



## CITY OF NEW ORLEANS ETHICS REVIEW BOARD

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### BOARD MEETING

Wednesday, February 26, 2020

3:30 P.M. – 5:30 P.M.

Council Chambers  
New Orleans City Hall  
1300 Perdido St, New Orleans, LA 70112

### AGENDA

1. Approval of minutes of previous board meeting (Chair).
2. Discussion of monthly report from the Office of Inspector General (Chair).
3. Discussion of monthly report from the Office of Independent Police Monitor (Chair).
4. Discussion of possible evaluators for OIPM 2020 peer review (Chair).
5. Discussion of monthly report from the Ethics Trainer (Chair).
6. Report of Executive Administrator and General Counsel (Chair).
7. Discussion of periodic review of ERB Rules (Calderon).
8. Discussion of 2020 ERB Awards Program (Ricks).
9. Discussion of ERB 2019 Annual Report and vote to authorize Dr. Ricks to finalize and submit report (Ricks).
10. Executive session pursuant to Louisiana Revised Statutes section 42:17(A)(4) to discuss investigative proceedings regarding allegations of misconduct.
11. Adjournment (Chair).

# **Draft Minutes of Previous Board Meeting**



**Ethics Review Board for the City of New Orleans**

**Board Meeting of January 23, 2020 at 3:30 P.M.**

**City Council Chamber, City Hall, New Orleans, Louisiana**

**Minutes**

1. *Call to Order.*

1.1. Board members present:

1.1.1. James Brown.

1.1.2. Elizabeth Livingston de Calderon.

1.1.3. Joe Ricks (Chair).

1.1.4. Howard Rodgers.

1.2. Board member absent:

1.2.1. Michael Cowan.

1.2.2. Monique Gougisha Doucette.

1.3. Staff member present: Dane S. Ciolino, Executive Administrator and General Counsel.

1.4. At 3:37 p.m., the Chair declared that a quorum of the board was present and commenced the meeting.

1.5. The agenda for the meeting is attached.

2. *Approval of the Minutes.* The Board unanimously approved the minutes for the December 16, 2019 Board Meeting. Ms. Calderon abstained from voting because she was not present at the meeting.

3. *Discussion of Monthly Report of the Office of Inspector General.*
  - 3.1. The Office of the Inspector General was represented by Derry Harper and staff members.
  - 3.2. Mr. Harper summarized the “pipeline” portion of the OIG monthly report (attached).
  - 3.3. Mr. Harper briefly discussed the Audubon response.
    - 3.3.1. Mr. Harper noted that the response did not answer the question as to whether purchases violated the state constitution. However, Mr. Harper noted that the Audubon staff agreed to take it under consideration.
    - 3.3.2. Mr. Brown asked whether Audubon would simply discontinue the questionable practices to avoid any issues. Mr. Harper responded that they were considering how to change their practices.
  - 3.4. Ms. Calderon asked when the payroll internal controls report would be submitted. Mr. Larry Douglass reported that the report was approximately 90 days out, but that the internal controls audit is further back in the pipeline.
  - 3.5. Mr. Harper noted that the formatting and terminology used in the pipeline reports is somewhat confusing and that he would undertake to clarify the reports to make them more readable.
  - 3.6. Mr. Brown asked whether the OIG was involved in the cyberattack investigation. Mr. Harper responded that his office was considering whether any internal problems were a cause of the attack.
    - 3.6.1. Mr. Ricks noted that it is important for the OIG to have flexibility to respond to unexpected issues like the cyberattack and not be restricted by the ordinary risk assessment protocol. Mr. Rick’s suggested a “just do it” list.
    - 3.6.2. Mr. Harper agreed that his office must always be vigilant and responsive to unexpected issues.
  - 3.7. Mr. Harper noted that his office plans to add another investigator to do outreach and to prevent, fraud, waste, and abuse.
  - 3.8. Mr. Rodgers inquired as to whether the OIG was looking into the safety of Orleans Parish School Board busses.
    - 3.8.1. Mr. Harper responded that his office has not looked into it because of jurisdictional issues.

3.8.2. Mr. Harper did not receive information from the Sheriff's Office because of similar issues.

3.8.3. Mr. Harper promised to follow up on this for the board's January 2020 meeting.

4. *Discussion of Monthly Report of the Office of the Independent Police Monitor.*

4.1. Tanya McClary, Chief Monitor, appeared for the OIPM. (IPM Susan Hutson was out of town).

4.2. Ms. McClary discussed the monthly report of the OIPM (attached).

4.3. Ms. McClary noted that the number of complaints has risen in 2019.

4.3.1. Mr. Ricks asked why complaints are up? Ms. McClary noted that it may be attributable to greater visibility of the office in the community due to increased outreach efforts in 2019.

4.3.2. Mr. Ricks asked whether the office simply had greater visibility or whether citizens are more comfortable dealing with the OIPM. Ms. McClary responded that it was likely attributable to "both."

4.3.3. Mr. Rodgers noted that the convenient location of the OIPM on Canal Street may be part of the reason why citizens are more comfortable with the office.

4.4. Ms. McClary noted that the OIPM has reached out to NACOLE for recommendations as to independent evaluators. The list from NACOLE is expected next week.

4.5. The board congratulated Ms. McClary for her new position as police monitor for the City of Dallas and thanked her for her service to the citizens of New Orleans.

5. *Report of the Ethics Trainer.*

5.1. Ms. Hackett did not attend the board meeting.

5.2. Ms. Hackett did not submit a monthly report for January 2020.

6. *Report of the Executive Administrator and General Counsel.*

6.1. Mr. Ciolino reported that no new complaints were received.

6.2. Mr. Ciolino reported that Ms. Hackett was not interested in becoming an employee of the board but, rather, would prefer to remain as an independent contractor.

- 6.3. Ms. Calderon noted that before putting the next trainer contract out to bid, the Board needs a better understanding of the job description and responsibilities.
- 6.4. Mr. Ciolino reported on the upcoming deadlines for the board's annual report.
- 6.5. Mr. Ciolino and Ms. Calderon reported that a review of the rules of procedure is underway and that they will report more at the February board meeting..

