

¹⁷ Evaluators used an online area map calculator to estimate the total square footage of IPC.

Finding 3. EMP deputies' schedules included regularly scheduled overtime, which raised personnel costs by more than \$100,000 over base salaries, the equivalent to two monitoring deputy positions in 2012.

EMP expenditures and indirect costs exceeded revenues by \$126,250.09 in 2011 and \$114,421.39 in 2012. The largest expense category for each year was personnel costs.

As shown in Figure 3, evaluators added OPSO's standard charge for fringe benefits to base salary information to calculate personnel costs.

Figure 3: EMP Personnel Costs Calculated Using OPSO Salary Information¹⁸

	2011	2012
EMP Monitoring deputies ¹⁹	\$159,393	\$159,393
Ranking Officers ²⁰	\$24,017	\$24,017
Support Staff ²¹	\$1,371	\$6,655
Total Personnel Costs	\$184,780	\$190,064

Figure 3 calculates expected EMP personnel costs of \$184,780 in 2011 and \$190,064 in 2012. These personnel costs include employee base salaries and fringe benefits, including portions of the salaries attributable to the program for ranking officers and administrative support staff. However, the EMP's actual personnel costs were approximately \$30,000 and \$80,000 more than the calculated amounts for 2011 and 2012, as shown in Figure 4.

¹⁸ OPSO financial personnel provided evaluators with OPSO's standard fringe rate of 14.6%.

¹⁹ This amount includes 100% of the salaries for the three monitoring deputies and supervisor (Captain) plus fringe benefits of 14.6%.

²⁰ OPSO expenditures include indirect salaries such as 5% of Sheriff's, Chief Deputy Sheriff's, and Colonel's salaries, and 10% of an OPSO Major's salary, including 14.6% fringe benefits.

²¹ Additional program expenditures include administrative accounting personnel and in 2012 10% of the gross salaries of two deputies from the Communications platoon were assigned to monitor low battery alerts received during the night shift.

Figure 4: EMP Personnel Expenditures versus Base EMP Personnel Costs

	2011	2012
EMP Personnel Costs (Actual Expenditures)	\$212,750	\$271,197
EMP Personnel Costs (Salary & Fringe)	\$184,780	\$190,064
Difference	\$27,970	\$81,133

The difference between the projected personnel costs and the actual personnel costs was due to regularly scheduled overtime assignments. In 2012 monitoring deputies were scheduled to work at least 120 hours per bi-weekly period and OPSO paid overtime for any hours in excess of eighty-six hours in a two-week pay period.²² At least two of the monitoring deputies received a minimum of four hours of scheduled overtime each week beyond their regular twelve-hour days. OPSO did not provide a separate line in its budget disclosing overtime costs, but consistent statements by OPSO personnel described regularly scheduled overtime expenses as well as additional overtime hours.

The average salary of monitoring deputies was approximately \$34,000. Evaluators calculated over \$81,000 in overtime in 2012; OPSO could have hired two additional monitoring deputies for less than that amount. OPSO exceeded its expected personnel costs by a total of almost \$110,000 in 2011 and 2012, approximately 45 percent of OPSO's calculated deficit based on the difference between EMP revenues and reported program expenditures. Evaluators asked OPSO personnel to explain the cause of the difference in personnel costs based on salary and fringe benefits and the reported personnel expenditures, but no explanation was provided.

OPSO's reported revenues and expenditures showed that EMP operated at a deficit in 2011 and 2012. The program could operate well within budget if OPSO used more accurate calculations of indirect expenses and managed overtime assignments. Toward that end, evaluators calculated the budget for EMP based on costs that could be verified. The figure below shows OPSO's 2012 reported expenditures and evaluators' estimated costs for EMP.

²² Monitoring deputies worked twelve hour days for five days per week with staggered days off; this schedule resulted in a sixty-hour work week.

Figure 5: 2012 OPSO Reported Expenses versus OIG Estimated Costs

	2012 Reported OPSO Expenses	2012 OIG Estimated Costs
Direct Costs		
EMP Personnel	\$159,392.56	\$159,392.56
Omnilink Monitoring Service	\$225,072.99	\$225,072.99
Indirect Costs		
Ranking Officers & Support Staff	\$30,671.44	\$30,671.44
Electricity	\$4,580.70	\$1,832.28
Vehicle Maintenance	\$2,444.63	\$5,200.00
Background Check Service	\$3,120.00	\$3,120.00
Communications	\$4,615.16	\$4,615.16
Supplies	\$2,237.72	\$2,237.72*
Public Liaison	\$300.00	\$300.00
Technical Support	\$27,841.16	\$27,841.16 ²³ *
Rent	\$140,760.00	\$11,730.00
Pest Control	\$300.00	\$300.00*
PROGRAM TOTAL:	\$682,469.14	\$502,986.75

*OIG did not verify reasonableness or accuracy of these charges.

Finding 4. The daily rate per person OPSO charged the City for electronic monitoring was more than it originally proposed in response to a 2009 RFP, more than it charged an EMP grant, and more than the per diem of a program administered by a law enforcement agency in another city.

Per diem (daily rate per person) charged to the City

The City issued a Request for Proposals in 2009 for “Alternative Sentencing, Case Management and Related Services” that requested proposals for electronic monitoring equipment, monitoring and support services twenty-four hours per day, daily monitoring data for crime analysis, and web-based monitoring software. OPSO’s proposal in response to the 2009 RFP received the highest score overall and offered the lowest cost per day at \$9.00 for adults and

²³ The formula OPSO used to allocate “technical services” among departments was 3 percent of 75 percent of invoices submitted by Major Services, Inc., totaling \$28,899.33 in 2011 and \$27,841.16 in 2012. Evaluators examined the 2012 invoices, but there was no way to determine if the costs attributed to EMP were reasonable because Major Services, Inc.’s invoices did not include any description of the specific work performed. OPSO financial personnel described the type of services performed by Major Services, Inc. as anything related to computers, printers, cell phones, servers, or other technology.

\$12.00 for juveniles. The City subsequently withdrew the RFP without selecting a service provider.²⁴

In February 2010 the City issued and cancelled another RFP for the same services. Eight months later, in October 2010, the City and OPSO entered into a CEA for electronic monitoring services without a competitive procurement. The daily rate the City and OPSO agreed upon was \$13.25 for adults and \$14.75 for juveniles, \$4.25 (47 percent) and \$2.75 (23 percent) more than the daily rates OPSO proposed for adults and juveniles in response to the 2009 competitive procurement process.

Per diem charged to the NOPJF Expansion Grant

OPSO and the New Orleans Police and Justice Foundation (NOPJF) agreed upon a rate of \$10.55 per day per participant for the Expansion Grant, regardless of adult or juvenile status. The daily rate of \$10.55 for the NOPJF Expansion Grant was \$2.70 (20 percent) less for adults and \$4.20 (28 percent) less for juveniles than the daily rates OPSO charged the City. OPSO negotiated the rate for the NOPJF Expansion Grant approximately one year after the OPSO began monitoring services for the City, and it was based on direct personnel costs (including fringe benefits for staff), the cost of the monitoring service agreement, and “other monitoring related costs.”

Per diem costs compared to those of a comparable law enforcement agency

Evaluators compared OPSO’s program per diem to that of Charlotte Mecklenburg Police Department’s (CMPD) Electronic Monitoring Division. CMPD’s Electronic Monitoring Division used the same monitoring vendor, software, equipment, and serviced a similar population. In addition, the City and OPSO have consulted with CMPD on the development of the New Orleans EMP.

CMPD’s total 2013 budget for its EM division was \$948,105 and included personnel and contracted monitoring services. CMPD’s budget, unlike OPSO’s, did not include any indirect costs, and CMPD paid Omnilink \$3.60 per unit per day. CMPD had a total of six officers and one Sergeant assigned to monitor an average of 400 people per day.²⁵

In order to compare similar expenses for the two programs, evaluators calculated per diems including only the expenses included in CMPD’s budget: personnel and contracted monitoring services. Evaluators calculated CMPD’s per diem by dividing its total annual budget by the

²⁴ The OIG issued a public letter criticizing the previous administration’s handling of the 2009 RFP for EM services.

