



**Ethics Review Board
City of New Orleans**

Board Meeting

**September 12, 2018
3:34 P.M. – 5:50 P.M.**

City Council Chambers | 1300 Perdido Street | New Orleans, Louisiana 70112

Minutes of Board Meeting

1. Call to Order.
 - 1.1. Board members present:
 - 1.1.1. James Brown, Chair
 - 1.1.2. Brandon Boutin, Secretary
 - 1.1.3. Elizabeth Livingston de Calderon
 - 1.1.4. Michael Cowan
 - 1.1.5. Allen Miller
 - 1.1.6. Joe Ricks
 - 1.1.7. Howard Rodgers, Vice-Chair
 - 1.2. Staff members present:
 - 1.2.1. Dane S. Ciolino, General Counsel
 - 1.2.2. Jessica Lang, Administrative Assistant
 - 1.3. At 3:34 p.m., a quorum being present, the Chair called the meeting to order.

2. Approval of Minutes. The board unanimously approved the minutes of the August 22, 2018, board meeting (attached).
3. Discussion of Office of the Independent Police Monitor, 2017 Annual Report of June 29, 2018.
 - 3.1. The board reviewed, discussed, and questioned the Independent Police Monitor (IPM) and members of her staff about the 2017 Annual Report, Office of the Independent Police Monitor dated June 29, 2018 (attached).
 - 3.2. OIPM staff present included the following:
 - 3.2.1. Susan Hutson, Independent Police Monitor.
 - 3.2.2. Tonya McClary, Chief Monitor.
 - 3.2.3. Bonycle Sokunbi, Executive Director of Community Relations.
 - 3.2.4. Jules Griff, Community-Police Mediation Program Director.
 - 3.2.5. Marvin Arnold, Data Analyst.
 - 3.3. General.
 - 3.3.1. Mr. Arnold discussed the ongoing data analysis cycle. He discussed that the OIPM has received feedback from the public in a survey, which informed his analysis. He noted that the OIPM is continuing to develop an MOU with the NOPD. The discrepancies in data received from NOPD are not uncommon but are not significant.
 - 3.3.2. Ms. Calderon noted that it is difficult to tell whether NOPD policy changes have been effective, including crisis intervention policies. Ms. Hutson responded that her office is seeing some of the benefits, but she deferred to her directors for details. Ms. Calderon noted that even though officers are being trained, more needs to be done.
 - 3.3.3. Mr. Miller asked whether the board would receive data on effectiveness. Ms. Hutson responded that it would through the consent decree monitor and that the OIPM would be doing so as well in the future.
 - 3.3.4. Ms. Calderon asked about the OIPM community outreach program “Know Your Rights.” She inquired how the office chose where to make these presentations (at a high school, Covenant House, and Liberty’s Kitchen). Ms. Hutson responded that there was no particular methodology, but that her staff accepted invitations to present from organizations and would seek to cover the city more uniformly in the future. She experienced some difficulty after Ursula Price departed. She also simply responded to

community requests for presentations. She will have a better plan next year.

- 3.3.5. Mr. Brown asked whether the NOPD was invited to these Know Your Rights meetings. Ms. Hutson responded that it was not because the meetings were more comfortable without NOPD present. Mr. Brown expressed concern that there was a perception that these meetings were adverse to the NOPD and that they might be more balanced with NOPD present. Ms. Hutson responded that they do not instruct participants to “beat the system.” Rather, they teach people how to deal with the police through scenarios discussing, for example, “probable cause.” The police, she said, are oriented toward crime fighting; we are oriented to getting people to understand their rights.
- 3.3.6. Mr. Miller noted that given the confusion associated with past “flyers,” the public needs a better understanding of what the OIPM is doing at the meetings. Mr. Brown agreed and suggested that the police monitor explain to the board at future meetings what is happening at these meetings. Mr. Ricks agreed and suggested a better effort by the police monitor was needed to educate the community on the office’s activities.
- 3.3.7. Mr. Brown inquired about the 886 survey responses reflected in the report. Ms. Hutson noted that her staff went door-to-door to conduct interviews. She offered the board her raw data. The questions were drafted based on her sense of areas of concern by the public. Mr. Brown and Mr. Ricks questioned the accuracy of the statistical analysis and the validity of the survey questions and structure, particularly given that some results report responses in excess of 100%. Ms. Calderon noted that the survey allowed for multiple responses, explaining the results. Hutson acknowledged the issues.
- 3.3.8. Mr. Cowan questioned the logic behind questions about citizens’ “greatest concerns” with NOPD. Ms. Hutson noted that people have a lot of concerns and that there is no “No. 1 Concern” of more than 2,000 people. Mr. Cowan was concerned with the soundness of this approach and suggested that it should be improved next year. Ms. Calderon suggested more clarity about the methodology would be helpful. Mr. Brown suggested that she should get to the bottom of what the true No. 1 Concern is in next year’s report. Mr. Ricks suggested allowing for rank-ordered responses and better sample analysis.
- 3.3.9. Mr. Boutin suggested that Ms. Hutson should better balance the survey and ask what the NOPD is “doing right.” Ms. Hutson committed to do so in the future.