7. *Overview of Role of ERB in City Government*

- 7.1. Mr. Ricks presented a PowerPoint on the role of the ERB in city government. He also presented it at the December 2019 Awards Luncheon.
- 7.2. Ms. Calderon and other board members congratulated Mr. Ricks on the success of the awards luncheon.

8. *Adjournment.*

- 8.1. A motion was made to adjourn the meeting. The motion was seconded.
- 8.2. The Board unanimously voted to adjourn.
- 8.3. The meeting was adjourned at 4:38 p.m.

\* END \*

# **Monthly Report of OIG**

**Report to the Ethics Review Board**  
**January 2020**

**Audit & Review**

The Audit & Review division has the following audits underway: Audubon Payroll Internal Controls, Audubon Disbursements, and Department of Public Works and Sewerage & Water Board coordination. Due to the OIG/federal Investigation relating to the Safety and Permits Department, and the enforcement related activities potentially impacting the Short-term Rentals, this project has been temporarily suspended as of January 31<sup>st</sup>, pending the timing and outcome of the investigation.

Please see the attached project status spreadsheet for details.

**Inspections & Evaluations**

After the Inspections & Evaluations group postponed the December release of a report on the Management and Operations of the Traffic Camera Safety Program to accommodate the City because of the cyber attack, the I&E group held an exit conference with city officials in mid-January, obtained a response from the City on Jan. 24, and released the official report Jan. 30th.

The I&E group also has the following evaluations underway: the S&WB Billing Dispute Resolution Process and the Firefighter's Pension Fund.

Please see the attached project status spreadsheet for details.

**Investigations**

The Investigations division received three complaints in January.<sup>1</sup> All three were matters outside of the OIG's purview.

OIG Investigations Division cases:

- Administrative Investigations:
  - On January 8, 2020, the OIG published a Report of Investigation concerning a former employee accepted monetary compensation from one or more forensic psychiatrists employed by the Coroner's Office in exchange for handling their after-

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<sup>1</sup> As of Jan. 28, 2020.

hours and weekend mental health related duty calls, known as Orders of Protective Custody.

- Criminal Investigations:
  - Seven of the original 19 criminal cases involving S&WB employees selling property to scrap yards have not been adjudicated.
  - The case alleging misappropriation of funds from the New Orleans Public Library Foundation by Irvin Mayfield and Ronald Markham is in the discovery phase. A trial is scheduled in federal court for July 13, 2020.

## Status Report for OIG Projects - Audit and Evaluations Division

**Report Date:**

Friday, January 31, 2020

Project Number	Project Name	Project Phase *					
		Planning	Fieldwork	Draft Report	Supervisory Review	Legal Review	IG Review
	<b>Audit/Review</b>						
AD-15-0001	Audubon Payroll Internal Controls				X		
AD-15-0003	Audubon Disbursements				X	X	
AD-19-0001	Short-term Rentals <b>Suspended 1/31/2020</b>						
AD-19-0002	DPW/SWB Coordination	X					

Project Number	Project Name	Project Phase *					
		Planning	Fieldwork	Draft Report	Supervisory Review	Legal Review	IG Review
	<b>Inspections/Evaluations</b>						
IE-17-0005	Automated Traffic Enforcement Safety - <b>Released 1/30/2020</b>						
IE-18-0003	S&WB Billing Dispute Resolution			X			
IE-19-0001	Firefighter's Pension Governance	X					
IE-20-0001	Job Ordering Contracts	X					

Legend	Description
<b>Planning</b>	Background Research, Data Gathering , Initial Interviews, and/or Controls Assessment
<b>Fieldwork</b>	Data and Statistical Analyses, Interviews, Testing of Procedures, Onsite Obsevations and/or Physical Inspections
<b>Draft Report</b>	Data/Statistical Reviews, Documentaries of Fieldwork Results, Initial Report Writing, Revisions and Internal QAR prior to supervisory review
<b>Supervisory Review</b>	Review by both Division Director and First Assistant Inspector General to ensure sufficiency and appropriateness of evidence, fieldwork pr readability
<b>Legal Review</b>	Report Review by In-house General Counsel and/or Contracted Counsel Services for appropriate and proper legal citations and/or interpre
<b>IG Review</b>	Report Review by Inspector General, based on corrections and recommended changes resulting from the Legal Review

\* Project phase determination is based on the objective(s), scope, and methodology for each audit/evaluation project, and is not determined by a standard set of This phase will be decided based on the nature of work to be performed, and at the discretion of OIG management.

\*\* Expected Release timeline for the report may be determined based on the start of the legal review process, and may be later reevaluated based on both the timing of the IG review, and the 30-day turnaround timeline for the release of the initial draft report to the client and the subsequent receipt of management res

**Expected Release Timeline for Report\*\***

<b>Initial Draft Report/ Entity Management Responses</b>	<b>30 Days</b>	<b>60 Days</b>	<b>90 Days</b>

**Expected Release Timeline for Report\*\***

<b>Initial Draft Report/ Entity Management Responses</b>	<b>30 Days</b>	<b>60 Days</b>	<b>90 Days</b>


hours and/or phase deadline.

ponses.

# **Monthly Report of OIPM**

# THE OFFICE OF THE INDEPENDENT POLICE MONITOR



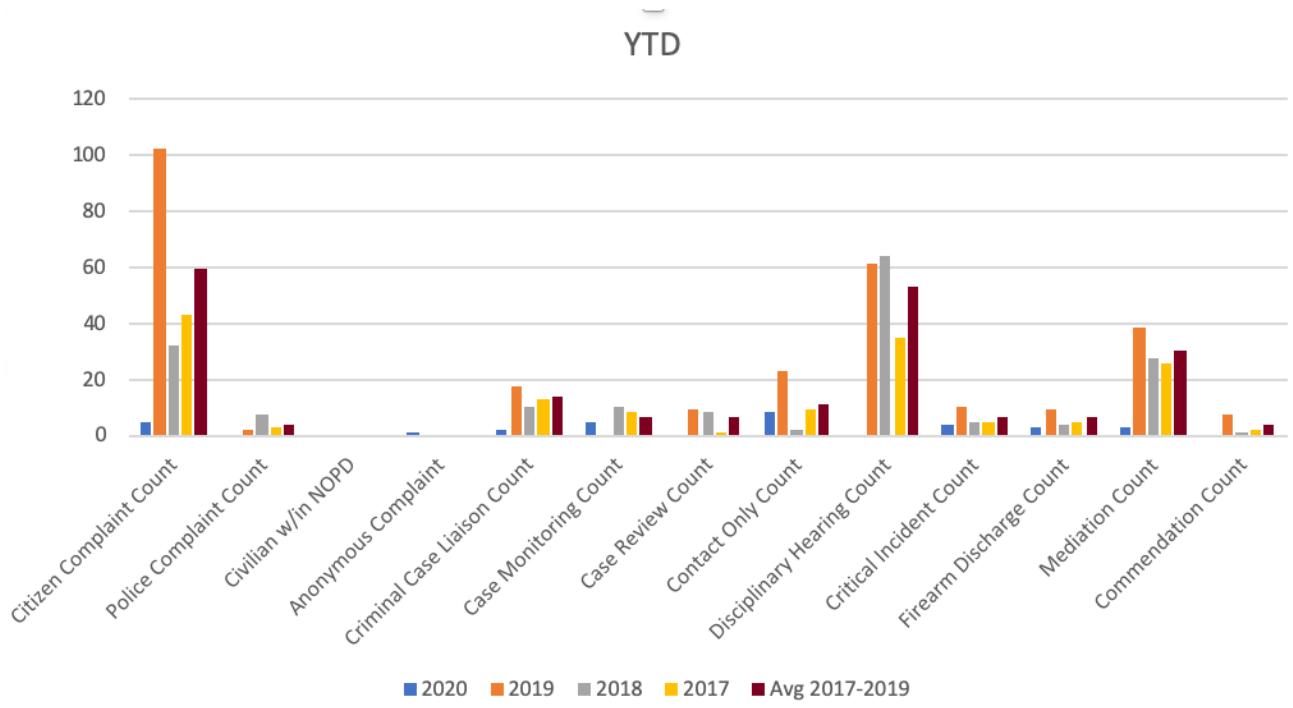
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## MONTHLY REPORT JANUARY 2020

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SUSAN HUTSON  
INDEPENDENT POLICE MONITOR

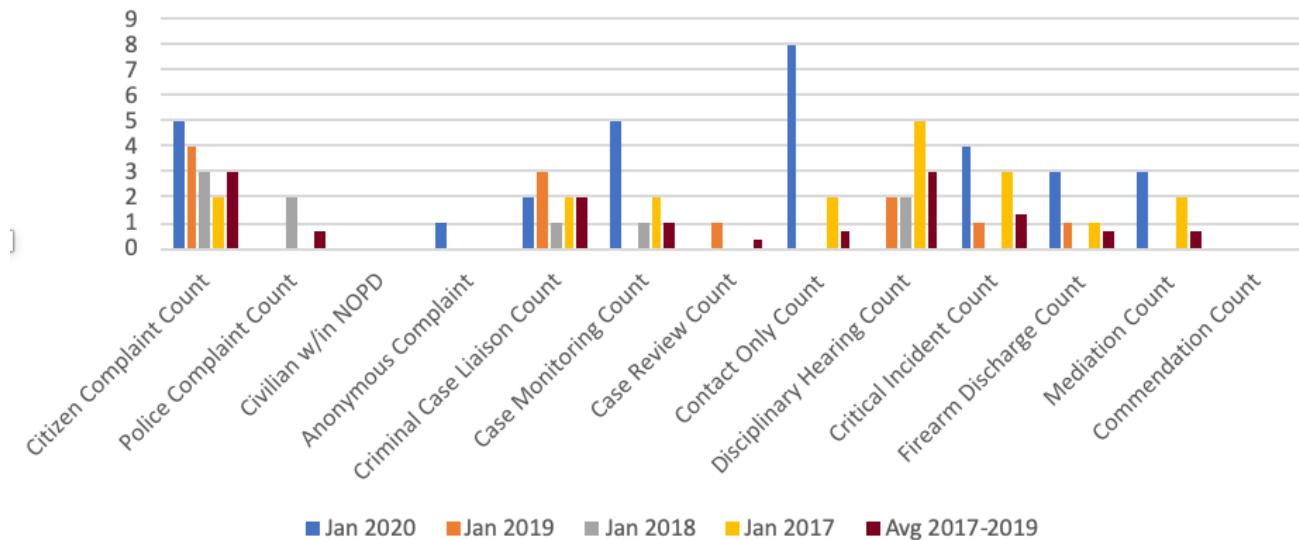
# Year to Date Overview



	2020	2019	2018	2017	Avg 2017-2019
<b>Citizen Complaint Count</b>	<b>5</b>	<b>102</b>	<b>32</b>	<b>43</b>	<b>59</b>
<b>Police Complaint Count</b>	<b>0</b>	<b>2</b>	<b>7</b>	<b>3</b>	<b>4</b>
<b>Civilian w/in NOPD</b>	<b>0</b>				<b>0</b>
<b>Anonymous Complaint</b>	<b>1</b>				<b>0</b>
<b>Criminal Case Liaison Count</b>	<b>2</b>	<b>17</b>	<b>10</b>	<b>13</b>	<b>13.33</b>
<b>Case Monitoring Count</b>	<b>5</b>	<b>0</b>	<b>10</b>	<b>8</b>	<b>6</b>
<b>Case Review Count</b>	<b>0</b>	<b>9</b>	<b>8</b>	<b>1</b>	<b>6</b>
<b>Contact Only Count</b>	<b>8</b>	<b>23</b>	<b>2</b>	<b>9</b>	<b>11.33</b>
<b>Disciplinary Hearing Count</b>	<b>0</b>	<b>61</b>	<b>64</b>	<b>35</b>	<b>53.33</b>
<b>Critical Incident Count</b>	<b>3</b>	<b>10</b>	<b>5</b>	<b>5</b>	<b>6.67</b>
<b>Firearm Discharge Count</b>	<b>3</b>	<b>9</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>Mediation Count</b>	<b>3</b>	<b>38</b>	<b>27</b>	<b>26</b>	<b>30.33</b>
<b>Commendation Count</b>	<b>0</b>	<b>7</b>	<b>1</b>	<b>2</b>	<b>3.33</b>
<b>Grand Total</b>	<b>27</b>	<b>278</b>	<b>170</b>	<b>150</b>	<b>199.33</b>

