



CITY OF NEW ORLEANS ETHICS REVIEW BOARD

525 St. Charles Avenue New Orleans, LA 70130-3409

erb@nolaerb.gov

<https://www.nolaerb.gov/>

BOARD MEETING

Monday, February 8, 2021

3:30 P.M.

The board will conduct this meeting via Zoom Video Conference and Telephone Conference

Video Conference Link: <https://loyno.zoom.us/j/5049753263>

Telephone Conference Dial-In Number: 312-626-6799; ID No. 504 975 3263

Certification of Necessity: The board hereby certifies that it is unable to satisfy live-meeting quorum requirements due to the COVID-19 declaration of emergency. See [State of Louisiana, Executive Department Proclamation No. JBE 2020-30 § 4](#) (Mar. 16, 2020) (permitting video conference meetings due to gubernatorial declaration of state of emergency); [State of Louisiana, Executive Department Proclamation No. 111 JBE 2020 § 1](#) (August 26, 2020) (providing that “statewide public health emergency is declared to continue to exist”).

AGENDA

1. Ratification of certification of necessity for videoconference/teleconference meeting.
2. Approval of minutes of previous board meeting.
3. Discussion of monthly report from the Office of Inspector General.
4. Discussion of monthly report from the Office of Independent Police Monitor.
5. Report of Executive Administrator and General Counsel.
 - a. Report on status of RFP for executive search firm for new Inspector General
 - b. Report on status of creation of ethics trainer classified position.
 - c. Other.
6. Discussion of annual 360-degree evaluations of OIG and OIPM.
7. Discussion of BGR report on ERB.
8. Discussion and vote on request for budgetary information to be included on monthly reports of OIG and OIPM, and inter-agency funds transfers.
9. Discussion of ERB Annual Award program.
10. Executive Session. Discussion of investigative proceedings regarding allegations of

misconduct pursuant to La. Rev. Stat. § 42:17(A)(4).

11. Adjournment.

**Draft Minutes of
Previous Board
Meeting**



Ethics Review Board for the City of New Orleans

Board Meeting of December 18, 2020 at 3:30 P.M.

Conducted via Zoom Teleconference Due to COVID-19 Emergency

Minutes

1. *Call to Order.*
 - 1.1. Board members present:
 - 1.1.1. Wanda A. Brooks.
 - 1.1.2. Elizabeth Livingston de Calderon.
 - 1.1.3. Michael A. Cowan (Chair).
 - 1.1.4. Holly Callia.
 - 1.1.5. Monique G. Doucette.
 - 1.1.6. Tyrone G. Jefferson, Jr.
 - 1.1.7. Torin T. Sanders.
 - 1.2. Board members absent: None.
 - 1.3. Staff member present: Dane S. Ciolino, Executive Administrator and General Counsel.
 - 1.4. A 3:36 p.m., the Chair declared that a quorum of the board was present and commenced the meeting via Zoom videoconference and teleconference.
 - 1.5. The agenda for the meeting is attached.
2. *Ratification of Prior Written Certification of Emergency Need for Video Conference Meeting.* Pursuant to [State of Louisiana Executive Department Proclamation No. JBE 2020-30 Section 4 \(March 16, 2020\)](#) and subsequent orders and legislation addressing the

COVID-19 state of emergency, the ERB unanimously agreed to conduct this meeting by video conference and audio conference after certifying that the ERB would not otherwise have been able to operate due to quorum requirements due to the ongoing COVID-19 emergency.

