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New Orleans defense attorneys sue sheriff, citing lack of privacy for client consultation

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By **Katy Reckdahl, The Times-Picayune**

Orleans Parish public defenders office on Tuesday sued **Sheriff Marlin Gusman** over lack of acceptable attorney-client visitation at the jail that, **the suit** alleges, makes it nearly impossible for public defenders to meet privately with clients at Orleans Parish Prison and violates the U.S. Constitution's right to counsel and the Louisiana code of criminal procedure.



Times-Picayune archive

Public defenders say that they have no privacy when they meet with inmates from the city's five jail facilities, including Orleans Parish Prison.

The sheriff's spokesman did not have an immediate response about the suit. But Gusman has defended past conditions by noting that his complex was flood-damaged after **Hurricane Katrina** in 2005 and that he is limping along with outdated buildings until his **new \$145 million, four-story jail** is completed in early 2014.

In the lawsuit, filed in Orleans Parish Civil District Court on Tuesday by retired Louisiana Supreme Court Chief Justice Pascal Calogero and three other attorneys, the Public Defenders office alleges that, due to "unpredictable and unreasonable wait times and restricted visitation hours," publicly financed lawyers must sometimes

wait hours at the Orleans Parish jail to see indigent clients.

Calogero, who stepped down from the bench in 2009, is now a private attorney practicing at Ajubita, Leftwich and Salzer. Also representing the plaintiffs are Philip Wittmann of Stone, Pigman, Walther, Wittmann and civil-rights attorneys Stephen Haedicke and Elizabeth Cummings.

While many defense attorneys have griped about prolonged delays and lack of private arrangements, the lawsuit says that the situation presents daily barriers and wasted money to the Orleans Public Defenders

office, which has faced ongoing **budget woes**. Its lawyers represent more than 80 percent of the defendants in 13,000 state cases brought this year in the parish's Criminal District Court.

"Collectively, these conditions waste countless hours of valuable attorney time and disproportionately affect Orleans Parish Defenders' staff, whose indigent clients are the most likely to be confined pre-trial because of their inability to post bail," the suit says.

The Orleans Parish Prison complex holds roughly 3,000 inmates in five facilities: Templeman V, the Old Parish Prison, Conchetta, South White Street and the 10-story House of Detention and its eight windowless FEMA tents. Wait times and conditions seem to be worst at House of Detention and the tents, which together hold half of the jail's population.

There are some differences between facilities' visiting areas, illustrated in the lawsuit through schematics and descriptions. But attorneys and their inmate clients face similar challenges in all structures, according to the filing, which describes how, instead of speaking privately face-to-face, lawyers and clients must sit within earshot of a roomful of people and speak over jail telephones or yell through crude and filthy plexiglass-mesh partitions. In addition, four of the jail's five facilities have no pass-through slot, the suit alleges, forcing lawyers to shuttle sensitive documents to their clients through jail deputies, who often fail to deliver them.

The suit asks the court to order Gusman to reduce or eliminate the wait time for lawyers, extend lawyer visitation hours to include evenings and weekends and "to make permanent improvements" so that lawyers and inmates can talk privately and look over documents together.

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