# January Overview

January



	Jan 2020	Jan 2019	Jan 2018	Jan 2017	Avg 2017-2019
<b>Citizen Complaint Count</b>	5	4	3	2	3
<b>Police Complaint Count</b>	0	0	2	0	0.67
<b>Civilian w/in NOPD</b>	0				0
<b>Anonymous Complaint</b>	1				0
<b>Criminal Case Liaison Count</b>	2	3	1	2	2
<b>Case Monitoring Count</b>	5	0	1	2	1
<b>Case Review Count</b>	0	1	0	0	0.33
<b>Contact Only Count</b>	8	0	0	2	0.67
<b>Disciplinary Hearing Count</b>	0	2	2	5	3
<b>Critical Incident Count</b>	3	1	0	3	1.33
<b>Firearm Discharge Count</b>	3	1	0	1	0.67
<b>Mediation Count</b>	3	0	0	2	0.67
<b>Commendation Count</b>	0	0	0	0	0
<b>Grand Total</b>	<b>30</b>	<b>12</b>	<b>9</b>	<b>19</b>	<b>13.33</b>

# January Overview

Complaints	
CC2020-0001	Complainant alleges a responding officer was unprofessional, discourteous, biased, and discriminatory towards the complainant. The complainant alleges that officer refused to gather evidence, interview witnesses, or listen to the complainant's concerns.
CC2020-0002	According to the complainant, an officer wrongfully used force against his service dog. Later the NOPD claimed that the dog bit the officer, which the complainant states is not true. There is also an allegation of the officers laughing and behaving unprofessionally at the scene.
CC2020-0003	Complainant alleges that the NOPD failed to thoroughly investigate the complainant's report about his property being stolen and sold on Facebook marketplace.
CC2020-0004	Complainant alleges that the NOPD improperly issued a warrant for her arrest.
CC2020-0006	According to the complainant, the NOPD failed to investigate the complainant's concern related to a domestic matter. According to the complainant, the aggressor has access to automatic weapons even though there is a stay away order and that individual is a convicted felon.
AC2020-0005	Complainant alleges that rank attempted to get a sexual harassment complainant to drop their complaint against another ranked NOPD officer.
Complaints: 6	

Anonymous Complaint	
AC2020-0005	Complainant alleges that rank attempted to get a sexual harassment complainant to drop their complaint against another ranked NOPD officer.
Anonymous Complaints Count: 1	

Criminal Case Liaison	
CL2020-0001	A community member requested assistance in reaching a supervisor in the 7th District about her noise complaint about neighbors. This person was able to reach a supervisor to ensure that the police report included all pertinent information.
CL2020-0002	A community member contacted OIPM to ask questions and express concerns about the way NOPD officers handled an attempted sexual assault.
Criminal Case Liaison Count: 2	

# January Overview

Case Monitoring	
CM2020-0001	OIPM is working with the complainant to provide an investigation status update. OIPM reached out to PIB to check on progress.
CM2020-0002	OIPM is working with the complainant to provide an investigation status update. OIPM reached out to PIB regarding the status of the investigation and communicated with the complainant.
CM2020-0003	OIPM received an anonymous complaint and monitored the subsequent intake statement of a NOPD officer.
CM2020-0004	OIPM received a complaint from a civilian regarding a use of force incident and monitored the subsequent meeting between the complainant, the complainant's friend, the investigating officer and Chief of the Public Integrity Bureau.
CM2020-0005	OIPM monitored a complainant's municipal court proceeding and observed how court police interacted with individuals within the courtroom.
Case Monitoring Count: 5	

Contact Only	
CO2020-0001	Individual notified the OIPM of a property theft that occurred and the OIPM directed the individual on how to report the crime to the NOPD and secure a police report.
CO2020-0002	Individual notified the OIPM of a pickpocket offense that occurred in the French Quarter. The OIPM directed the individual on how to report the crime to the Eighth District and secure a police report.
CO2020-0003	Individual reached out to OIPM regarding activity occurring in another parish not related to the police. OIPM directed the individual on how to report crimes and file misconduct complaints against law enforcement in that parish. This communication is ongoing.
CO2020-0004	Individual reached out to OIPM to report cybercrimes (not related to the police) and the OIPM directed the individual on how to report this offense.
CO2020-0005	Individual reported a wallet theft to OIPM and OIPM directed the individual on how to report the crime to the Eighth District and secure a police report.
CO2020-0006	OIPM spoke with a complainant regarding the complainant's experience with reporting illegal fireworks to the NOPD. The complainant stated the complainant was not interested in filing a complaint at this time.
CO2020-0007	Individual reached out to OIPM to report a crime occurring within the complainant's family. OIPM directed the complainant on how to report this crime to law enforcement.
CO2020-0008	Complainant spoke to OIPM regarding the complainant's recent interactions with the NOPD. OIPM is working with the complainant on some next steps.
Contact Only: 8	

# January Overview

Critical Incidents	
CI2020-0001	On January 2, 2020 at approximately 6:35pm a Detective was canvassing the area of North Dupree and Onzaga Streets when a canine rapidly approached the officer in an aggressive manner according to him. The detective discharged his firearm and struck the canine, who later expired.
CI2020-0002	On January 7, 2020 at approximately 8:46am a Detective responded to a vehicle burglary in progress in the 6400 block of Louis XIV near Louisville Street; once on scene he was confronted by 3 subjects in a vehicle. The driver began to back the vehicle towards the Detective. In an attempt to stop the subject, the Detective discharged his weapon, striking the vehicle. The vehicle continued and the vehicle's occupants exited the vehicle and fled. Two of the three occupants were arrested on scene. The other occupant was not located. No injuries were reported.
CI2020-0003	On January 25, 2020 at approximately 7:35am officers and recruits responded to an aggravated assault with a firearm call for service at St. Louis and Bourbon Streets. As the officers and recruits arrived on-scene, the subject confronted the officers and pointed his firearm at least one of them. The officers and recruits discharged their firearms at the subject, striking him. The subject was transported to the hospital for treatment.
Critical Incidents: 3	

Firearm Discharge	
	See Critical Incidents.
Firearm Discharge: 3	

Mediation	
	Mediation cases are confidential.
Mediations Held: 3	

# Complaints and Discipline

OIPM serves as an alternative site for civilians and police officers alike to file complaints of misconduct against the NOPD. These complaints and allegations are compiled into referrals by the OIPM and provided to the Public Integrity Bureau (PIB) for them to investigate. The OIPM monitors and reviews the classification and investigation conducted by PIB. If the complaint continues into a disciplinary proceeding, the OIPM will continue to monitor and review the disciplinary process. OIPM monitors and reviews disciplinary proceedings conducted by NOPD to ensure accountability and fairness. The OIPM reviews the disciplinary investigation and attends the subsequent disciplinary hearings where the OIPM will provide systemic and individualized findings and recommendations based on NOPD's investigation. The OIPM conducts a thorough review of the proceedings, findings, and recommendations that is available for review by both the NOPD and the New Orleans community.

**5** CITIZEN COMPLAINTS

**0** DISCIPLINARY PROCEEDINGS

**0** POLICE INITIATED COMPLAINTS



# Community-Police Mediation

Mediation is an alternative to the traditional process of resolving complaints of police officer misconduct. Mediation is a process facilitated by two professionally-trained community mediators to create mutual understanding and allow the civilian and officer to be fully heard and understood in a non-judgmental way.

**7** REFERRALS  
FOR  
MEDIATION

I liked the chance to talk and that the mediators were good listeners. The process turned out good.”  
- Officer Participant



**3** MEDIATIONS  
HELD

“ This was a good opportunity to express my concerns of how things were handled with the officer. I learned not to categorize the entire department because of one officer’s mistake. The officer learned to take time to listen before acting. This program should continue. Please don’t stop!”

-Civilian Participant

**7** MEDIATIONS  
PENDING

# Critical Incidents

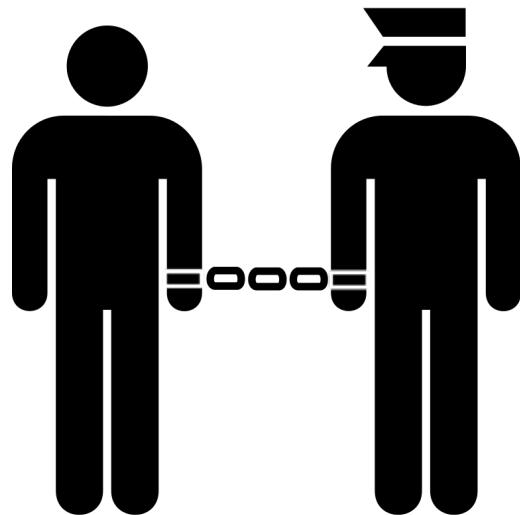
The OIPM is required by City Code 2-1121 to monitor the quality and timeliness of NOPD's investigations into use of force and in-custody deaths. If an incident occurs, the OIPM is notified and a member of the incident and will report immediately to the scene. The OIPM will stay engaged from the occurrence of the incident, through investigation, and Use of Force Review Board hearings.

**3**

**CRITICAL INCIDENTS**

**3**

**FIREARM DISCHARGES**



# Community Relations

## 5 COMMUNITY EVENTS

OIPM participates in community events to help extend the message of the OIPM and participates in activities to impact the nature of the relationships the community has with police officers. OIPM is committed to being present in the community, but also presenting helpful information to the public.

**OIPM CO-HOSTED A SCREENING OF “JUST MERCY” AND A COMMUNITY DISCUSSION  
AFTERWARDS ABOUT THE CRIMINAL JUSTICE SYSTEM AND  
POLICING IN LOUISIANA**

**OIPM ATTENDED AN AWARD LUNCHEON FOR THE FAIR HOUSING ACTION CENTER**

**OIPM ATTENDED A COMMUNITY MEETING REGARDING THE POLICING OF CHILDREN**

**OIPM ATTENDED A COMMUNITY MEETING REGARDING THE POLICING OF PERSONS WITH  
MENTAL AND EMOTIONAL CHALLENGES**

**OIPM ATTENDED AN ETHICS REVIEW BOARD MEETING**



# **Monthly Report of Ethics Trainer**

No report received.

**Item 1**

**REVISED**

11:51 am, Feb 24, 2020

**DRAFT**

# ETHICS REVIEW BOARD

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## CITY OF NEW ORLEANS

### 2019 ANNUAL REPORT



# **ETHICS REVIEW BOARD**

## **CITY OF NEW ORLEANS**

### **Board Members**

Dr. Joe M. Ricks

Mr. Howard Rodgers, III, Vice Chair

Ms. Elizabeth Livingston de Calderon, Secretary

Mr. James A. Brown

Dr. Michael Cowan

Monique G. Doucette

### **Staff Member**

Mr. Dane S. Ciolino, Executive Administrator and General Counsel

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## **Message from the Chair**

Dear Citizens of New Orleans:

The New Orleans Ethics Review Board (ERB) seeks to uphold and enforce high ethical standards and promote the public's confidence in the government of the City of New Orleans.

*Leadership.* I now serve as Chair of the ERB. Mr. Howard Rodgers, III, serves as our Vice Chair, and Elizabeth Livingston de Calderon serves as our Secretary.

*Summary of Work.* In 2019, the ERB continued its work in overseeing the New Orleans Office of Inspector General ("OIG") and the New Orleans Office of Independent Police Monitor ("IPM"). The board also strengthened its strategic initiative and focus upon ethics education through the work of its ethics education service provider, the Hackett Group.