3. *Approval of the Minutes.* The Board unanimously approved the minutes of the November 16, 2020, board meeting.
4. *Vote on Dates of Board Meetings in 2021*
 - 4.1. The Board unanimously voted to hold 2021 board meetings on the second Monday of each month. All meetings will be conducted via Zoom until further notice.
 - 4.2. The approved Board meeting dates for 2021 are as follows:
 - 4.2.1. Monday, February 8, 2021 at 3:30 p.m. (Zoom Video Conference).
 - 4.2.2. Monday, March 8, 2021 at 3:30 p.m. (Zoom Video Conference).
 - 4.2.3. Monday, April 12, 2021 at 3:30 p.m. (Zoom Video Conference).
 - 4.2.4. Monday, May 10, 2021 at 3:30 p.m. (Zoom Video Conference).
 - 4.2.5. Monday, June 14, 2021 at 3:30 p.m. (Zoom Video Conference).
 - 4.2.6. Monday, July 12, 2021 at 3:30 p.m. (Zoom Video Conference).
 - 4.2.7. Monday, August 9, 2021 at 3:30 p.m. (Zoom Video Conference).
 - 4.2.8. Monday, September 13, 2021 at 3:30 p.m. (Zoom Video Conference).
 - 4.2.9. Monday, October 11, 2021 at 3:30 p.m. (Zoom Video Conference).
 - 4.2.10. Monday, November 8, 2021 at 3:30 p.m. (Zoom Video Conference).
 - 4.2.11. Monday, December 13, 2021 at 3:30 p.m. (Zoom Video Conference).
5. *Report of the Office of Inspector General.*
 - 5.1. The Office of the Inspector General was represented by Interim IG Ed Michel. Other OIG staff members were also in attendance, including Erica Smith.
 - 5.2. Mr. Michel discussed his current organizational status and personnel vacancies.
 - 5.3. Mr. Michel discussed that his budget is down by more than 12% because of a decrease in city tax revenue.

- 5.4. Ms. Smith discussed 2020 OIG expenditures, including operating and personnel expenses. She reported that the OIG will return approximately \$1.1 million to the city.
 - 5.4.1. Ms. Calderon asked what the budget would have looked like had all positions been filled.
 - 5.4.2. Mr. Michel replied that it would be an increase in expenditure of approximately \$300,000.
 - 5.5. Mr. Michel reported that COVID furloughs have hampered the work of his office. This is particularly difficult because the existing headcount is already down.
 - 5.6. Mr. Michel used the attached slides to report on his work and review of operations since November 1, 2020.
 - 5.7. Mr. Michel reported on OIG investigations, particularly the office's work that contributed to the conviction of Irvin Mayfield.
 - 5.8. Mr. Sanders asked about the status of the OIG litigation over jurisdiction to investigate the Orleans Parish Criminal Sheriff's Office. Ms. Smith reported that the challenge is based on the multiple sources of funds for that office—it receives state funds in addition to city funds. She reported that the issue is pending before the Fourth Circuit Court of Appeal.
 - 5.9. Mr. Sanders asked about an OIG absence or succession plan. Mr. Michel reported that his office is working on both in order to assure continuity of operations. This was a problem when former IG Harper refused to designate someone to act in his absence. Mr. Cowan noted the importance of having a continuity plan that is consistent with but that goes beyond the current ability of the ERB to discharge and appoint an interim IG.
6. *Report of the Office of the Independent Police Monitor.*
- 6.1. IPM Susan Hutson appeared for the OIPM.
 - 6.2. Ms. Hutson discussed her monthly report (attached).
 - 6.3. Ms. Hutson noted that complaints are up. It was a "busy November."
 - 6.4. Ms. Hutson noted at the next meeting she would like additional time to discuss NOPD consent decree issues and to educate the board about her office's current and future roles in overseeing NOPD operations.
 - 6.5. Ms. Hutson noted that she would further discuss the "tear gas" incident involving NOPD at the next ERB meeting.