²⁵ CMPD’s \$948,105 annual budget included electronic monitoring salaries and the monitoring contract; it did not include salary costs for administrative personnel or ranking officers above the direct supervisor.

average number of defendants enrolled and the number of days in a year. Using this formula, CMPD's per diem was approximately \$6.50.

However, CMPD's and OPSO's monitoring contract rates were different: CMPD's contracted rate for Omnilink's monitoring services was approximately \$1.90 less than OPSO's rate of \$5.50 per unit per day. To control for the difference in the contract monitoring costs, evaluators also calculated CMPD's per diem using OPSO's contract rate. Recalculating CMPD's per diem using OPSO's \$5.50 per unit per day cost resulted in a per diem of \$8.39.

Staff included in the two agencies' personnel costs varied; OPSO included portions of ranking officers' salaries that were not included in CMPD's personnel costs. To control for the differences in the two agencies' personnel costs, evaluators excluded all indirect costs and calculated OPSO personnel costs for only those staff included in CMPD's personnel expenses: the monitoring deputies and direct program supervisor. OPSO's program costs for these personnel and the monitoring contract totaled \$390,590.56. Using this total, OPSO's per diem for direct costs was \$9.31.

Figure 6: CMPD and OPSO Direct Cost Comparison

	CMPD Budget	CMPD Personnel & OPSO Contract Rate	OPSO Direct Costs (EMP Personnel & OPSO Contract)
2012 Costs	\$ 948,105	\$948,105	\$390,590
Per diem Program Cost	\$ 6.50	\$ 8.39	\$9.31

Figure 6 shows the three per diem calculations described above. A total of seven CMPD officers provided monitoring services to a daily average of approximately 400 defendants for a lower per diem than OPSO's, in which four deputies served approximately 115 defendants per day. CMPD's per diem was lower even (1) when CMPD paid OPSO's higher monitoring contract costs and (2) when OPSO's per diem included only direct program staff and one supervisor.

Next, evaluators calculated per diem rates based on OIG estimated expenses and OPSO's reported expenses for 2012. The per diem based on the OIG estimated total program expenses of \$502,987 (from Figure 5) was \$11.98. Using OPSO's total 2012 reported program expenditures of \$682,469, which included indirect costs and additional personnel such as ranking officers and administrative support personnel, the daily cost per person was more than \$16 per unit per day.

Figure 7: Comparison of OPSO Per Diem Calculations

	<u>OIG Estimated OPSO Expenses</u>	<u>OPSO 2012 Expenditures</u>
2012 Costs	\$502,986.75	\$ 682,469.14
Per diem Program Cost	\$11.98	\$ 16.26

In Figure 7 the addition of OPSO’s reported indirect costs, including ranking and administrative personnel, resulted in a per diem rate of \$16.26, higher than the CEA rates of \$13.25 and \$14.75. In contrast, calculating the per diem based on the OIG’s estimated and verifiable expenses resulted in a per diem rate of \$11.98, lower than the rates charged to the City.

OPSO’s 2012 reported expenditures indicated that the program was not operating within its budget. However, the OIG’s estimated expenses suggest the per diems the City paid OPSO to administer the EMP were greater than the amount needed to fund the program.

BILLING

Finding 5. OPSO overbilled \$23,000 on invoices to the City and NOPJF Expansion Grant due to billing errors; the City did not identify the errors.

OPSO billed incorrect per diems

The November 2011 CEA established a billing rate of \$13.25 per day for adult defendants and \$14.75 per day for juvenile defendants. Beginning in June 2012, the OPSO erroneously calculated the rates at \$13.75 per day for adults and \$14.25 per day for juveniles. This practice continued to appear on each subsequent monthly invoice through November 2012 and resulted in \$1,730.69 in erroneous charges to the City in 2012.

The billing errors appeared on OPSO’s invoice cover sheet and the daily rates reflected in the itemized lists, but they were not identified by the City. OPSO personnel identified the error for the November 2012 invoice and re-submitted it to the City in March 2013 with the correct rate. However, neither OPSO staff nor City personnel reviewed other 2012 invoices to determine if the error had occurred in other months, and invoices for June through October 2012 remained uncorrected.

The errors suggest poor oversight of billing procedures at both the City and at OPSO. The City failed to review the invoices sufficiently to identify the errors before making payment, and OPSO’s billing process did not have adequate controls in place to recognize the errors before

sending the invoices to the City. OPSO was also remiss in that it failed to review previous invoices for similar errors even after being alerted to the problem.

City and NOPJF Expansion Grant billed for the same defendants

OPSO's billing processes for the City and NOPJF Expansion Grant required three individuals to check invoice lists to ensure defendants were properly billed to the respective entity. First, the monitoring deputy entered the participant's agency with the "grant" distinction, if applicable. Then the Monitoring Supervisor generated monthly reports for all defendants, separating grant defendants from defendants being charged to the City. The Monitoring Supervisor sent those lists to the OPSO Grant Administrator and OPSO Finance department to review; each checked the invoice lists to ensure defendants were charged to the correct entity.

Evaluators obtained copies of the monthly invoices submitted to the City and NOPJF Expansion Grant for 2012. These invoices included defendants' names and dates of service with the corresponding rates charged per day. Evaluators compared names and dates of service for each month to determine if any defendants were erroneously billed to both entities for the same period of time. In May and September 2012, a total of 29 defendants were charged on both the City invoices and NOPJF Expansion Grant invoices for the same dates of service. The billing error resulted in approximately \$18,766.60 in duplicate payments.

Evaluators informed the OPSO Grant Administrator and the City of the double billing; OPSO and City officials were unaware of the errors. OPSO concluded the May 2012 error was an oversight and billing errors in September 2012 were due to Omnilink's changes to the rate plans in response to Hurricane Isaac. As OPSO prepared for Hurricane Isaac, the Sheriff's Office requested Omnilink to transfer all defendants to the "emergency rate plan," which would save battery life in cases of power outages and signal interruption. When the emergency situation passed and electricity was restored to most areas of the City, OPSO requested Omnilink to return the defendants to their regular rate plan. Omnilink failed to place grant defendants back into the system with the NOPJF grant designation, causing those defendants to appear on the monthly report generated for the City invoice. However, none of the three OPSO personnel monitoring the monthly reports detected the errors or confirmed that the defendants had been appropriately reclassified with the grant designation.

Since the NOPJF Expansion Grant only paid for defendants when the City-funded devices were fully deployed, the NOPJF Expansion Grant received a credit of \$8,144.60 for 772 participant days.²⁶

²⁶ The grant was initially "closed out" in March 2013; however, when evaluators notified OPSO personnel of the error, the grant was credited and re-opened until funds were expended.

OPSO billed the City for defendants for whom it was not responsible

Evaluators used minute entries from OPSO's "Docket Master" to confirm the beginning and ending dates for electronic monitoring.²⁷ One defendant's record noted that the district attorney refused prosecution on August 20, 2012, but the defendant appeared on the City's invoices through October 4, 2012.²⁸ Another defendant was released from the EMP by the judge on September 28, 2012 but was invoiced to the City through November 6, 2012. OPSO protocols also required a defendant to be removed from the program if the District Attorney's office "refuses to prosecute the charges" or if the judge removed the defendant from EM. These two defendants appeared on the City's invoices for a total of eighty-four days beyond the court-ordered date of their release. This error resulted in overcharging the city a total of \$1,155.

In another case, the court entry from February 16, 2012 noted a judicial order requiring the defendant to pay for electronic monitoring himself. This individual was listed on the City's invoices from April 1, 2012 until his probation was revoked in July 2012, resulting in the City paying \$1,497.25 for 113 days of service.

The above scenarios depict instances in which OPSO invoices did not accurately reflect defendants' status in the EMP. Evaluators were unable to determine the precise cause of these errors because the necessary documentation was not included in the defendants' files.

Finding 6. OPSO billed the City over \$65,000 for post-conviction monitoring of adult defendants from April 2012 through September 2012 even though the program was intended to serve pretrial defendants.