*OIG Oversight.* In 2018, the City's Inspector General, Derry Harper, assumed office. Since then, the Office of the Inspector General ("OIG") has reported to the ERB on his progress in realigning personnel and functions within in his office. On March 29, 2019, the OIG delivered its annual report detailing its activities and accomplishments in 2018. On August 31, 2019, the OIG delivered its Annual Work Plan of the City of New Orleans Office of Inspector General covering the period from September 1, 2019, to August 31, 2020. Pursuant to the City Charter, the enabling Ordinance, and applicable professional standards, the OIG undertakes a planning process that identifies goals, priorities, and strategies, which align with its mission and vision while effectively using available resources.

*OIPM Oversight.* The City's Office of the Independent Police Monitor ("OIPM"), currently directed by Susan Hutson, provided regular reports on the work of her office, including ongoing monitoring of the New Orleans Police Department ("NOPD") in key areas, receipt and review of citizen complaints, coordinating mediations of qualifying citizen complaints, and other important work. On May 30, 2019, the OIPM delivered its annual report to the ERB. The ERB expects that the work of the IPM will assume even greater importance as NOPD moves closer to full compliance with the federal Consent Decree and enters the two year sustainment period following full compliance. The ERB expects that the IPM will play a critical role in monitoring and reporting on NOPD's progress toward and continued compliance with the federal Consent Decree benchmarks.

*Ethics Education.* In 2019, the ERB continued its education efforts through the Hackett Group, which included collaborating to design ethics education training that was provided to numerous City departments and offices.

*Ethics Awards.* In December 2018, the ERB approved a set of annual ethics awards designed to recognize and reward commitment to compliance with government ethics standards. On Thursday, December 12, 2019, the ERB hosted its first annual awards luncheon at the New Orleans Hyatt Regency Hotel. The speaker for the event was Judy S. Nadler, the former Santa Clara mayor who served for 11 years as a Center for Applied Ethics senior fellow, with responsibility for programs in government ethics and ethical leadership. Although the ERB did not chose a "Liaison Award" recipient, the following individuals received the ERB's "Torch Award for Excellence in Ethics." These public servants exemplified commitment to high standards of ethical compliance in their respective agencies: Gail Audirct (Orleans

Parish Juvenile Court); Rebecca Bennelli (EMS); and, Anita Briant (New Orleans Redevelopment Authority).

*Ethics Complaints.* In 2019, the ERB also received and disposed of ethics complaints filed with the ERB in the manner indicated in the chart below.

*ERB Personnel.* Effective January 1, 2019, the ERB appointed Dane S. Ciolino to serve as the board's Executive Administrator and General Counsel. Mr. Ciolino is the board's only employee.

It is our great privilege to serve the Citizens of New Orleans.

Respectfully submitted,  
Joe M. Ricks, Ph.D, Chair  
March 1, 2020

## Ethics Review Board Membership



The Ethics Review Board consists of seven volunteer Members who serve staggered seven-year terms. Six members are appointed by the Mayor from lists of three nominees submitted by the Presidents or Chancellors of Dillard University, Loyola University, Southern University in New Orleans (SUNO), Tulane University, University of New Orleans (UNO), and Xavier University. The seventh member is appointed by the Mayor. Each appointment is subject to approval by a majority of the Members of the City Council. As of March 1, 2020, the Dillard-nominated board position was vacant.

### Current Members of the Ethics Review Board

**Dr. Joe M. Ricks, Jr., Board Chair**, is the Chair of the Division of Business and the J.P. Morgan Chase Professor of Sales & Marketing at Xavier University of Louisiana. Dr. Ricks earned a Ph.D. in marketing with a minor in cognitive psychology from Louisiana State University, a Master's of Business Administration from the University of New Orleans and a Bachelor's degree in Marketing from Southeastern Louisiana University. Professionally, Dr. Ricks has published in Business and Society Review, the Journal of Selling and Major Account Management, the European Journal of Marketing, the journal Performance Improvement, the journal Industrial Market Management, the Journal of Consumer Marketing, the Journal of Business Ethics, the Journal of Business Research, and the Journal of Vocational Behavior. He has also been an editorial contributor to Data News Weekly, providing commentary on current issues relevant to the African American community. Dr. Ricks has been a visiting professor at Young & Rubicam Advertising Agency in New York in addition to the Corporate Customer Contact Center, Occupational Health and Environmental Safety Division, and the Sales Center of Excellence at 3M Company in St. Paul Minnesota. He has also served as a marketing intern coordinator for McIlhenny Company (Tabasco). Currently, he serves on the board of the Louisiana Quality Foundation that awards the Louisiana Performance Excellence Award based on the Malcolm Baldrige quality criteria. Prior to his academic career, Dr. Ricks' experiences included retail management, state government, the United States Army, and the Louisiana National Guard. Dr. Ricks is married to Mrs. Dianne Way-Ricks and has one daughter Jaelynn Ricks.

Dr. Ricks is former Mayor Mitch Landrieu's appointee; his term will expire June 30, 2020.

**Howard L. Rodgers, III, Board Vice Chair**, is Executive Director of the New Orleans Council on Aging/Area Agency on Aging. He holds a Masters Degree in Social Work from Southern University at New Orleans and a certificate as a Certified Aging Planner from Louisiana State University. Mr. Rodgers is a past board member of the National Council on Aging, the Southwest Society on Aging, and Family Service of Greater New Orleans. Howard currently serves on the National Association of Social Workers Geriatric Committee, National Association of Social Workers Legal Defense Fund as a trustee and Advisory Board of the Sisters of the Holy Family Lafon Nursing Home. He is a 2010 National Council on Aging Geneva Mathiasen Award Recipient and was recognized as a 2011 Role Model by the Young Leadership Council of Greater New Orleans. Rodgers is a former board member of PACE New Orleans and former president of the Louisiana Aging Network Association.

Mr. Rodgers is a nominee of Southern University at New Orleans; his term will expire September 7, 2019.