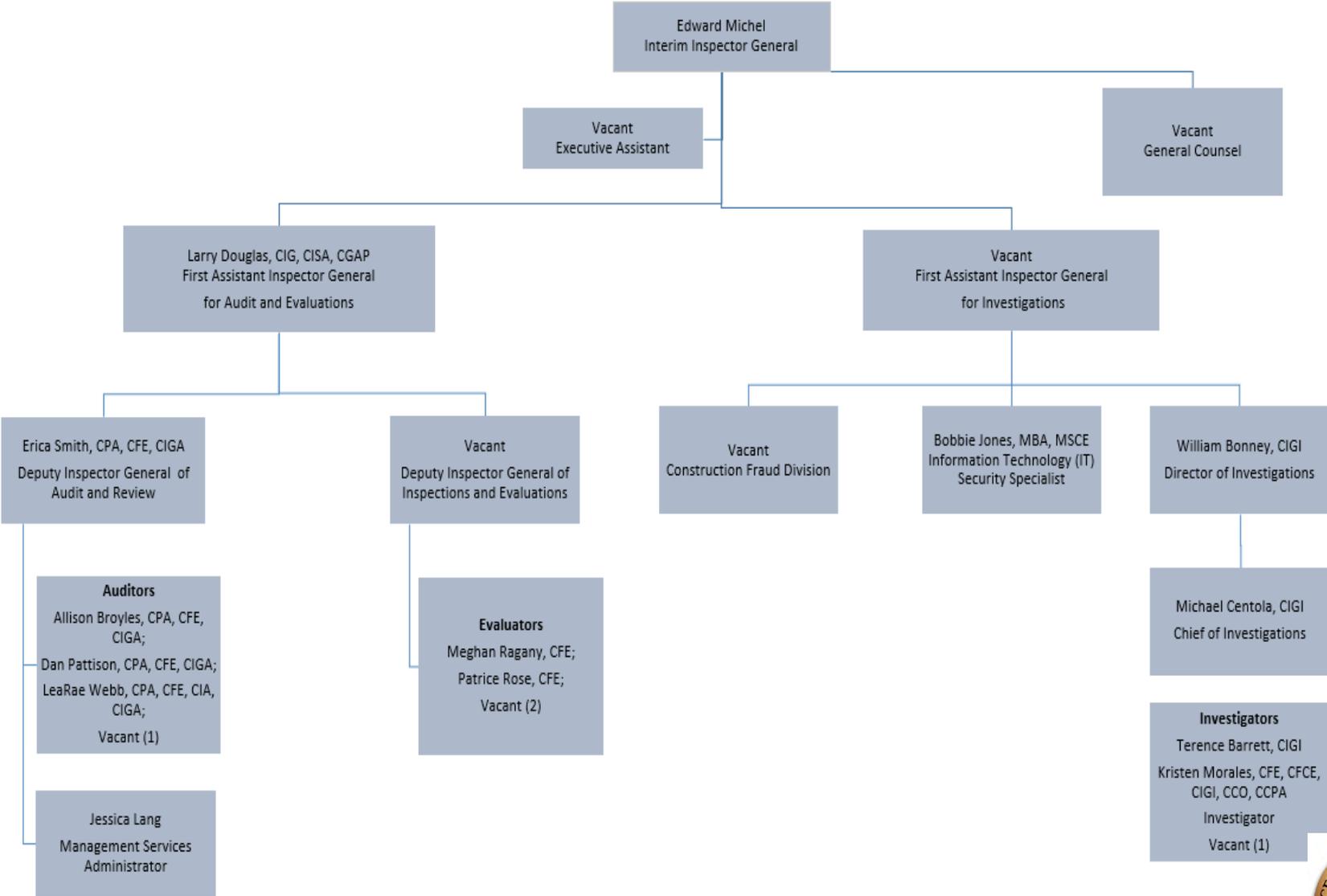
- 6.6. Ms. Calderon asked whether the OIPM had adequate funds for the year. Ms. Hutson responded that she would have liked to have received excess funds from the OIG surplus. Mr. Cowan suggested that the agencies should share more information on budgets to consider such requests earlier in the budget year.
7. *Vote on Ethics Training Employee or Contractor*
 - 7.1. Mr. Ciolino discussed the pros and cons of facilitating ethics training using a contractor vs. using an employee. The board discussed the relative strengths and weakness of each approach.
 - 7.2. The board unanimously approved a seconded-motion that the board create and fill a classified ethics trainer position. This will be a full-time position and will report to Mr. Ciolino.
 - 7.3. Mr. Ciolino stated that he would start working with Civil Service and the CAO's office to have the position created.
8. *Report of Executive Administrator and General Counsel.*
 - 8.1. Mr. Ciolino reported that no new complaints had been received.
 - 8.2. Mr. Ciolino discussed the Board's upcoming deadlines and events.
 - 8.3. Mr. Ciolino reminded the board that, by year end, each present and former board member who served during 2020 must complete one hour of mandatory ethics training, complete two hours of sexual harassment training, and file a Tier 2.1 financial disclosure form.
 - 8.4. Mr. Ciolino gave the board an overview of the IG hiring process.
 - 8.5. Mr. Ciolino reported on his meetings with Mr. Cowan and members of the City Council and the Mayor.
9. *Executive Session*
 - 9.1. The board went into executive session after a seconded-motion to do so and a unanimous vote.
 - 9.2. After meeting in executive session, the board voted to dismiss complaint 2020-04 without prejudice to give the complainant the opportunity to submit specific violations of the City of New Orleans Code of Governmental Ethics if the complainant chooses to do so.
10. *Adjournment.*
 - 10.1. A motion was made to adjourn the board meeting. The motion was seconded.
 - 10.2. The Board unanimously voted to adjourn.

10.3. The meeting was adjourned at 5:07 p.m.

* END *



OIG Organizational Chart



OIG 2021 vs 2020 Funding

- City of New Orleans Home Rule Charter
 - Establishes 0.0055% of the General Fund
 - 2021 City of New Orleans General Fund = \$633,550,813
 - 2021 Office of Inspector General = \$3,484,529
 - 2020 City of New Orleans General Fund = \$725,879,869
 - 2020 Office of Inspector General = \$3,992,339
 - Decrease of \$507,810 or 12.72 percent



2020 OIG Expenditures as of 12/22/2020

PAID Operating Expenditures	Amount
Auto Expenses	\$6,000
Drug Tests – New Hires	\$105
IT – Audit Software	\$4,400
IT - Communications	\$58,844
IT – Data Security	\$30,871
IT - Equipment	\$1,900
IT – Forensic Related	\$12,900
IT – Research Software	\$20,208
IT – Investigative Software	\$8,381
IT – Software	\$4,910
IT - Staffing	\$8,000
Legal Services	\$5,292
Miscellaneous	\$8,939
Office Supplies	\$645
Rent	\$256,790
Recruiting Services	\$14,000
Travel-Related	\$512
Total Paid Operating Expenditures	\$442,697

ENCUMBERED Operating Expenditures	Amount
IT – Audit Software	\$995
IT - Communications	\$2,881
IT - Data Security	\$34,275
IT - Equipment	\$39,519
IT – Forensic Related	\$5,000
IT - Infrastructure	\$14,307
IT - Investigative Software	\$3,133
IT – Research Software	\$9,161
Rent	\$157,488
Total Encumbered Operating Expenditures	\$266,759



2020 OIG Fund Balance as of 12/22/2020

Funding:	\$3,992,339
Expenditures:	
Personnel Expenditures	(\$2,166,298)
Total Paid Operating Expenditures	(\$442,697)
Total Encumbered Operating Expenditures	(\$266,759)
Fund Balance	\$1,116,585



2021 OIG Expenditures

Funding:	\$3,484,529
Expenditures: (If posted in 2020)	Amount
Personnel	\$2,506,214
Operating	\$507,287
Total Expenditures	\$3,013,501
Fund Balance	\$471,028

Funding	\$3,484,529
Expenditures: (If posted in 2021)	Amount
Personnel	\$2,506,214
Operating	\$757,971
Total Expenditures	\$3,264,185
Fund Balance	\$220,344

OIG will provide the ERB with the 2021 Operating Budget in January



Personnel Budget

- Includes existing and unfilled positions
 - