

Ethics Review Board

City of New Orleans

March 26, 2018

3:00 p.m. – 4:30 p.m.

Norman Mayer Library | 3001 Gentilly Blvd. | New Orleans, Louisiana 70122

Minutes

Present: Mr. Allen Miller, Chair; Mr. James Brown, Vice Chair; Dr. Joe Ricks; Dr. Michael Cowan; Rev. Brandon Boutin

Absent: Mr. Howard Rodgers; Ms. Elizabeth Livingston de Calderon

At 3:04 p.m., a quorum being present, the Chair called the meeting to order. Dr. Cowan moved to approve the minutes of February 26, 2018, Dr. Ricks seconded. The board voted on the minutes: 7 yays, 0 nays, the minutes were approved.

Inspector General's Report

The Inspector General (IG), Derry Harper told the Board that during his first 30 days, he has been actively engaged in both planning and reviewing the divisions that consists of internal meetings and one-on-one meetings with the staff of the Office of Inspector General (OIG).

IG Harper advised the Board that the OIG is very well served with the quality, credentials and experience of the Investigations, Audit and Inspections & Evaluations.

IG Harper told the Board that the OIG Annual Report will be issued at the end of March 2018. The Annual Report will consists of activities that have occurred in the last reporting period and details regarding the OIG moving forward.

IG Harper told the Board that he has met with the New Orleans Business Council, he has made a presentation to the National Council on Aging, and has also met with some members of the Ethics Review Board (ERB).

IG Harper told the board that he spoke with the Metro Crime Commission and discussed collaboration and cooperation with groups that share some of the same goals and objectives of the OIG.

IG Harper told the Board that he also met with Mayor-Elect LaToya Cantrell. He told the Board that they had a cordial and very productive meting which included not just introduction but also her views of how the OIG can work as a collaborative group and cooperative way with her office

as she undergoes the transition. He also told the Board that he was encouraged that she is interested in the OIG moving forward with some of the plans right now and the OIG will have follow-up meetings with the current administration to see what we can start with right now.

IG Harper told the board that he met with the interim Director of Sewerage & Water Board (S&WB), her Special Counsel and another member of the Special Counsel staff. There will be a follow-up meeting to begin looking at some of the areas that the OIG will undertake.

IG Harper told the Board that the OIG Peer Review is scheduled for the 1st week in June 2018.

In response to Dr. Cowan, the IG told the Board that he was very encouraged that Mayor-Elect Cantrell would insist on full cooperation with City Agencies working with the OIG.

Independent Police Monitor's Report

The Independent Police Monitor (IPM), Susan Hutson reported the Office of the Independent Police Monitor's (OIPM) year-to-date activities for 2018: took 6 citizen complaints, reviewed 1 use of force, liaised 1 criminal case, monitored 3 cases, reviewed 2 cases, participated in 12 disciplinary hearings, and reviewed 1 critical incident.

The IPM told the Board that the OIPM has received a download of data for complaints from the New Orleans Police Department (NOPD). The IPM told the Board that the OIPM is working with NOPD to get the use of force data.

In response to Mr. Miller, Deputy IPM Ursula Price told the Board that the OIPM and NOPD have not met yet due to technology problems the OIPM had been experiencing; this is now resolved.

In response to Dr. Cowan, Deputy IPM Price told the Board that the OIPM has 3 contractors that are tasked with working with and downloading the data from NOPD.

In response to Mr. Miller, the IPM told the Board that the OIPM is currently waiting on the finalized data from NOPD in order to complete their Annual Report.

In response to Dr. Ricks, Deputy IPM Price told the Board that NOPD expects to have their technology issues resolved soon.

Mr. Brown told the Board that in the future, he suggests that the IPM submit her Annual Report with the information that she has by the due date, according to the ordinance and disclose any gaps due to information not received by NOPD during the time of submission.

Dr. Ricks told the Board that he believes the OIPM needs good data in order to complete good analysis in order to give the ERB good policy.

The IPM told the Board that the data pull that was completed most recently by the OIPM's Data Analyst shows completely different numbers for the last few years.

In response to Mr. Miller, the IPM told the board that there is now an estimate of an additional 120 use of force cases and/or FTM field force tracking numbers that was given to the OIPM last year. She also told the Board that there is also over 500 individual uses of force now in the data that the OIPM's Data Analyst pulled, which was not reported in the OIPM's Annual Report last year.

Mr. Miller agreed that he would invite NOPD Chief Harrison to attend the ERB's next meeting.