**Elizabeth Livingston de Calderon, J.D., Board Secretary**, is a Clinical Instructor and Supervising Attorney at Tulane Law School, Tulane University. She is a member of the faculty at Tulane Law School, where she has supervised students in federal and state courts and agencies as part of the Tulane Environmental Law Clinic since 2006. Through the Clinic, she has accumulated extensive litigation experience under the Clean Water Act, the Administrative Procedure Act, and the National Environmental Policy Act while representing non-profit and public interest organizations, as well as indigent individuals. She has also successfully engaged in federal litigation under the Clean Air Act, the Resource Conservation and Recovery Act, and the Endangered Species Act. In state proceedings, Ms. Calderon's practice centers on the Louisiana Environmental Quality Act and its supporting regulations. Before public interest and environmental law, Ms. Calderon practiced commercial bankruptcy law—first in New York City and then in Detroit. She graduated magna cum laude from Tulane Law School, was Associate Editor of the Tulane Law Review, and holds a Master of Arts degree in Classical Languages.

Nominated to the ERB by Tulane University, Ms. Calderon's term will expire June 30, 2023.

**James A. Brown**. is a shareholder with the New Orleans law firm of Liskow & Lewis, P.L.C., and heads the firm's Commercial Litigation Section as well as its Professional Liability Practice Group. He also serves as the firm's General Counsel and formerly served on the Board of Directors. Mr. Brown is a Fellow of the American College of Trial Lawyers and other national professional and honorary organizations. He is the immediate past Chair of the American Bar Association Presidential Standing Committee on Lawyers' Professional Liability. Mr. Brown is an adjunct professor of trial advocacy and torts at the Louisiana State University Law Center and is a member of the New Orleans, Louisiana, and American Bar Associations. He serves as Vice Chair of the Advisory Council for the LSU Honors College. Mr. Brown received his B.A. degree, summa cum laude and valedictorian, from Louisiana State University in 1981. He received his J.D. from the LSU Law Center in 1984. He served as Editor-in-Chief of Volume 44 of the Louisiana Law Review and as law clerk to the Honorable Alvin B. Rubin, Circuit Judge, United States Fifth Circuit Court of Appeals, 1984-1985. He and his wife of 37 years, Kelly, have three sons, two daughters-in-law, and four grandchildren.

Nominated to the ERB by the University of New Orleans, Mr. Brown's term expired June 30, 2019, but he continues to serve until replaced.

**Dr. Michael A. Cowan**, is a psychologist and theologian. On the faculty of Loyola University since 1990, he also served as assistant to the president. He was co-founder of the Jeremiah Group, an interracial and interfaith community organization, and Shades of Praise, the New Orleans interracial gospel choir. After Hurricane Katrina, he served as chief of staff of the Government Efficiency and Effectiveness Committee of the bring New Orleans Back Commission, and subsequently founded Common Good, a network of civil society organizations to build multiracial consensus on the rebuilding of New Orleans. He served on the Human Relations Commission of the City of New Orleans from 2001-2008, and chaired the commission from 2002-2008. He is a visiting fellow of Harris Manchester College in Oxford University.

Dr. Cowan is a nominee of Loyola University; his term will expire June 30, 2022.

**Monique G. Doucette**, is a shareholder of the law firm of Ogletree, Deakins, Nash, Smoak & Stewart, P.C. in New Orleans. She practices primarily in the area of employment litigation and represents management in claims arising under various federal and state employment laws. Ms. Doucette has significant experience litigating employment matters in a variety of business sectors such as construction, energy, banking and hospitality. She also has expertise in workplace misconduct and sexual harassment issues. Ms. Doucette regularly conducts customized workplace respect and anti-harassment training for employers.

Ms. Doucette is a frequent speaker on various employment law topics and contributing author to publications such as the Louisiana Bar Journal, New Orleans CityBusiness and HR Magazine. She is also an avid supporter of the local arts and education in New Orleans by serving on the executive board of directors for the New Orleans Ballet Association and the Arts Council of New Orleans, as well as the board of directors for Urban League of Louisiana and the advisory board for the New Orleans Opera Association. She is a member of the A.P. Tureaud Chapter of the American Inns of Court and serves as a co-chair on the ABA Employment Rights and Responsibilities Committee's Diversity Initiative Task Force. In 2018, Ms. Doucette was appointed to the board of directors of the New Orleans chapter of the Society of Human Resources Management (SHRM) as the board attorney.

Ms. Doucette is a nominee of Xavier University and was appointed on August 8, 2019.

### **Mission Statement**

The Ethics Review Board seeks to uphold and enforce high ethical standards and promote the public's confidence in the government of the City of New Orleans.

### **History of the Ethics Review Board**

In 1996, citizens of New Orleans voted to amend the Home Rule Charter to mandate the City Council to establish, by ordinance, an Ethics Review Board. Under that ordinance, as amended, the ERB is empowered to issue advisory opinions, promulgate rules regarding interpretation and enforcement of the New Orleans Code of Ethics, retain counsel and impose fines. The ERB also appoints and oversees the New Orleans Inspector General and the New Orleans Independent Police Monitor. The initial selection of board members occurred in December 2006.

The Ethics Review Board has dedicated its energy to ensuring an effective government ethics program throughout the City of New Orleans, including ethics education, advice, and enforcement.

### **Functions and Authority**

The Ethics Review Board is authorized to enforce the provisions of the City of New Orleans Code of Ethics. The Code of Ethics was established to remind public officials and employees that they must adhere to high ethical standards. It applies to all officials and employees of city government, as well as all members and employees of boards, agencies, commissions, advisory committees, public trusts, and public benefit corporations of the city. The ERB is empowered to establish additional recommendations for the code of

ethics, issue advisory opinions, promulgate rules regarding the interpretation and enforcement of the city's code of ethics, refer cases for investigation on referral or complaint, retain counsel, and impose fines.