OPSO invoiced the City over \$65,000 for post-conviction monitoring of adult defendants from April 2012 through September 2012, contrary to the 2012 CEA between the City and OPSO.²⁹ The 2012 CEA described the program as a pretrial tool and the scope of services referred to it as a pretrial Electronic Monitoring Program, and the Deputy Mayor for Public Safety said both the City and OPSO understood the program to be for pretrial defendants when they initiated EMP in 2010.

²⁷ Clerks enter court actions into Docket Master; this program should be the complete record of court actions taken.

²⁸ The October 10, 2012 court entry in Docket Master states, "This case *Nolle Prosequi* on 8/20/12 the court ordered that this defendant be removed from the Sheriff's Electronic Monitoring Program [*sic*]."

²⁹ The CEA signed by the City and OPSO in November 2011 did not make any reference to pretrial defendants or otherwise limit the purpose as a pretrial alternative to incarceration.

OPSO's Policy and Procedure identified four sources of "referrals" for EMP: Magistrate court after bond hearing; as a condition of release from juvenile processing (booking); condition of bond from Criminal District, Juvenile, or Municipal Courts; or as a stipulation of the District Attorney Diversion Program. Nonetheless, 46 of the 136 adult defendants listed on EMP invoices served post-conviction sentences during the six-month review period.

Contrary to the 2012 CEA's stated intent, OPSO's "Policy and Procedure" for reporting violations noted that a judge could, post sentencing, order an offender to the EMP as a condition of his or her probation. In these cases, the policy directed the OPSO deputies to enforce the curfew and any territorial restrictions placed on the defendant and notify the probation officer of any program violations. However, evaluators interviewed monitoring deputies who could not describe the procedures for coordinating with the Department of Corrections, Probation and Parole, for defendants placed on electronic monitoring as a condition of post-conviction sentencing.

In June 2012 the City Council Criminal Justice Committee questioned Criminal Court judges and OPSO about the practice of monitoring post-conviction defendants. The committee members were concerned that the City was paying for defendants they did not consider to be the intended beneficiaries of this program, and City administrators confirmed that the program was only intended to serve pretrial defendants.

Evaluators identified \$65,971.75 in City payments for forty-six defendants who were monitored as part of their post-conviction sentences during the six-month review period. The NOPJF Expansion Grant was also invoiced \$3,861.30 for post-conviction monitoring of five adult defendants. Evaluators identified thirty-four defendants who began or remained on electronic monitoring as a post-conviction sentence after the June 2012 Criminal Justice Committee hearing.

OPSO provided monitoring services to post-conviction defendants contrary to the program's stated intent, revealing basic problems with defining and communicating the program's parameters to key stakeholders. First, although the OPSO revised its EMP policy, it failed to remove the option for post-conviction monitoring even though the City had clarified its intention to serve only pretrial defendants in the 2012 CEA.³⁰

³⁰ OPSO adopted revised EMP "Policy and Procedure," effective January 12, 2013, after a program visit from the National Institute of Justice. The following language relating to deputies reporting violations remained unchanged: "Offenders are court ordered onto the OPSO Electronic Monitoring Program as a condition of pretrial release or as a condition of probation" The protocols proceed to distinguish two separate ways to handle violations depending on whether the defendant was ordered as part of their "Pre-Trial" or "Probation" phase of the case.

Second, the discrepancy between the City's intention and OPSO's EMP "Policy and Procedure" resulted in a lack of clarity about program objectives. As a result, the program served a population other than that intended by the City. Most defendants participated in the EMP on a judge's orders, and judges were apparently under the impression that the EMP was a post-conviction sentencing option until June 2012. The judges' actions would suggest that program stakeholders—the City, OPSO, judges, the District Attorney's Office—were not fully informed, not in agreement, or simply not compliant with the program's operational parameters and stated intentions.

As the program's funder, the City was ultimately accountable for the EMP; it was incumbent on the City to ensure that the program's objectives were clear and that all policies and procedures were consistent with those objectives. Further, it was the City's responsibility to ensure that OPSO's fiscal and operational administration of the program was efficient and effective.

V. CONCLUSION AND RECOMMENDATIONS

Conclusion

The Electronic Monitoring Program is a program established by the City for the purpose of reducing the City's financial and social costs of incarceration. The City delegated to OPSO the authority and responsibility to "[d]evelop, institute and implement a pretrial Electronic Monitoring Program."³¹ However, neither party exercised sufficient financial controls or ensured the program's fiscal accountability.

Evaluators found evidence that, according to OPSO's reported program expenditures, the program operated at a deficit; routinely scheduled and paid approximately 23 percent of personnel costs in overtime; and included inflated indirect costs in its budget. It also charged the City a higher daily rate than it had originally proposed, than it charged a federally funded grant administered by a local non-profit, and than a comparable program cost. Evaluators also concluded that OPSO provided poor fiscal management and program accounting.

OPSO could reduce program costs associated with supervising pretrial defendants and operate more efficiently. According to evaluators' calculations, at its current budget level OPSO should be able to charge the City a lower daily rate, hire at least two additional monitoring deputies, and enroll additional pretrial defendants in the EMP.

Evidence also suggested that the City failed to obtain the best available price for the services provided by OPSO and exercised inadequate oversight of billing and invoice procedures. The City was aware that OPSO proposed performing the same services at a lower daily rate yet agreed to the higher daily rate less than a year later. Also, City personnel did not monitor invoices to ensure the City was billed at the correct rate. Finally, the City did not review invoices to determine if OPSO billed for the correct defendants at the correct number of days.

³¹ Cited from the 2012 CEA signed by OPSO and the City.

Recommendations

Recommendation 1. OPSO should improve fiscal controls and keep a separate running account of the EMP budget segregated from its General Fund.

As noted in Findings 1 through 3, it took OPSO six months to comply fully with the OIG's request for an accurate accounting of revenues and expenditures for the EMP. Further, the budget documents OPSO produced revealed that EMP personnel expenditures exceeded revenues by \$110,000. OPSO should maintain a monthly accounting of revenues generated and itemized expenditures, which could permit ongoing budgetary review and prevent budget overruns.

EMP administrators would be able to monitor spending on a regular basis if OPSO kept accounting records segregated from its General Fund accounting. In addition, if the City agrees to allow rent as a program expenditure, it should be calculated based on standard real estate practices, which charge per square foot on an annual basis. Other expenses described in Finding 2 should be re-calculated to ensure they are reasonable and accurate.

The amount OPSO spent on overtime in 2012 could fund at least two additional monitoring deputies. The average salary for monitoring deputies is approximately \$30,000. If OPSO hired two additional monitoring deputies, base salary expenses including fringe would increase by approximately \$70,000. OPSO could still budget for a reasonable amount of overtime on an as-needed basis if expenses were properly monitored throughout the year. Alternatively, some of the funding spent on overtime could be used to increase deputies' base salaries and staggered work schedules could reduce the need for overtime.

Recommendation 2. The City should renegotiate the cost per unit per day to include a fixed indirect cost rate.

The daily rate OPSO charged the City in 2012 was significantly higher than the rate it proposed in its response to the City's 2009 RFP and the rate charged to the NOPJF Expansion Grant. Analysis of CMPD's program costs also suggests that the City could negotiate a lower per diem than the rate it paid to OPSO in 2012.

The City should renegotiate the terms of the CEA with OPSO to establish a lower per diem for the EMP. The City should also establish an acceptable indirect cost rate for externally managed programs such as the EMP to ensure that city funding does not support miscalculated and/or inflated program costs. Finally, the City should improve its fiscal oversight of the EMP by

demanding a more detailed and closer program accounting. In doing so, the City could increase the funds available for expanding the number of program participants without increasing its budgetary allocation for the EMP.

Recommendation 3. The City and OPSO should increase financial controls and oversight of billing processes to ensure that invoices sent to the City are both accurate and include billing only for those defendants the program is intended to serve.

As discussed in Findings 5 and 6, OPSO erroneously charged the City for defendants who also appeared on the NOPJF Expansion Grant invoices, were released by the court, were ordered to self-pay by the court, or were sentenced to electronic monitoring as part of a post-conviction sentence. The City intended the program only for those individuals ordered to EM as a condition of pretrial release.