Deputy IPM Price told the Board that the OIPM issued a public letter in January 2018 (please see attachment) regarding the Elements of the Citywide Public Safety Improvement Plan. She advised the Board of the following six action steps:

- Action 1: Establish Integrated Camera & Surveillance Program
- Action 2: Develop Centralized Command Center
- Action 3: Redeploy & Equip Patrols for Optimal Public Safety
- Action 4: Enhance Lighting for Increased Visibility
- Action 5: Upgrade Infrastructure to Reduce Terror Risk
- Action 6: Modify & Enforce ABO Code

Deputy IPM Price told the Board that the IPM has the following concerns regarding the Integrated Camera & Surveillance Program:

- Fourth Amendment Search and Seizure Issues & Brady/Giglio Issues
- NOPD's Surveillance Policy
- Potential for Abuse/Misconduct
- OIPM's Obligation to Monitor Data Systems

Other Risks:

- Fiscal Management or Waste
- Questionable Effectiveness
- Legal Liability

Deputy IPM Price told the Board that the following Cities Discussing Independent Monitoring of Surveillance Technology are:

- New York
- Oakland
- Seattle
- Berkley
- Palo Alto, CA
- Santa Clara County, CA
- Muskegon, MI
- Madison, WI

- Milwaukee, WI
- St. Louis, MO
- Charlottesville, VA
- Nashville, TN
- Hattiesburg, MS
- Pensacola, FL
- Miami, FL
- Cities that are monitoring the use of Surveillance Technology: Somerville, MA and Santa Clara, CA

Dr. Cowan told the Board that the IPM Quality Assurance Review Working Group raises 4 points for consideration of the ERB (please see attachment):

Mr. Brown moved to have a separate Quality Assurance Committee with separate members. A committee to review the OIG and a separate committee to review the OIPM, Dr. Ricks seconded. The Board voted: 5 yays, 0 nays, a separate Quality Assurance Committee with separate members was approved.

Dr. Cowan moved that the OIPM shall be subject to a peer review every three years, Mr. Miller seconded. The Board voted: 5 yays, 0 nays, the OIPM shall be subject to a peer review every three years was approved.

Mr. Brown moved that Mr. Dane Ciolino the ERB General Counsel will speak with the leaders of both Police Assessment Resource Center (PARC) and National Association for Civilian Oversight of Law Enforcement (NACOLE) regarding the OIPM's peer review, Mr. Miller seconded. The Board voted: 5 yays, 0 nays, Mr. Ciolino will speak with the leaders was approved.

No action needed for the 3rd and 4th points.

Dr. Ricks moved to accept the report from the IPM Quality Assurance Review Working Group, Mr. Brown seconded. The Board voted to accept the report: 5 yays, 0 nays, the acceptance of the report was approved.

Mr. Brown moved that the ERB resolves to favor the ordinance and endorse the ordinance with the caveat that the NOPD provides the OIPM with access to final data that the IPM needs, at least 60 days before the deadline set forth in the ordinance for the IPM's Annual Report, Dr. Cowan, seconded. The Board voted: 5 yays, 0 nays, the ERB resolves to favor the ordinance and endorse the ordinance with a caveat was approved.

Dr. Cowan told the Board that the ERB should advise the New Orleans City Council that the ERB favors the ordinance but would also like some specification regarding NOPD's obligation.

Mr. Brown moved that IG Derry Harper would receive a salary increase of \$642.00 to be within the City of New Orleans Pay Plan, Dr. Cowan seconded. The Board voted: 5 yays, 0 nays, the salary increase was approved.

The chair called for a vote to adjourn to executive session pursuant to Louisiana Revised Statute sections 42:17(A) (4) to discuss investigative proceedings regarding allegations of misconduct. Mr. Brown moved and a second was offered by Dr. Ricks at 4:21 P.M. The Board voted: 5 yays, 0 nays, executive session was approved.

The board, by an affirmative vote of all members present, held an executive session.

At the conclusion of the executive session, the board reconvened its public meeting. Mr. Brown moved to reconvene and resume the open session and a second was offered by Dr. Cowan. The Board voted: 5 yays, 0 nays, the board reconvening its public meeting was approved.

Mr. Brown moved for the board to defer any further action on ERB Complaint #2017-04, pending the final outcome of an ongoing litigation between the complainant and respondent. Mr. Ciolino was recused from this matter, Dr. Cowan seconded. The Board voted: 5 yays, 0 nays, deferring any further action was approved.

At 4:35 p.m., Mr. Brown moved that the meeting adjourn, Dr. Cowan seconded. The Board voted that the meeting adjourn 5 yays, 0 nays, the meeting adjourned.

To: IPM Quality Assurance Review Working Group

1. Per the IPM ordinance external review of the IPM shall include annual review by quality assurance review advisory committee and triennial peer review.

“Completed reports, inspections, performance reviews, public reports of investigations, and other records, shall be subject to an annual quality assurance review by a third-party advisory committee, known as the quality assurance review advisory committee.”

“The quality assurance review advisory committee for the office of the [IPM] shall include a representative appointed by the city council, who shall serve as chair of the committee; a representative appointed by the mayor; and a representative appointed by the ethics review board.”

Note: The language above can be read as calling for a separate quality assurance review advisory committee from the one that oversees the OIG and ERB. That appears to be the IPM’s understanding. As the body charged with oversight of the IPM, the ERB must resolve this.

2. “The office of the [IPM] shall be subject to peer review every three years. Such peer review shall be paid for by the office of the [IPM]. When completed, the recommendations and findings of the of such peer review shall be submitted to the ethics review board and [IPM]. The office of [IPM] shall comply with the recommendations of the peer review within 90 days, provided that the recommendations and findings are accepted and approved by the ethics review board. Copies of the final written report resulting from this peer review shall be furnished to the ethics review board, city council, and office of the mayor. This report shall also be made available to the public, when such process is completed.”

Note: The OIG ordinance specifies that triennial review of that office shall be conducted by the national Association of Inspectors General. The IPM ordinance contains no such specification. As the oversight body, the ERB should choose the organization to lead the review after review of available options and appropriate consultation with the IPM and others.