## Complaints

Any person may file a complaint concerning violations of the City's Code of Ethics with the Ethics Review Board. Any public employee who reports information which the employee reasonably believes is a violation of any ordinance, statute, policy, order, rule, regulation or other ethical mandate is protected by the New Orleans Municipal Code Division 3. Code of Ethics, Subdivision 3. Generally, Section 2-772 (a) Freedom from reprisal and disclosure of improper acts, which states such employees "shall be free from discipline or reprisal for reporting such acts of alleged impropriety. An employee with authority to hire and fire, supervisor, agency head, or elected official may not subject to reprisal any public employee because of such employee's efforts to disclose such acts of alleged impropriety."

The Board may consider any matter that it has reason to believe may be a violation of any law within its jurisdiction, including but not limited to, a notice or report sent to the Board by the Inspector General. The Board may close the file, refer the matter for investigation, or take such other action as it deems appropriate.

During 2019, the Ethics Review Board received 2 complaints.

	2016	2017	2018	2019
Received	1	5	1	2
Closed <sup>1</sup>	1 (partially closed)	3	1	1
Deferred	0	1	0	0
Referral <sup>2</sup>	0	1	0	1

The ERB received 0 formal requests for advisory opinions during 2019.

<sup>1</sup> Closed: Ethics Review Board did not have jurisdiction, or the ERB determined that even if true, it did not violate the City Code of Ethics.

<sup>2</sup> Complaints outside of the ERB's jurisdiction are referred to the appropriate entity for review. Complaints may be referred to multiple agencies.

	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Received	0	0	0	0
Closed				
Referral				

## **Future Work**

The Ethics Review Board continues to view education and training as integral parts to an effective government ethics program. We have increased the number of City employees that participated in ERB Ethics Education Training in 2019. We hope to accomplish the goal of all City employees undergoing Ethics Education Training in the coming years.

The Ethics Review Board will also continue to identify and explore avenues for the promotion of a healthy ethical culture throughout city government, including advancing awareness of the Board's functions as well as the ethics code.

## **Item 2**

## MEMORANDUM

To:           Ethics Review Board  
              City of New Orleans

From:       Dane S. Ciolino *(Signature)*  
              Executive Administrator and General Counsel

Date:       February 23, 2020

Re:          *Enforcement Authority: Available Penalties*

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In evaluating the need for amendments to the board's ethics enforcement authority and procedures, the board should consider the existing framework for ethics enforcement at the city and state levels. I summarize below that framework.

### I. BACKGROUND: THE HOME RULE CHARTER

Under Section 9-402 of the City of New Orleans Home Rule Charter:

The Council shall by ordinance establish an Ethics Review Board and shall authorize it to enforce the provisions of the Code of Ethics.

The City Council shall authorize the Ethics Review Board to establish additional recommendations for the Code of Ethics, to issue advisory opinions, to promulgate rules regarding the interpretation and enforcement of the Code of Ethics, to refer cases for investigation on referral or complaint, to retain counsel, and to impose fines.

In addition, the Charter requires the City Council to "by ordinance establish ethical rules governing the conduct of City employees, elected officials, contractors, and other persons who are the recipients of public funds, who are engaged in the performance of a governmental function, or who are in a position to influence the conduct of City employees or officials." *Id.* Further, the Charter states that the "Code of Ethics shall incorporate by reference and adopt the provisions of the Louisiana Code of Governmental Ethics and shall provide for such other, more

stringent provisions<sup>1</sup> as the Council may deem appropriate.” Finally, the Charter prohibits “the Ethics Review Board from hearing any alleged violation that constitutes a violation of the State Code of Governmental Ethics if the Ethics Review Board ascertains that the entity designated by the State to enforce said State Code has considered or is considering the alleged violation.”

## II. PENALTIES AVAILABLE UNDER THE CITY OF NEW ORLEANS ETHICS CODE

The City of New Orleans Code of Ordinances provides for both civil and criminal penalties for a violation of the Code of Ethics. Both of these provisions were adopted in 1956.

### A. *Section 2-716 on Civil Penalties*

The city ethics code provides for the following civil penalties:

- (a) Classified employees shall be subject to disciplinary action by their appointing authority for violation of this division.
- (b) Unclassified employees and appointed officials shall be subject to suspension or dismissal in accordance with section 3-125 of the Charter for violation of this division.
- (c) Members of boards, commissions, and agencies shall be removed and/or shall forfeit their appointment in accordance with section 9-104 of the Charter for violation of this division.

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<sup>1</sup> The Code of Ordinances notes that the city code of ethics “is intended to supplement the provisions of the state code of governmental ethics. In some matters, the city ethics code is intended to be more restrictive than the state code of governmental ethics. If any provisions of the state code of governmental ethics are more restrictive than any provisions contained in the code of ethics for the city, the provisions of the state code of governmental ethics prevail.” See City of N.O. Code of Ordinances § 2-744. The city code prohibits public officials and employees from making decisions based on “partisanship” and prohibits discrimination based on various protected categories. See *id.* § 2-770. It also prohibits “discipline or reprisal” for reporting improper conduct. See *id.* § 2-772. Finally, it requires compliance with the state public records law. See *id.* § 2-773.

(d) Elected officials shall be subject to censure by city council resolution for violation of this division.

B. *Section 2-717 on Criminal Penalties*

This section provides for criminal penalties as follows: “Any person who violates the provisions of this division shall be punished by a fine not exceeding \$500.00 or by imprisonment for not more than six months or both such fine and imprisonment.”

III. PENALTIES AVAILABLE UNDER THE STATE OF LOUISIANA CODE OF GOVERNMENTAL ETHICS

The state Ethics Adjudicatory Board has the authority to “remove, suspend, or order a reduction in pay, or demotion of the public employee or other person, or impose a fine of not more than ten thousand dollars, or both.” *See La. Rev. Stat. § 42:1153(B).* In addition, if a person has violated the code “to his economic advantage,” the board “may order the payment of penalties.” These penalties can include an “amount equal to such economic advantage,” and in addition, an amount “not to exceed one half of the amount of the economic advantage.” *Id. § 42:1155(A).* Finally, the state board can “order the forfeiture of any gifts or payments” made in violation of the ethics code. *Id. § 42:1155(B).*