The City shared responsibility for unidentified billing errors such as the transposition of numbers in the juvenile and adult per diem rates. The City had an obligation to the taxpayers to ensure that taxpayer funds were used only for those defendants the CEA stated were eligible for the EMP; in the instance of the transposition of juvenile and adult per diem rates, staff did not exercise sufficient financial oversight to identify recognizable errors. City staff in addition to the Deputy Mayor for Public Safety should be assigned to develop and implement protocols for reviewing monthly invoices to ensure that they reflect the appropriate defendants for the correct days.

OPSO should review its billing protocols and improve its oversight of the billing process. Invoices to the City should reflect the correct daily rate for EM defendants and accurately reflect the current status of defendants; the City should only be charged for eligible defendants enrolled for the correct amount of time. Also, billing should immediately reflect changes to a defendant's status due to a judge's orders or refusal of charges.

VI. OFFICIAL COMMENTS FROM CITY OF NEW ORLEANS

City Ordinance section 2-1120(8)(b) provides that a person or entity who is the subject of a report shall have 30 days to submit a written explanation or rebuttal of the findings before the report is finalized, and that such timely submitted written explanation or rebuttal shall be attached to the final report.

An Internal Review Copy of this report was distributed on December 23, 2013 to the entities who were the subject of the evaluation so that they would have the opportunity to comment on the report prior to the public release of this final report. The City of New Orleans and Orleans Parish Sheriff's Office each completed a "Management Response Form;" their responses are attached as Appendices A and B, respectively.

APPENDIX A. CITY OF NEW ORLEANS RESPONSE

OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



MANAGEMENT RESPONSE FORM

PLEASE COMPLETE THIS FORM AND RETURN AS SPECIFIED BELOW. SUPPLY YOUR RESPONSES IN THE SHADED BOXES.

PLEASE INDICATE YOUR AGREEMENT OR DISAGREEMENT WITH EACH OF THE FOLLOWING RECOMMENDATIONS BY SELECTING A RESPONSE. IF YOU REJECT OR PARTIALLY ACCEPT THE RECOMMENDATION, PLEASE EXPLAIN WHY IN THE SPACE PROVIDED. PLEASE DESCRIBE EACH ACTION YOUR AGENCY WILL TAKE TO IMPLEMENT THE RECOMMENDATION, OR FIX THE PROBLEM, ALONG WITH THE NAME AND CONTACT INFORMATION OF THE PERSON(S) RESPONSIBLE FOR THE ACTION AND THE COMPLETION DATE (IF ONE IS ALREADY NOT PROVIDED).

RETURN THIS COMPLETED FORM TO CARLA GENDUSA AT CGENDUSA@NOLA.OIG.ORG BY **JANUARY 31, 2014**.

ENTER NAME HERE: AMANDA RUSSELL

<p>FINDING 1. OPSO REPORTED EXPENDITURES FOR THE ELECTRONIC MONITORING PROGRAM (EMP) THAT EXCEEDED PROGRAM REVENUES BY OVER \$100,000 IN 2011 AND 2012.</p> <p>FINDING 2. OPSO REPORTED INDIRECT COSTS FOR EMP THAT COULD NOT BE VERIFIED OR WERE MISCALCULATED, INCLUDING OVER \$140,000 PER YEAR IN RENT.</p> <p>FINDING 3. EMP DEPUTIES' SCHEDULES INCLUDED REGULARLY SCHEDULED OVERTIME, WHICH RAISED PERSONNEL COSTS BY MORE THAN \$100,000 OVER BASE SALARIES, THE EQUIVALENT OF TWO MONITORING DEPUTY POSITIONS IN 2012.</p>	<p>RESPONSIBLE PERSON: (NAME AND CONTACT)</p>	<p>RESPONSE CHOICE (SELECT ONE):</p>
<p>RECOMMENDATION #1 REQUIRING IMMEDIATE ACTION: OPSO SHOULD IMPROVE FISCAL CONTROLS AND KEEP A SEPARATE RUNNING ACCOUNT OF THE EMP BUDGET SEGREGATED FROM ITS GENERAL FUND</p>		<p>Accept</p>
<p>IF YOU <u>REJECT</u> OR <u>PARTIALLY ACCEPT</u> RECOMMENDATION #1, PLEASE EXPLAIN WHY:</p> <div style="border: 1px solid black; height: 150px; width: 100%;"></div>		

OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



DESCRIBE THE ACTIONS YOU WILL TAKE TO IMPLEMENT RECOMMENDATION #1 OR FIX THE PROBLEM:	RESPONSIBLE PERSON:	COMPLETION DATE:
1.1		
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<p>FINDING 4. OPSO CHARGED THE CITY MORE FOR ELECTRONIC MONITORING THAN IT ORIGINALLY PROPOSED IN RESPONSE TO AN RFP, MORE THAN IT CHARGED UNDER AN EMP GRANT, AND MORE THAN THE COST OF A PROGRAM ADMINISTERED BY A LAW ENFORCEMENT AGENCY IN ANOTHER CITY.</p>	<p>RESPONSIBLE PERSON: (NAME AND CONTACT)</p>	<p>RESPONSE CHOICE (SELECT ONE):</p>
<p>RECOMMENDATION #2 REQUIRING IMMEDIATE ACTION: THE CITY SHOULD RENEGOTIATE THE COST PER UNIT PER DAY TO INCLUDE A FIXED INDIRECT COST RATE.</p>		
<p>IF YOU <u>REJECT</u> OR <u>PARTIALLY ACCEPT</u> RECOMMENDATION #2, PLEASE EXPLAIN WHY:</p>		

OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



DESCRIBE THE ACTIONS YOU WILL TAKE TO IMPLEMENT RECOMMENDATION #2 OR FIX THE PROBLEM:	RESPONSIBLE PERSON:	COMPLETION DATE:
2.1 THIS WILL BE LOOKED INTO IN OVERALL NEGOTIATIONS WITH THE SHERIFF DEALING WITH THE CONSENT DECREE	ANDY KOPPLIN, CAO akopplin@nola.gov 504-658-8600	
2.2		
2.3		
2.4		
2.5		

FINDING 5. OPSO OVERBILLED APPROXIMATELY \$23,000 ON INVOICES TO THE CITY AND NOPJF EXPANSION GRANT DUE TO BILLING ERRORS; THE CITY DID NOT IDENTIFY THE ERRORS. FINDING 6. OPSO BILLED THE CITY OVER \$65,000 FOR POST-CONVICTION MONITORING OF ADULT DEFENDANTS FROM APRIL 2012 THROUGH SEPTEMBER 2012 EVEN THOUGH THE PROGRAM WAS INTENDED TO SERVE PRETRIAL DEFENDANTS.	RESPONSIBLE PERSON: (NAME AND CONTACT)	RESPONSE CHOICE (SELECT ONE):
RECOMMENDATION #3 REQUIRING IMMEDIATE ACTION: THE CITY AND OPSO SHOULD INCREASE FINANCIAL CONTROLS AND OVERSIGHT OF BILLING PROCESSES TO ENSURE THAT INVOICES SENT TO THE CITY ARE BOTH ACCURATE AND INCLUDE BILLING ONLY FOR THOSE DEFENDANTS THE PROGRAM IS INTENDED TO SERVE.	JERRY SNEED jwsneed@nola.gov 504-658-8700 AND/OR AMANDA RUSSELL anrussell@nola.gov 504-658-8700	Accept

OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



IF YOU <u>REJECT</u> OR <u>PARTIALLY ACCEPT</u> RECOMMENDATION #3, PLEASE EXPLAIN WHY:		
DESCRIBE THE ACTIONS YOU WILL TAKE TO IMPLEMENT RECOMMENDATION #3 OR FIX THE PROBLEM:	RESPONSIBLE PERSON:	COMPLETION DATE:
3.1 CITY WILL REVISE TERMS OF CEA TO MORE CLEARLY STATE AND DEFINE THE OBJECTIVES OF THE ELECTRONIC MONITORING PROGRAM (EMP).	JERRY SNEED AMANDA RUSSELL	MARCH 31, 2014
3.2 CITY WILL REQUIRE CERTIFICATION OF ALL INVOICES SIGNED BY OPSO ADMINISTRATOR STATING THAT THE BILL HAS BEEN REVIEWED FOR ACCURACY AND THAT ALL CHARGES FALL IN LINE WITH THE OUTLINED OBJECTIVES OF CEA.	JERRY SNEED AMANDA RUSSELL	MARCH 31, 2014
3.3 CITY WILL REQUIRE ADDITIONAL INFORMATION ON INVOICES INCLUDING DATE OF BIRTH OF ALL PARTICIPANTS SO THAT DOCKET SEARCHES MAY BE PERFORMED. CITY WILL VERIFY AT LEAST 25% OF ALL PARTICIPANTS INVOLVED QUALIFY FOR PROGRAM VIA DOCKET SEARCH. IN THE EVENT OF ANY DISCREPANCIES, DOCKET SHEET WILL BE PRINTED AND RETURNED WITH INVOICE TO OPSO FOR RECONCILIATION PRIOR TO PAYMENT OF INVOICE.	JERRY SNEED AMANDA RUSSELL	MARCH 31, 2014
3.4 CITY WILL REQUIRE OPSO TO PROVIDE MONTHLY DOCUMENTATION SHOWING ALL EMP PARTICIPANTS, NO MATTER HOW THEY ARE PAID FOR TO ENSURE NO DOUBLE BILLING. IN THE EVENT OF ANY DISCREPANCIES, DOUBLE BILLING WILL BE HIGHLIGHTED AND RETURNED WITH INVOICE TO OPSO FOR RECONCILIATION PRIOR TO PAYMENT OF INVOICE.	JERRY SNEED AMANDA RUSSELL	MARCH 31, 2014
3.5		

APPENDIX B. ORLEANS PARISH SHERIFF'S OFFICE RESPONSE

OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



MANAGEMENT RESPONSE FORM

PLEASE COMPLETE THIS FORM AND RETURN AS SPECIFIED BELOW. SUPPLY YOUR RESPONSES IN THE SHADED BOXES.

PLEASE INDICATE YOUR AGREEMENT OR DISAGREEMENT WITH EACH OF THE FOLLOWING RECOMMENDATIONS BY SELECTING A RESPONSE. IF YOU REJECT OR PARTIALLY ACCEPT THE RECOMMENDATION, PLEASE EXPLAIN WHY IN THE SPACE PROVIDED. PLEASE DESCRIBE EACH ACTION YOUR AGENCY WILL TAKE TO IMPLEMENT THE RECOMMENDATION, OR FIX THE PROBLEM, ALONG WITH THE NAME AND CONTACT INFORMATION OF THE PERSON(S) RESPONSIBLE FOR THE ACTION AND THE COMPLETION DATE (IF ONE IS ALREADY NOT PROVIDED).

RETURN THIS COMPLETED FORM TO CARLA GENDUSA AT CGENDUSA@NOLAIG.ORG BY JANUARY 31, 2014.

ENTER NAME HERE: ORLEANS PARISH SHERIFF'S OFFICE

<p>FINDING 1. OPZO REPORTED EXPENDITURES FOR THE ELECTRONIC MONITORING PROGRAM (EMP) THAT EXCEEDED PROGRAM REVENUES BY OVER \$100,000 IN 2011 AND 2012.</p> <p>FINDING 2. OPZO REPORTED INDIRECT COSTS FOR EMP THAT COULD NOT BE VERIFIED OR WERE MISCALCULATED, INCLUDING OVER \$140,000 PER YEAR IN RENT.</p> <p>FINDING 3. EMP DEPUTIES' SCHEDULES INCLUDED REGULARLY SCHEDULED OVERTIME, WHICH RAISED PERSONNEL COSTS BY MORE THAN \$100,000 OVER BASE SALARIES, THE EQUIVALENT OF TWO MONITORING DEPUTY POSITIONS IN 2012.</p>	<p>RESPONSIBLE PERSON: (NAME AND CONTACT)</p>	<p>RESPONSE CHOICE (SELECT ONE):</p>
<p>RECOMMENDATION #1 REQUIRING IMMEDIATE ACTION: OPZO SHOULD IMPROVE FISCAL CONTROLS AND KEEP A SEPARATE RUNNING ACCOUNT OF THE EMP BUDGET SEGREGATED FROM ITS GENERAL FUND</p>		<p>Accept</p>
<p>IF YOU <u>REJECT</u> OR <u>PARTIALLY ACCEPT</u> RECOMMENDATION #1, PLEASE EXPLAIN WHY:</p> <div style="border: 1px solid black; height: 150px; width: 100%;"></div>		

OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



DESCRIBE THE ACTIONS YOU WILL TAKE TO IMPLEMENT RECOMMENDATION #1 OR FIX THE PROBLEM:	RESPONSIBLE PERSON:	COMPLETION DATE:
1.1 OPSO HAS SEGREGATED THE ELECTRONIC MONITORING PROGRAM COSTS AND REVENUES IN THE GENERAL LEDGER UNDER A DEPARTMENTAL CODE.	ELIZABETH BOYER, LEAD ACCOUNTANT	OCTOBER 2012
1.2		
1.3		
1.4		
1.5		

FINDING 4. OPSO CHARGED THE CITY MORE FOR ELECTRONIC MONITORING THAN IT ORIGINALLY PROPOSED IN RESPONSE TO AN RFP, MORE THAN IT CHARGED UNDER AN EMP GRANT, AND MORE THAN THE COST OF A PROGRAM ADMINISTERED BY A LAW ENFORCEMENT AGENCY IN ANOTHER CITY.	RESPONSIBLE PERSON: (NAME AND CONTACT)	RESPONSE CHOICE (SELECT ONE):
RECOMMENDATION #2 REQUIRING IMMEDIATE ACTION: THE CITY SHOULD RENEGOTIATE THE COST PER UNIT PER DAY TO INCLUDE A FIXED INDIRECT COST RATE.		REJECT
<p>IF YOU <u>REJECT</u> OR <u>PARTIALLY ACCEPT</u> RECOMMENDATION #2, PLEASE EXPLAIN WHY:</p> <p>PLEASE SEE THE ATTACHED STATEMENT FOR ADDITIONAL DETAILS.</p>		

OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



DESCRIBE THE ACTIONS YOU WILL TAKE TO IMPLEMENT RECOMMENDATION #2 OR FIX THE PROBLEM:	RESPONSIBLE PERSON:	COMPLETION DATE:
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<p>FINDING 5. OPSO OVERBILLED APPROXIMATELY \$23,000 ON INVOICES TO THE CITY AND NOPJF EXPANSION GRANT DUE TO BILLING ERRORS; THE CITY DID NOT IDENTIFY THE ERRORS.</p> <p>FINDING 6. OPSO BILLED THE CITY OVER \$65,000 FOR POST-CONVICTION MONITORING OF ADULT DEFENDANTS FROM APRIL 2012 THROUGH SEPTEMBER 2012 EVEN THOUGH THE PROGRAM WAS INTENDED TO SERVE PRETRIAL DEFENDANTS.</p>	<p>RESPONSIBLE PERSON: (NAME AND CONTACT)</p>	<p>RESPONSE CHOICE (SELECT ONE):</p> <p>REJECT</p>
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OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