The IPM has stressed the importance of preparing the Quality Assurance committee so that it can properly review the office’s work, which is different from and has different standards than the OIG. She believes that was not done properly in the last iteration of the process. This concern highlights the importance of the next point.

3. The OIG operates according to a set of standards (the “Green” and “Yellow” books) adopted by national professional organizations. The IPM currently utilizes guidelines from Los Angeles, the monitor’s previous workplace.

Note: A set of standards adopted from some credible national organization and modified if necessary will supply critical benchmarks for the IPM’s work and external and internal evaluation of it. If these are not available nationally, or incompletely so, they will have to be created locally.

4. Both the IPM and police chief describe the relationship between the two agencies as working positively. Both also commented on ongoing differences as regards direct IPM access to NOPD

data. They agree that some of these have been resolved and others remain. Superintendent Harrison indicated that, while NOPD is usually given the opportunity to review and comment on IPM reports before they are published, that opportunity is not always afforded in a timely manner and, when it is, final reports sometimes do not reflect NOPD's feedback.

Note: In addition to the pre-publication dialogue that now takes place, the IPM should adopt the OIG's longstanding practice of affording an agency subject to a report to review and respond timely to a draft before a report is published, and include the agency's response as an addendum to the report.

Office of the Independent Police Monitor City of New Orleans



- ▶ OIPM Public Letter Regarding Citywide Public Safety Improvements Plan Proposed by Mayor Landrieu on Jan. 23, 2017

Susan Hutson
Independent Police Monitor

A NOTE FROM THE INDEPENDENT POLICE MONITOR

Pursuant to New Orleans City Code Section 2-1121 (16) (the Police Monitor's Ordinance), the OIPM issued this public letter as part of its duty to "review the adequacy of data collection and analysis" and "ensure New Orleans Police Department accountability, transparency, and responsiveness to the community it serves."

This letter is in response to concerns expressed to the OIPM by the Musicians and Artist Coalition of New Orleans. It was addressed to New Orleans City Council and was aimed at identifying potential areas of risk to the NOPD and potential mitigations of risk.

ELEMENTS OF THE CITYWIDE PUBLIC SAFETY IMPROVEMENT PLAN (CPSIP)

- ▶ Action 1: Establish Integrated Camera & Surveillance Program
- ▶ Action 2: Develop Centralized Command Center
- ▶ Action 3: Redeploy & Equip Patrols for Optimal Public Safety
- ▶ Action 4: Enhance Lighting for Increased Visibility
- ▶ Action 5: Upgrade Infrastructure to Reduce Terror Risk
- ▶ Action 6: Modify & Enforce ABO Code

THE CPSIP'S NEXUS WITH POLICE OVERSIGHT

Fourth Amendment Search and Seizure Issues & Brady/Giglio Issues

NOPD's Surveillance Policy

Potential for Abuse/Misconduct

OIPM's Obligation to Monitor Data Systems

Fourth Amendment Issues

- ▶ “As Justice Alito incisively observes, the same technological advances that have made possible nontrespassory surveillance techniques will also affect the *Katz* test by shaping the evolution of societal privacy expectations,” Sotomayor wrote. “Under that rubric, I agree with Justice Alito that, at the very least, ‘longer term GPS monitoring in investigations of most offenses impinges on expectations of privacy.’”

- Sotomayor Opinion in *United States v. Jones* 565 U.S. 400 (2012)

NOPD Policy

- ▶ Policy Chapter 43.3: USE OF SURVEILLANCE AND UNDERCOVER EQUIPMENT

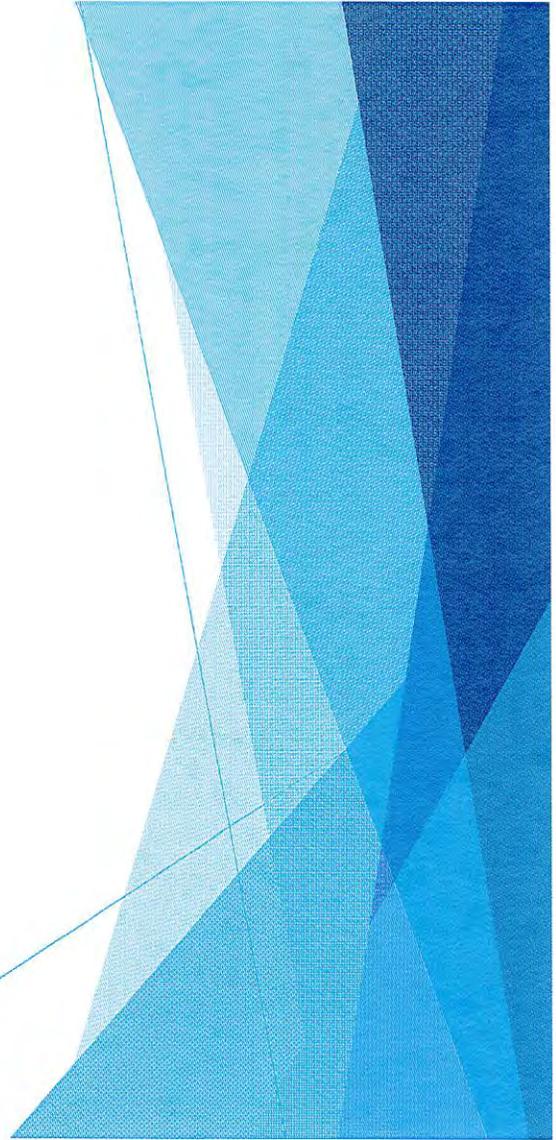
“This Chapter shall serve as a system of controls for the use of Department-owned surveillance equipment. It is the intent of this Chapter to prevent damage to or loss of surveillance equipment and to regulate use to prevent unauthorized use. “

- ▶ NOPD Policy Chapter 620: Use of Surveillance and Undercover Equipment

“Video surveillance of areas open to public view needs no special authorization. No video equipment shall be installed to view any areas which would constitute an invasion of privacy, without the appropriate court order.”

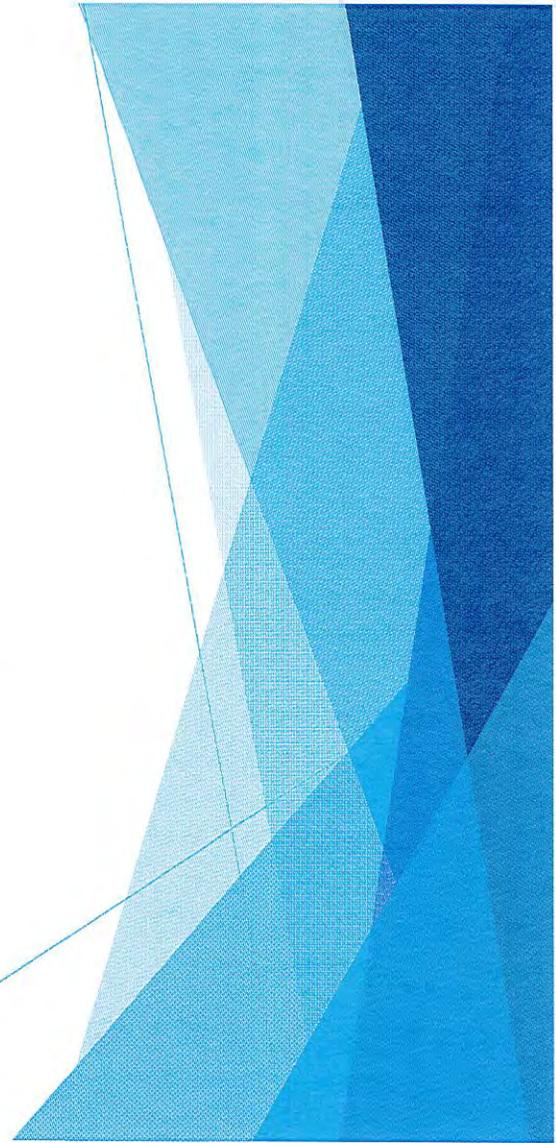
Risk of Misconduct

- ▶ Inappropriate focus on a person's body
- ▶ Disparate Racial Impact
- ▶ Retention and improper release of images
- ▶ Anecdotal Abuses:
 - ▶ NYPD stalking ex-partner
 - ▶ Ohio Sgt. plead guilty to stalking and other crimes using police equipment



Other Risks

- ▶ Fiscal Mismanagement or Waste
- ▶ Questionable Effectiveness
- ▶ Legal Liability



OIPM's Obligation to Monitor Data Systems

Cities that are monitoring the use of Surveillance Technology:

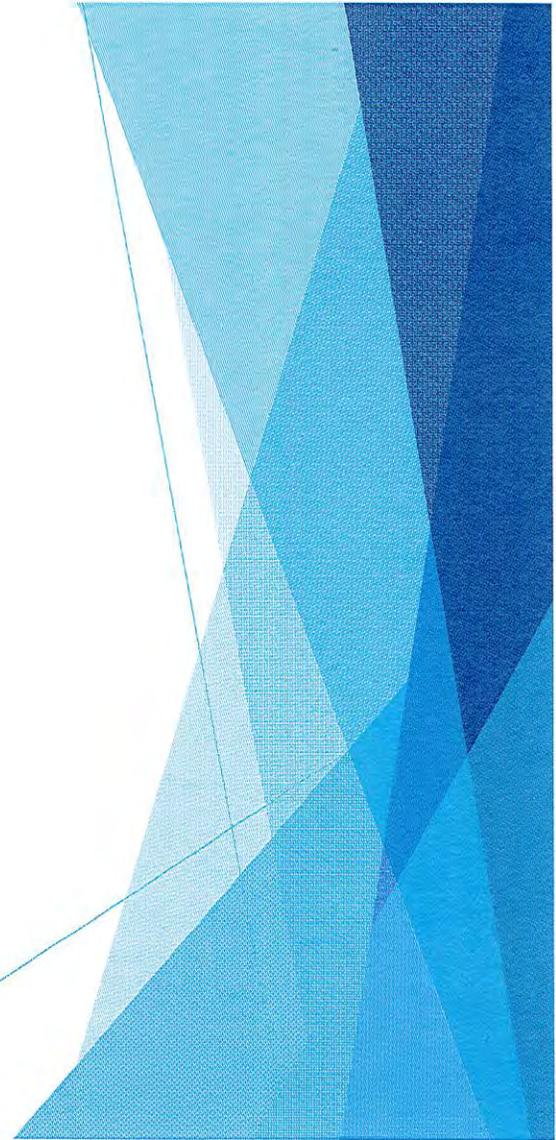
Somerville, MA

Santa Clara, California

Cities Discussing Independent Monitoring of Surveillance Technology:

- ▶ New York
- ▶ Oakland
- ▶ Seattle
- ▶ Berkley
- ▶ Palo Alto, CA
- ▶ Santa Clara County, CA

- ▶ Muskegon, MI
- ▶ Madison, WI
- ▶ Milwaukee, WI
- ▶ St. Louis, MO
- ▶ Charlottesville, VA
- ▶ Nashville, TN
- ▶ Hattiesburg, MS
- ▶ Pensacola, FL
- ▶ Miami, FL



OIPM's Recommendations:

- ▶ Prohibit magnification of an individual's face without reasonable suspicion or threat to public safety and monitor compliance.
- ▶ Prohibit aiming the camera at an individual's or group's activity without reasonable suspicion or threat to public safety and monitor compliance.
- ▶ Require camera operators to adhere to the same 4th Amendment-informed NOPD policies regarding reasonable suspicion and monitor compliance.
- ▶ Prohibit pointing cameras into private homes and monitor compliance.
- ▶ Monitor NOPD to ensure consistent enforcement of camera policies and discipline those who violate policy.
- ▶ Private cameras linked to the command center feeds must follow the same rules and regulations as public cameras.

OFFICE OF INDEPENDENT POLICE MONITOR

CITY OF NEW ORLEANS



SUSAN HUTSON
INDEPENDENT POLICE MONITOR

November 28, 2017

VIA EMAIL

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RE: Letter Regarding Citywide Public Safety Improvements Plan Proposed by Mayor Landrieu on Jan. 23, 2017

This letter addresses the [Citywide Public Safety Improvements](#) (PSI) Plan¹ authored by Mayor Landrieu on January 23, 2017. As part of its responsibility to respond to community concerns about public safety, to “review the adequacy of data collection and analysis” and conduct risk

¹ New Orleans City Wide Public Safety Improvements. The City Of New Orleans, 23 Jan. 2017, www.nola.gov/city/new-orleans-public-safety-final_012317



management reviews”², OIPM began engaging the PSI when a community group³ made the OIPM staff aware of its concerns. Through the process of researching the implementation of similar technologies and plans in other cities, the OIPM has catalogued a few issues that the council may want to consider as this PSI moves forward.

There are a few potential risks to public safety and individual privacy raised by this community group. In addition, OIPM’s research shows that there may be some high-level risks in the form of civil liability, unintended public safety outcomes, and fiscal waste. In this letter, OIPM suggests some procedural and policy steps that may mitigate these risks.

Surveillance and Data Collection Technology Oversight

As with any law enforcement data system housing private information about citizens, there is a potential for mismanagement, poor information security, public records law compliance challenges and user abuse. Although the Mayor’s proposed Plan would significantly expand NOPD’s surveillance and data collection capabilities, it does not earmark resources or personnel to monitor the implementation of the Plan. OIPM recommends the council consider how these surveillance and data collection systems will be monitored. A failure to build in monitoring and oversight may expose The City of New Orleans to a civil liability risk. In the event that evidence in these systems is used for prosecution, these systems could also present a risk unconstitutional criminal justice practices as well. As recently as 2016, the Department of Justice warned that departments should not expand their electronic surveillance capabilities until they have addressed core problems of corruption, poor oversight, and inadequate training.⁴

Potential for Abuse

The potential for abuse is an important reason for OIPM oversight and monitoring. Unregulated systems have the potential to jeopardize the expensive and hard-won police reforms of the past ten years. The list of potential abuse falls into three categories: (a) Improper focus on a person’s body; (b) Disparate racial impact; and (c) Retention and improper release of images.

a) Improper focus on a person’s body

A review of 592 hours of government-run CCTV monitoring system footage in London found that 10% of surveillance of women lasted more than one minute, and 15% of surveillance of women for shorter periods was voyeuristic. In 2007, a police supervisor in Worcester, England was suspended after improperly manipulating surveillance cameras to focus in on women’s breasts and buttocks.⁵

Rampant misuse has already presented itself within similar systems in the U.S.A. In a 2017 public records request revealed that in California, rates of misuse of surveillance technologies by

² Municipal Code of Ordinances, Part II, Chapter 2, Article XIII - Office of Inspector General, Sec. 2-1121 - Office of Independent Police Monitor

³ Official MaCCNO Statement: Proposed Citywide Safety Plan Invites Profiling, Damages Culture

⁴Bouche, Kenneth, et al. “USDOJ Report on Calxico.” *Electronic Frontier Foundation*, 28 Apr. 2017, www.eff.org/document/usdoj-report-calxico

⁵ Andrew Parker, Surveillance of CCTV Operator, THE SUN, Feb. 14, 2007 via ACLU report



police officials are *increasing* annually, having gone up by 50% overall from 2011 to 2017.⁶ Just this month, an officer in New York was caught using law enforcement databases and surveillance system to harass and stalk his ex-partner, directing others in the department to gather surveillance of the victim and her family.⁷ Finally, in 2015 a police sergeant in Ohio pleaded guilty to felony charges of aggravated assault, tampering with evidence, menacing by stalking and other crimes, illegally using a police department computer to target and threaten women.⁸

Not only is this type of police misconduct, a risk to the Police Department and Public Safety, these types of activities could be precursors to more serious misconduct among officers and also promulgate a culture of sexual misconduct. A year-long investigative report from the Associated Press revealed that in a six-year period, 1,000 officers lost their licenses for perpetrating sexual assault.⁹ The statistic, a low estimate due to vastly underreported instances of sexual assault, indicates a nation-wide problem with sexual misconduct among police officers. Louisiana, a state that rarely decertifies officers, seems unlikely to self-report any misconduct.¹⁰ An unregulated surveillance system may exacerbate this issue that already has limited oversight.

*b) Disparate racial impact*¹¹

In the aforementioned study in England, of 592 hours of camera monitoring, the researchers found that black people were between 1.5 and 2.5 times more likely to be watched than one would expect from their presence in the population being monitored. Further, black people were disproportionately placed under such surveillance for “no obvious reason” – 68% of all surveillance of blacks, compared to 35% of all surveillance of whites.¹²

According to a 2017 study from the House Committee on Oversight and Government Reform¹³, other technologies implied by the plan but not explicitly mentioned, such as facial recognition cameras, have been shown to disproportionately misidentify black people as suspects. Given the demographics of the twenty neighborhoods selected for special monitoring as part of this plan,

⁶ David Mass, California Authorities Are Failing to Track and Prevent Abuse of Police Databases, Electronic Frontier Foundation, May 14, 2017, <https://www.eff.org/deeplinks/2017/05/california-authorities-still-ignoring-rising-abuse-police-databases>

⁷ Kaley Lynch, “Former Irondequoit police officer pleads guilty to cyberstalking ex-girlfriend.” *News 4 Digital Producer*, 5 October 2017, <http://wivb.com/2017/10/05/former-irondequoit-police-officer-pleads-guilty-to-cyberstalking-ex-girlfriend/>

⁸ Ed Meyer, “Former Akron police sergeant pleads guilty to stalking former girlfriend.” 10 September 2015, <https://www.ohio.com/akron/news/former-akron-police-sergeant-pleads-guilty-to-stalking-former-girlfriend>

⁹ Sedensky, Matt, and Nomaan Merchant. “Betrayed by the Badge.” *Associated Press*, 1 Nov. 2015, interactives.ap.org/2015/betrayed-by-the-badge/?SITEID=apmobile

¹⁰Stole, Bryn, and Rebekah Allen. “Louisiana Less Likely to Strip Law Enforcement Officers of Credentials than Any Other State; Lawmakers Aim to Change That.” *The Advocate*, 3 June 2017, www.theadvocate.com/baton_rouge/news/crime_police/article_e3f12332-464b-11e7-a4f4-f369e513d850.html

¹¹ *City of N.Y. v. Hassan*, 2015 NY Slip Op 03781, 128 A.D.3d 419, 8 N.Y.S.3d 211 (App. Div.)

¹² Clive Norris & Gary Armstrong, CCTV and the Social Structuring of Surveillance (1999),163, http://www.popcenter.org/library/CrimePrevention/Volume_10/06-NorrisArmstrong.pdf

¹³ *Committee To Review Law Enforcement's Policies on Facial Recognition Technology*, House of Representatives, 115th Cong. (2017) <https://oversight.house.gov/hearing/law-enforcements-use-facial-recognition-technology/>



there is a risk of further criminalization of people of color in New Orleans. Oakland rejected predictive policing in 2014 for these same reasons.¹⁴

*c) Retention and improper release of images*¹⁵

The collection of images and data of New Orleans residents and visitors may expose both the City and individuals to risks. Proposed programs such as the "threat analytics platform" to be housed in the Centralized Command Center serve the same function as predictive policing technologies which compute crime reports and other statistics to generate potential suspects or predict crime "hot spots".¹⁶ Clear plans may need to be created to determine how police departments can best make use of such information.

Additionally, the retention of images and data may increase the likelihood of misuse and improper release whether from hackers, surveillance personnel, or police officers anxious to gather evidence. Retaining images increases the likelihood of violating our 4th Amendment rights to privacy through the practice of "tracking" citizen's movement and identity.¹⁷ Additionally, Louisiana's fairly permissive public records law may present a challenge to the City, if and when members of the public and the press wish to obtain such data.

Insecure Systems Will Expose the City to Liability

In 2015, the Electronic Frontier Foundation (EFF) conducted a nationwide investigation of automatic license plate readers (ALPRs) and found that more than a hundred ALPR cameras were exposed online, often with totally open web pages accessible by anyone with a browser.¹⁸ In five cases, EFF was able to track the cameras to their sources: St. Tammany Parish Sheriff's Office, Jefferson Parish Sheriff's Office, and the Kenner Police in Louisiana; Hialeah Police Department in Florida; and the University of Southern California's public safety department¹⁹. This particular risk exposure further supports the argument that all the new surveillance and data collection systems should be monitored and have strong security features.

Fiscal Waste

¹⁴ Thomas, Emily. "Why Oakland Police Turned Down Predictive Policing." *Motherboard*, 28 Dec. 2016, motherboard.vice.com/en_us/article/minority-retort-why-oakland-police-turned-down-predictive-policing

¹⁵ *In re Yahoo! Inc. Customer Data Sec. Breach Litig.*, No. 16-MD-02752-LHK, 2017 U.S. Dist. LEXIS 140212 (N.D. Cal. Aug. 30, 2017).

¹⁶ Robinson, David, and Logan Koepke. "Stuck In A Pattern: Early Evidence on Predictive Policing and Civil Rights." *Upturn*, Aug. 2016, www.teamupturn.com/reports/2016/stuck-in-a-pattern

¹⁷ Guidelines for Public Video Surveillance." *The Constitution Project*, 2007, p. 27., DOJ: www.constitutionproject.org

¹⁸ Quintin, Cooper, and Dave Maass. "License Plate Readers Exposed! How Public Safety Agencies Responded to Major Vulnerabilities in Vehicle Surveillance Tech." *Electronic Frontier Foundation*, 3 Nov. 2015, www.eff.org/deeplinks/2015/10/license-plate-readers-exposed-how-public-safety-agencies-responded-massive.

¹⁹ *In re Yahoo! Inc. Customer Data Sec. Breach Litig.*, No. 16-MD-02752-LHK, 2017 U.S. Dist. LEXIS 140212 (N.D. Cal. Aug. 30, 2017).



The City of Chicago spent over \$60 million of taxpayer's dollars on 10,000 surveillance cameras, the presence of which have not conclusively proven to deter or reduce crime.²⁰ Even the city of Chicago's claim that its surveillance cameras aided in 4,500 arrests over a period of 4 years is unremarkable, given that these 4,500 arrests accounted for less than 1% of arrests during that period.²¹ In our own city, taxpayers have financed a failed and unregulated crime camera system. A bribery scheme between Mark St. Pierre's technology companies (*Imagine Software*, and *Ciber Inc.*) and former Nagin administration Chief Technology Officer Greg Meffert cost the city millions in taxpayer-funded contracts²² for an ineffective and malfunctioning crime camera network.²³ Over a period of seven years, the crime camera network yielded only six indictments.²⁴ Without an adequate oversight system, taxpayers could bear the financial brunt of another private sector corruption scandal.

In addition to the risk exposures listed above, there are several community concerns worthy of attention:

Abusing the right to privacy²⁵:

The Musician's Coalition and its partners have expressed a concern that the addition of surveillance cameras will impact New Orleans' time-honored cultural traditions and use of public space. In a community where our culture is such a large part of our economy, we encourage the council to consider the impact of public surveillance and the value of preserving the individual freedom to be anonymous in public space.

Financial Sustainability

The proposed plan totals \$40 million, but the strategy for long term funding of the system's maintenance is unclear and is currently estimated to cost at least \$3.8 million a year.²⁶ When similar programs have been implemented in other parts of the country, Police departments have begun relying on money from civil asset forfeiture and other sources lacking sufficient oversight and transparency.²⁷

Cameras May Not Deter Crime

²⁰ *Chicago's Video Surveillance Cameras: A Pervasive and Unregulated Threat to Our Privacy*. ACLU of Illinois, Feb. 2011, www.aclu-il.org/wp-content/uploads/2012/06/Surveillance-Camera-Report1.pdf

²¹ [Ibid](#)

²² Hammer, David. "Greg Meffert, Wife, City Hall Vendor Charged with More than 60 Counts in Bribery Scheme." *NOLA.com*, Times Picayune, 9 May 2011, www.nola.com/crime/index.ssf/2009/11/meffert.html.

²³ Times-Picayune, David Hammer The. "Mayor Mitch Landrieu Wants to Dump City's Crime Cameras." *NOLA.com*, The Times Picayune, 14 Oct. 2010, www.nola.com/politics/index.ssf/2010/10/new_orleans_crime_camera_progr.html

²⁴ [Ibid](#).

²⁵ *State v. Jones*, 2017 S.D. 59.

²⁶ Rainey, Richard. "Worry over New Orleans Security Plan's Future Trumped by Questions about Its Startup Costs." *NOLA.com*, Times Picayune, 7 Mar. 2017, www.nola.com/politics/index.ssf/2017/03/worry_over_new_orleans_securit.html.

²⁷ Martinez, Freddy, et al. "Opening the Chicago Surveillance Fund." *MuckRock*, www.muckrock.com/project/opening-the-chicago-surveillance-fund-25/.



A 2008 study by the University of Southern California (“USC”) found that Los Angeles’ camera network made no statistically-significant impact on reducing violent crime, property crime, or quality of life crime, such as prostitution or public drunkenness.²⁸ Similarly, a 2009 study by the University of California at Berkeley found that San Francisco’s cameras made no statistically significant impact on reducing violent crime, drug crime, or quality of life crime, while only making some impact on reducing property crime.²⁹ A 2005 review of 13 studies in England found no statistically-significant impact on reducing violent crime, and a statistically-significant reduction in property crime in only two of the thirteen locations studied, one of which was a parking lot.³⁰ A 2008 review by USC of 44 studies in the United States and abroad concluded that none of the domestic studies found a statistically-significant impact on reducing crime, and that any impact found in foreign studies was limited to property crime.³¹

Reports with a more favorable view of surveillance cameras, like one from the Urban Institute, could not conclusively prove that the presence of surveillance cameras always deters crime. In its study, Humboldt Park, a Chicago neighborhood experienced a decrease in crime after the installation of surveillance cameras while another neighborhood, West Garfield Park, experienced no measurable changes.³² Further weakening this study, a report from the ACLU alleged that the Urban Institute used flawed methodology to calculate its results. Although crime may decrease in the area in front of a security camera, criminal activity may simply be displaced to another area of the city.

Finally, there is no evidence to support that the threat analytics platform, the proposed predictive policing technology, will yield a measurable decrease in crime. A report published by the RAND corporation found that predictive policing does not reduce crime.³³ In another report from Upturn, the authors found that law enforcement often trusts predictive technology as fact rather than a suggestion or an aid in an investigation.³⁴ Without accurate data inputs the resulting prediction may be erroneous.³⁵

²⁸ Aundrea Cameron et al., Measuring the Effects of Video Surveillance on Crime in Los Angeles, at 29-30 (University of Southern California, May 5, 2008)

²⁹ Jennifer King, et al., An Evaluation of the Effectiveness of San Francisco’s Community Safety Cameras, at 11-12 (University of California, Berkeley, Dec. 17, 2008) [hereinafter “Berkeley Report”]

³⁰ Martin Gill & Angela Spriggs, Assessing the impact of CCTV, at 23-25 (Home Office Research, Development and Statistics Directorate, Feb. 2005) [hereinafter “English Camera Study of 2005”].

³¹ USC Study, supra note 93, at 14-16.

³² La Vigne, Nancy G, et al. “Evaluating the Use of Public Surveillance Cameras for Crime Control and Prevention.” *The Urban Institute*, Sept. 2011, www.urban.org/sites/default/files/publication/27546/412401-Evaluating-the-Use-of-Public-Surveillance-Cameras-for-Crime-Control-and-Prevention-A-Summary.PDF.

³³ Walter L. Perry, Brian McInnis, Carter C. Price, Susan C. Smith, John S. Hollywood, *Predictive Policing: The Role of Crime Forecasting in Law Enforcement Operations*, RAND Corporation, 2013, http://www.rand.org/pubs/research_reports/RR531.html

³⁴ Robinson, David, and Logan Koepke. “Stuck In A Pattern: Early Evidence on Predictive Policing and Civil Rights.” *Upturn*, Aug. 2016, www.teamupturn.com/reports/2016/stuck-in-a-pattern

³⁵ Rand Corporation, 2013



OIPM recommends that The City engage the community in a discussion and/or education process about why surveillance may make our community safer and what the unintended consequences of surveillance may be.

Process and Community Engagement

The published version of the City's plan leaves room for interpretation. Several community groups have reached out to OIPM to express their concerns and to seek clarity about details of the plan, particularly around privacy and public input. OIPM is aware of a community-led petition calling for a halt to implementation of all aspects of the plan until public meetings are held that are accessible to residents throughout the City.³⁶

II. POLICY RECOMMENDATIONS

With these concerns in mind, OIPM researched and recommends the following best practices and policies to accompany the installation of any new security cameras and surveillance equipment included in the Mayor's [Citywide Public Safety Improvement Plan](#). We advise the implementation of rules and regulation to ensure strong oversight and to limit the potential for abuse.

- Prohibit magnification of an individual's face without reasonable suspicion or threat to public safety and monitor compliance.
- Prohibit aiming the camera at an individual's or group's activity without reasonable suspicion or threat to public safety and monitor compliance.
- Require camera operators to adhere to the same 4th Amendment-informed NOPD policies regarding reasonable suspicion and monitor compliance.
- Prohibit pointing cameras into private homes and monitor compliance.
- Balance the need for public information against public privacy when setting rules on dissemination and duration of image retention and monitor compliance.
- Monitor NOPD to ensure consistent enforcement of camera policies and discipline those who violate policy.
- Private cameras linked to the command center feeds must follow the same rules and regulations as public cameras.

In addition, the OIPM recommends that the council consider the following processes:

- A series of community engagement meetings about the City's plans, how they will be financed and implemented, and the community's concerns about this plan.
- OIPM recommends the council consider how these surveillance and data collection systems will be monitored. As recently as 2016, the Department of Justice warned that

³⁶Join the Opposition to New Orleans \$40 Million 'Security Plan.'" *MaCCNO*, The Music and Culture Coalition of New Orleans, 2017, www.maccno.com/join-the-opposition-to-new-orleans-40-million-security-plan/



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departments should not expand their electronic surveillance capabilities until they have addressed core problems of corruption, poor oversight, and inadequate training.³⁷

The OIPM can be a resource to the council on this and other public safety issues. Should you have any questions or concerns about this letter or wish to discuss it further, the OIPM staff are at your disposal.

Sincerely,



Ursula Price
Acting Police Monitor
504-304-5825

³⁷Bouche, Kenneth, et al. "USDOJ Report on Calexico." *Electronic Frontier Foundation*, 28 Apr. 2017, www.eff.org/document/usdoj-report-calexico