3.4. Complaints and discipline section of the report.

- 3.4.1. Mr. Arnold noted that there have been fewer complaints than last year. He is uncertain as to why this is the case. It deserves a deeper look. Complaints were “sustained” more often when from within the NOPD than when from the public.
- 3.4.2. Mr. Miller asked for clarification as to what complaints are made by NOPD rank. Mr. Arnold responded that they are noted in NOPD’s system. “not sustained,” means the complaint was dismissed.
- 3.4.3. Mr. Rodgers commended Ms. Hutson on a good report. He asked about the 9 recommendations to NOPD from 2016. Ms. Hutson reported that many have been implemented and that she is generally satisfied.
- 3.4.4. Mr. Rodgers asked about what cases are suitable for mediation. Ms. Graff responded that mediation is called for if the matter is *not* among 13 categories, mostly criminal conduct. Mediation usually involves lesser allegations of misconduct, such as discourtesy.
- 3.4.5. Mr. Rodgers asked about whether the OIPM ever reports to officers that they are “doing good” through commendations. Hutson responded that her office did not do so this year but would do so next year.
- 3.4.6. Mr. Rodgers inquired about data discrepancies on page 10 of the report. Mr. Arnold responded that the discrepancies are small in the scheme of things, but that he could not explain them other than to speculate that they were caused by input errors.
- 3.4.7. Mr. Rodgers inquired about the chart at page 25 as to different levels of misconduct and as to whether it was permissible for NOPD officers to drink alcohol while in uniform. Ms. Hutson responded that they can drink moderately at awards banquets, etc.
- 3.4.8. Mr. Rodgers asked whether there was any follow up with officers after discipline. Ms. Hutson responded that her office checks to see if they were suspended from NOPD rolls.
- 3.4.9. Mr. Miller noted the lack of clarity in the report regarding complaints and asked how many complaints were submitted by “rank” within NOPD (at page 16 of the report). Mr. Arnold responded that there were 447 rank complaints and 227 public complaints. Mr. Miller noted that those numbers should be in the report. Mr. Ricks noted that a smaller percentage of citizen complaints are sustained than complaints submitted by rank; he further suggested that the wording of this discussion was unclear in the report. Ms. Hutson suggested there should not be such a difference, but Mr. Ricks suggested it was unremarkable.
- 3.4.10. Mr. Brown noted that the report stated that the OIPM has unfettered access to PIB information. Ms. Hutson stated that this occurred after the

board's efforts to encourage greater cooperation with NOPD. She noted that the remaining problems relate to "remote" access. Mr. Arnold described the continuing data access problems; Mr. Brown noted that he could intervene to assist.

3.4.11. Mr. Miller asked whether the OIPM has sufficient data from NOPD. Ms. Hutson noted that she has daily access to much data, but that there remain a lot of "moving parts," and some remaining "confusion" over getting data.

3.4.12. Ms. Calderon asked who the point of contact was at NOPD. Mr. Arnold responded that the contact varies from system to system and that he still does not have full data. Nonetheless, he sees no large data discrepancies.

3.4.13. Ms. Calderon noted that zero complaints were sustained when made by the LGBT community and asked whether any follow up was done with the complainants. Ms. Hutson noted that she did not "go behind the data," but that she will do so in the future.

3.4.14. Mr. Brown asked what the NOPD policy was on body-worn cameras. Ms. Hutson responded that patrol officers and sergeants use them during citizen interactions. She is trying to analyze the turn-on rate. NOPD says they are on 95% of the time. She is unable to confirm. Mr. Brown noted that incidence of gun use is down since the implementation of body cams. Ms. Hutson noted that more analysis needed to be done to better understand the effect of the cameras. Mr. Brown noted that cameras are a "great innovation" and that the OIPM should compile data on their effectiveness.

3.4.15. Ms. Calderon noted that it is important to be cautious with the gathering and use of data but that the efforts of the OIPM were good.

3.5. Use of force monitoring and statistics section of the report.

3.5.1. Mr. Arnold noted that the use of force (UOF) numbers are "flat" from 2016 to 2017. A small number of officers account for a large proportion of the UOF. NOPD used force disproportionately against African-American citizens; approximately 60% of the NOLA community is African-American. He further noted that numbers are "down" from 2012 relating to most serious UOF incidents (including deaths caused by NOPD).

3.5.2. Mr. Brown noted that body camera use began in 2014 and may account for this trend. Ms. Hutson acknowledged this, but also noted that better training and the federal consent decree may be playing a role as well.