<p>RECOMMENDATION #3 REQUIRING IMMEDIATE ACTION: THE CITY AND OPSO SHOULD INCREASE FINANCIAL CONTROLS AND OVERSIGHT OF BILLING PROCESSES TO ENSURE THAT INVOICES SENT TO THE CITY ARE BOTH ACCURATE AND INCLUDE BILLING ONLY FOR THOSE DEFENDANTS THE PROGRAM IS INTENDED TO SERVE.</p>		Accept
<p>IF YOU <u>REJECT</u> OR <u>PARTIALLY ACCEPT</u> RECOMMENDATION #3, PLEASE EXPLAIN WHY:</p>		
<p>DESCRIBE THE ACTIONS YOU WILL TAKE TO IMPLEMENT RECOMMENDATION #3 OR FIX THE PROBLEM:</p>	<p>RESPONSIBLE PERSON:</p>	<p>COMPLETION DATE:</p>
<p>3.1 THE ELECTRONIC MONITORING PROGRAM EXPANSION GRANT IS NOW OVER. INVOICES FROM ALL FUTURE GRANTS OR ALTERNATE FUNDS WHICH IMPACT THE ELECTRONIC MONITORING PROGRAM WILL BE SHARED WITH THE CITY OF NEW ORLEANS.</p>	<p>ANNE MCKINLEY, GRANTS SUPERVISOR</p>	<p>N/A</p>
<p>3.2 ADDITIONAL OPSO STAFF HAS BEEN ADDED TO THE EMP BILLING PROCESS. THIS WILL ALLOW FOR INCREASED OVERSIGHT.</p>	<p>CAPT. WILLIAM DEVLIN, EMP; ELIZABETH BOYER, LEAD ACCOUNTANT; ANNE MCKINLEY, GRANTS</p>	<p>OCTOBER 2013</p>
<p>3.3 OPSO STAFF HAS STRENGTHENED COMMUNICATION WITH THE COURT SYSTEMS OF ORLEANS PARISH AND NOW PERIODICALLY RUNS CLIENTS THROUGH DOCKET MASTER TO DOUBLE-CHECK STATUS. OPSO DOES NOT RELEASE WITHOUT COURT PAPERWORK.</p>	<p>CAPT. WILLIAM DEVLIN, EMP</p>	<p>OCTOBER 2013</p>
<p>3.4</p>		
<p>3.5</p>		



Office of the Sheriff
Parish of Orleans ~ State of Louisiana

Marlin N. Gusman
Sheriff

Orleans Parish Sheriff's Office

Response to the City of New Orleans Office of the Inspector General report,

"Evaluation of the City of New Orleans Electronic Monitoring Program Administered by the Orleans Parish Sheriff's Office Part I: Budget and Billing"

The Orleans Parish Sheriff's Office (OPSO) hosts the Electronic Monitoring Program, a program which diverts certain court-ordered participants from incarceration. Qualified participants may be remanded to monitoring by a judge upon sentencing, at which point they must report to OPSO for enrollment and assignment to an electronic monitoring device.¹ The program is a joint project between the City of New Orleans (CNO), the New Orleans Police Department (NOPD), and OPSO and is designed to save incarceration funds, as it is less expensive per day than full incarceration. Program participants cost \$13.25 per day if a sentenced adult and \$14.75 per day if a sentenced juvenile, versus \$22.39 per day for incarcerated subjects. Monitoring costs are reimbursed to OPSO by the City of New Orleans. OPSO provides services by contract, including four employees who monitor participants 24 hours per day, a fully-equipped office with space for enrollees, monitoring software, and the monitoring devices. The OPSO Communications Office, staffed 24/7 supplements and provides monitoring assistance to the EMP Unit.

The Orleans Parish Sheriff's Office offers the following response to the findings expressed by the Office of the Inspector General (OIG).

Budget.

Finding 1: Reported expenditures for EMP exceeded program revenues by over \$100,000 in 2011 and 2012.

Please see our response to Finding 2, below.

Finding 2: OPSO reported indirect cost for EMP that could not be verified or were miscalculated, including over

¹Monitoring devices are attached to the participant's ankle and send a traceable signal to OPSO. Clients are sentenced to a specific area and routes and are monitored 24 hours per day.

2800 Perdido Street, New Orleans, LA 70119 ~ 504-822-8000 ~ www.opcso.org
"To Serve and Protect"

\$140,000 in rent.

Rent: The rent value for the EMP office was miscalculated and has been revised. OPSO has corrected this error, and a recalculated rent figure was submitted to the OIG in December 2013. The reduction in rent value is equal to 111% in 2011 and 123% of the “overage” in expenditures noted in Finding 1. OPSO agrees that the rent value was miscalculated and corrected it. We respectfully note that a discussion of the EMP budget with OPSO staff prior to the report would have cleared the error as well as negated Finding 1, saving valuable time for additional analysis and program improvement. It should also be noted that the City of New Orleans does not own 2801 Perdido Street, the site of the OPSO Internal Processing Center in which the EMP office is housed. The City owns the land, but OPSO owns and is responsible for the buildings on top of the land, and is thus responsible for the electricity, water, and other maintenance on the buildings. This distinction was confirmed on 1/28/2013 in the City of New Orleans/Orleans Parish Law Enforcement District/Orleans Parish Sheriff’s Office Cooperative Agreement Endeavor, which was provided to the OIG as part of the OPSO response to a previous OIG report, “Inspection of Taxpayer/City Funding to the Orleans Parish Sheriff’s Office in 2011” and which is also attached below.

Electricity: The OIG report states that “evaluators used an online area map calculator to estimate the total square footage of IPC”.² The use of an online area map calculator, such as Google Earth, unfortunately captures more space than is allocated to the Intake and Processing Center (IPC), which is attached to the much larger OPSO Warehouse and Kitchen, both out of use. The square footage of IPC and the EMP office used to determine electricity costs was obtained for the OIG request by hand-measurement and reflects the size of IPC and the EMP office only.

Vehicle Maintenance: Although four vehicles are available to EMP Personnel, as stated to OIG staff, which includes vehicles assigned full-time to Capt. Devlin, Dep. Fox, and Dep. Ammacker³ and the IPC Crisis Unit, available if necessary to EMP staff, the original budget submitted to the OIG for EMP reflected only the three permanently assigned vehicles.

Finding 3: EMP deputies included regularly scheduled overtime, which raised personnel costs.

OPSO has considered placing the EMP staff on shorter schedules of 8-hour shifts, five days a week; however, the cost of covering the EMP monitoring needs using this schedule is prohibitive. Currently, the program does not include sufficient funds for a night shift, and the number of call-outs overnight is very low and does not warrant full-time night personnel. To cover EMP positions for 24 hours per day, in eight-hour, non-overtime schedules, would require three daily shifts of eight hours. Assuming a quieter night, OPSO could schedule as follows, but at greater cost which would require renegotiation with the City of New Orleans for additional funds. EMP deputies did not receive the recent pay raise to \$12.33 per hour, as they do not provide direct supervision of inmates, making them less expensive than direct supervision employees. It should be noted that cost should not be the only factor in choosing and placing an EMP deputy. On those occasions when a monitored subject is not within his area, he or she may be unsafe to approach and to apprehend, and so experienced personnel is preferred. These exploratory figures do not include other persons involved in EMP, such as administrative costs.

²OIG Report, “Evaluation of EMP Part I: Budget and Billing”, p. 6, footnote 17.

³ Serial numbers, registered with the City of New Orleans: CMS5273; CMS5262, and CMS5365 at the current time.

Number of Staff	Shift times	Rate per hour (non-OT)	Benefits	Total, annual
4	8:00-14:00	Captain: \$23.75 (\$49,400S/ \$7,262 F) Deputies: 2 @ \$10.28 (\$21,282S/\$3,143F); 1 @ \$11.34 (\$23,587S/ \$3,467F)	14.7%	\$132,766
3	14:00-12:00	Deputies: \$9.69 (\$20,155S/ \$2,963F)	14.7%	\$69,353
2	12:00-08:00	Deputies: \$9.69	14.7%	\$46,236
2 persons, 3 shifts, 2 days	Weekend	Deputies : \$9.69 (\$8062S/\$1,185F)	14.7%	\$55,484
			Total:	\$303,839 annually

Finding 4: The daily rate varied from the original RFP, the Electronic Monitoring Program Expansion grant, and that of another city.

Per diem charged to the City:

2009 RFP: A reassessment of costs, including the increased cost of employee pensions, number of employees, and inflation on general costs were factors in the Cooperative Endeavor Agreement. In addition, comparisons to the cancelled City RFP of 2009 are not valid, as conditions and requirements have shifted. The 2009 RFP is not equal to the current monitoring contract.

Charlotte Mecklenburg Police Department (CMPD): Comparisons to the CMPD are not equal. As noted in the IG report, the CMPD retains one supervisor and six officers while OPSO retains one supervisor and three deputies. Additionally, the CMPD retains a number of support staff to assist their EMP team, including interns, Reserve officers, and officers on light duty directly assigned to EMP, who are not included in the OIG assessment. CMPD also relies on the support of ranking officers above the EMP unit, a retrieval team, and patrol officer support in case of flight.

Furthermore, the programs are dissimilar in the type of person monitored, the level of control over enrollments, and the duties of the program staff. While OPSO must accept all court-ordered enrollees, CMPD is more directly involved in choosing what persons should be monitored, including persons out on bond, first-time, non-violent offenders, and "white collar" charges such as non-payment of child support. Drug charges and certain

other charges are not accepted by CMPD due to the intensive monitoring and higher historical non-compliance risks involved. CMPD also has fewer attendant duties for EMP staff, as is not required, as OPSO deputies are, to attend court to testify and update the case (a time-consuming process), unless the monitored subject has committed a crime while on a monitoring device. CMPD officers do not create reports on EMP subjects near/at crime scenes, which OPSO performs upon request; the process is automated.⁴

OPSO cannot comment on the negotiated rate between CMPD and OMNILink Inc.; however, it should be noted that OMNILink is providing a greater number of monitoring devices for CMPD and the cost may reflect a bulk discount.

NOPJF per diem: The agreed-upon rate between the New Orleans Police and Justice Foundation and the Orleans Parish Sheriff's Office reflects the smaller number of monitoring devices being monitored under the grant parameters. As explained in the grant application, which was reviewed and agreed upon by the City of New Orleans, the Crime Coalition, NOPJF, OPSO, and the USDOJ, the grant rate for monitoring devices is indeed calculated using actual costs; what is not mentioned in the IG report, and which is the basis for all calculations, is that the rate is based directly on the smaller number of monitoring devices and is designed to cover additional program costs for these devices only. The funds cover only 20 devices or less, which is 18% of the total number of monitoring devices. This essential point is outlined in the grant application as well as the grant budget, in detail, with each assumption clearly noted. OPSO understands that NOPJF-funded devices take advantage of existing infrastructure which is in place due to the base City/OPSO EMP partnership. All partners agreed to take advantage of this opportunity to build on the existing program while funds were available, for increased public safety and to save incarceration costs. Although the rate was slightly less than the City rate, it was \$11.84/day less than the cost of incarceration.

Finding 5: Duplicate billing on the City and NOPJF invoices. Incorrect per diems.

OPSO billed incorrect per diems: OPSO recognizes that incorrect per diems were charged to the City of New Orleans between June 2012 and November 2012 in the total amount of \$1,731 (\$289 per month). The error arose from a change in billing personnel, which resulted in transposed decimal points (ascribing .75 rather than .25 to the billing rate of adults, and vice versa for juveniles). The error was corrected on the master template as soon as it was discovered, and the City was indeed credited for the additional fund. The City of New Orleans did not notice the transposition, and has pledged to change its review process; OPSO has added another employee to the internal billing review process. Although the IG report states that OPSO's "billing process did not have adequate controls in place to recognize the errors before sending the invoices",⁵ OPSO was following standing billing processes. Due to the similarities in the figures, human error failed to catch the similarities in the decimal amounts after the dollar, resulting in transposed figures.

City and NOPJF billed for same defendants: OPSO agrees that some invoices showed clients who were billed to both the City of New Orleans and NOPJF. In May 2012, a single client was double billed for a total of \$105.50 in NOPJF overbilling. Although this fact is not distinguished in the report, the largest of the billing errors took place on a single invoice, September 2012, and was due to emergency interruption due to Hurricane Isaac. This information, which is significant, is placed in a footnote at the base of page 13 of the IG report.

⁴ OPSO would like to thank Sgt. David Scheppegrell of the Charlotte Mecklenburg Police Department for consultation.

⁵ IG Report, p. 13.

The error arose as OPSO, as the rest of the metropolitan area, prepared for Hurricane Issac by activating the emergency mode for monitored subjects. Participants were switched to an emergency reporting plan with OMNlink to allow for evacuation and power outages. Unfortunately, changing all the codes to "EMERGENCY" during this time led to some confusion when they were switched back, leading to duplicate billing as some participants were assigned both City of New Orleans and NOPJF grant codes. This error was quickly rectified apparent by alerting both the City of New Orleans and the NOPJF of the error in writing, and the overage in grant expansion funding was returned to the grant budget. Apart from this emergency error, only a statistically negligible number of duplicate persons were billed to the City and the NOPJF. The EMP Expansion Program grant is now over. OPSO regrets the error and will share any future funding information which impacts the City of New Orleans' funded EMP program with the City, in order to avoid future errors.

OPSO billed the City for defendants for whom it was not responsible: In essence, the EMP program as it exists today is controlled and determined by the various court systems who refer to it. OPSO can only refuse services in the event that a monitoring device is not physically available. Similarly, OPSO can only remove persons from the program upon receipt of court paperwork. OPSO and the City of New Orleans have both worked to create stronger communication with the Criminal District Court, the Juvenile Court, Municipal Court, and the District Attorney's Office to ensure that paperwork is received as quickly as possible. OPSO now performs periodic checks of Docket Master to ensure that no clients have been released/dropped without the OPSO EMP team receiving notification. In the case of self-paying participants, who should not be billed to the City, OPSO has also enacted a new designation code for the paying client, which receives special scrutiny. Self-paying clients are few and rare; none has been enrolled since December 2012.

Finding 6: OPSO billed the City for post-conviction monitoring, not pretrial defendants.

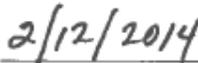
The Orleans Parish Sheriff's Office does not refuse court orders. OPSO may only refuse EMP monitoring services under a court order in the event that a monitoring device is not physically available. Should this be the case, the relevant court system is notified immediately. OPSO has worked with the Orleans Parish court systems to ensure stronger communication and to remind all community stakeholders of the stated rules of the program; however, should a court order be received, it will be observed.

Conclusion.

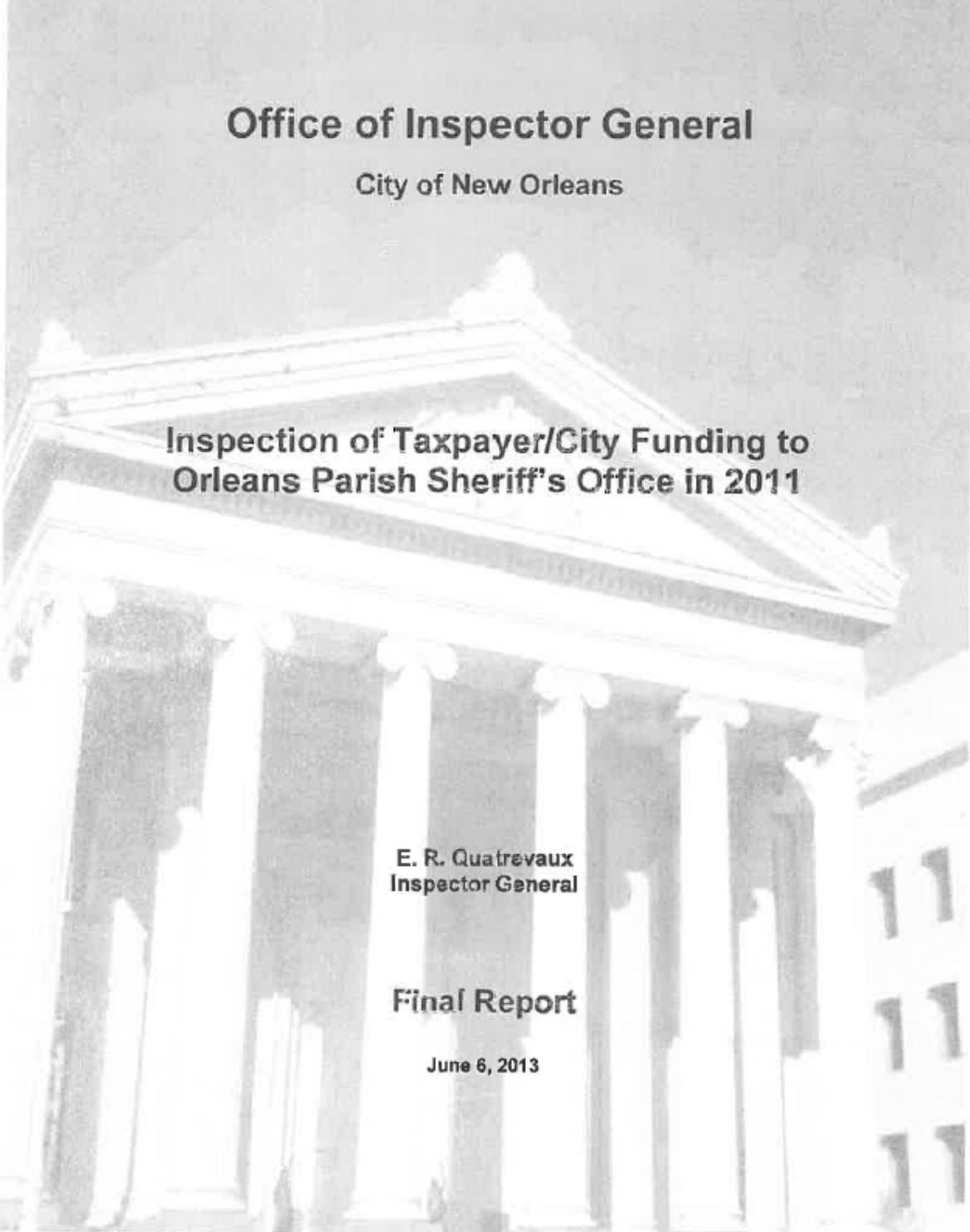
The Orleans Parish Sheriff's Office is dedicated to the preservation and improvement of public safety through the use of electronic monitoring devices and other means. The City/OPSO EMP program is designed to save incarceration funds and to ensure that suitable candidates for diversion to the EMP program are enrolled and properly monitored, both for the well-being of the client and of the citizens of New Orleans. We are always working to make the program more efficient. OPSO will continue to improve it as necessary.



Marlin N. Gusman, Sheriff



Date



Office of Inspector General

City of New Orleans

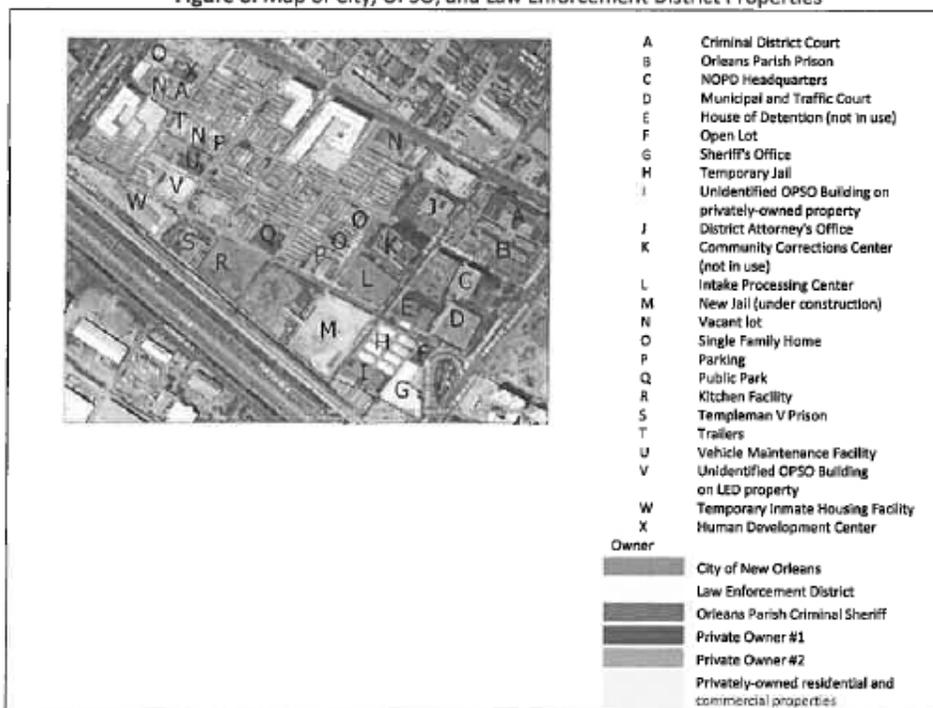
**Inspection of Taxpayer/City Funding to
Orleans Parish Sheriff's Office in 2011**

**E. R. Quatrevaux
Inspector General**

Final Report

June 6, 2013

Figure 8: Map of City, OPSO, and Law Enforcement District Properties



FINDING 5. The City and OPSO have insufficiently coordinated efforts to improve corrections outcomes and rebuild after Hurricane Katrina; as a result, the U.S. Department of Homeland Security Office of Inspector General recommending that FEMA disallow \$97.4 million of \$104.5 million awarded for rebuilding Jail facilities.

Hurricane Katrina devastated the operations and facilities of the Sheriff's Office, which responded quickly to rebuild the facilities. OPSO⁴⁹ submitted FEMA worksheets for Public Assistance Grant Funds (Funds) to replace corrections facilities lost during the hurricane. The issues raised by OPSO's efforts to obtain the Funds revealed significant consequences stemming from the troubled City-OPSO relationship.

⁴⁹ The Orleans Parish Criminal Sheriff's Office (OPCSO) filed the worksheets before the merger of the civil and criminal offices. OPSO is now the applicant.

DHSOIG's report titled "Legal Responsibility Issues Related to FEMA Public Assistance Grant Funds Awarded to Orleans Parish Criminal Sheriff's Office, Orleans Parish, Louisiana" informed FEMA that it had erroneously obligated \$97.4 million for "work that was related to or funded from projects related to properties that OPCSO does not own."⁵⁰ The report went on to say that "[t]he City owns most of the properties that OPCSO uses for its operations, but does not have a written agreement with OPCSO regarding their use ... [and] FEMA officials acknowledge that legal disputes exist between OPCSO and the City regarding property ownership... ." DHSOIG listed ten properties in question.⁵¹

The growth of OPP over the last several decades resulted in a patchwork of City- and Sheriff or Law Enforcement District-owned properties. Figure 8 depicts the properties scattered over approximately 16 squares between Interstate 10, Broad Street, Tulane Avenue, and Jefferson Davis Parkway. The Assessor lists the City of New Orleans as the owner of the majority of these properties.⁵²

Assessor records indicate that OPSO recently constructed a Warehouse and Kitchen complex on property owned by the City ("R" in Figure 8); the new inmate housing building is being constructed with FEMA funds on a property almost entirely owned by the Law Enforcement District, of which the Sheriff is CEO. DHSOIG has requested "proof of ownership or any type of lease or written agreement regarding legal responsibility" for the projects in question. Additional unresolved questions involved insurance issues; neither FEMA nor the Louisiana Governor's Office of Homeland Security and Emergency Preparedness "knows who is legally responsible for obtaining and maintaining insurance on damaged facilities, which is a condition of funding."

Unless OPSO and the City can reach a "legally binding agreement regarding ownership and legal responsibility for these properties," the DHSOIG recommended that FEMA require "GOHSEP to recover all Federal funds paid to date to the two entities for these properties."

⁵⁰ Report DD-12-12 is available at www.oig.dhs.gov/assets/GrantReports/OIG_DD-12-12_May12.pdf .

⁵¹ The properties in question correspond to letters E, G, L, R, S, U, V, and W, in Figure 8.

⁵² The U.S. Homeland Security OIG attempted to obtain deeds or other legal documentation of ownership, but neither OPSO nor the City provided those documents; the Homeland Security OIG used assessor records to determine property ownership. The City and OPSO are discussing an agreement intended to resolve the issues of property ownership, legal responsibility, and responsibility for insurance raised by the U.S. Homeland Security OIG.