3.5.3. Ms. Hutson noted that the OIPM is participating in the UOF Review Board. Officers are now sequestered to avoid collusion (this sometimes did not occur in the past.)

- 3.5.4. NOPD prefers to use the least force necessary. TASERS are the least effective of nonlethal means. However, Ms. Hutson noted that the definition of “effective” needs to be standardized. She is working with NOPD on the issue. Also, there is an issue with NOPD UOF on the mentally ill when no crime has been committed; NOPD should consider other policing models to deal with the mentally ill.
- 3.5.5. Ms. Hutson noted that there is disagreement as to the effectiveness of “choke holds.” NOPD does not train on neck holds; this should be addressed.
- 3.5.6. Mr. Miller complemented Ms. Hutson on this section of the report. He also asked whether NOPD officers get “tazed” during training. Ms. Hutson replied that some do, but she is not sure if all are tazed.
- 3.5.7. Mr. Miller asked whether there has been any analysis of what the compliance bureau has done. Ms. Hutson responded that there has been no analysis of compliance bureau work.
- 3.5.8. Mr. Miller asked about the “early intervention system.” Ms. Hutson responded that her office needs to find a fix to get this data. She needs more offer data on this in order to monitor the system as a whole.
- 3.5.9. Mr. Ricks asked whether NOPD provides police officer personnel data. Ms. Hutson replied that there was an issue because of medical records. However, she is now getting “Insight” reports. Nevertheless, she would like the ability to run the reports in house.
- 3.5.10. Mr. Brown asked whether someone in the office could get up to speed with HIPPA to avoid any problems with getting individual office data. Mr. Miller was skeptical about it; HIPPA imposes significant obstacles. Ms. Hutson noted that she is not requesting medical information; she only wants to know what triggered the system and what remedial means have been taken.
- 3.5.11. Mr. Ricks asked whether Ms. Hutson believed that the NOPD and OIPM relationship is “moving in a positive direction.” Mr. Cowan likewise asked whether the working relationship was “good.” Ms. Hutson responded to both, “yes,” it is.
- 3.5.12. Mr. Boudin asked whether it was possible to learn the race of the officers in the UOF analysis. Mr. Arnold responded that 51% of the NOPD is African-American, but the results are not clear. He noted that this is an “interesting question.”
- 3.5.13. Mr. Ricks noted that some of the “bullet points” in the UOF report and statistics appeared to be unclear and inconsistent. For example, special weapons units often “point guns,” so how is that factored into the analysis

and data? Mr. Arnold acknowledged that there was “probably “some confusion.” Ms. Hutson referred Mr. Ricks to her website for the data, but noted that in the future “we will include the numbers.”

3.5.14. Mr. Ricks suggested that to avoid some of this confusion the report should include a definitional section, and the definitions should be coordinated with NOPD to avoid variation. Ms. Hutson stated that she would follow up on definitions and categories for reporting and statistics.

3.6. Mediation section of report.

3.6.1. The OIPM discussed the New Orleans Community Police Mediation Program, including the growth of the mediation process, survey evaluations, and telephone follow ups. The feedback received has been very positive.

3.6.2. Mr. Cowan noted that of the 77 cases referred for mediation, 32 were successfully mediated; 45 did not go to mediation because one side did not want to agree. The OIPM noted that it was usually because the civilian did not want mediation; most officers want to do it. As to why civilians decline, Ms. Hutson speculated that some are just busy and lose interest.

3.6.3. Mr. Cowan questioned whether the cost of the program justified the benefit (of only 32 mediations). He suggested that more people need to get involved in the process.

3.6.4. Mr. Brown noted that mediation works in the civil justice system. He noted that the board would like to see the mediation numbers “grow” because 32 is “not a lot.” The board envisioned larger numbers. What can be done to increase the number of mediations? Perhaps the OIPM should increase the pool of eligible incidents. Ms. Hutson noted that her office is working on this.

3.6.5. Mr. Brown asked whether “resolved by mediation” is a “negative mark” for an NOPD officer. The OIPM said, “at first, yes, but no longer.”

3.6.6. Ms. Calderon asked how many criminal matters that are excluded from mediation are actually prosecuted? If low, she questioned whether they would better have been mediated. Ms. Hutson said she would look into this.

3.6.7. Mr. Brown asked about the time frame for instituting mediation and noted that the 10-day period may be too short. Ms. Hutson responded that the short period is necessary from the standpoint of the NOPD, although she wished it could be lengthened.

3.6.8. Ms. Calderon noted that she was impressed with the report and general good work of the OIPM, but further noted that the OIPM needed to do a better job of communicating that good work to the public.

4. Adjournment.

4.1. Mr. Cowan moved for adjournment. Mr. Ricks seconded the motion.

4.2. At 5:50, the board unanimously adjourned the meeting.

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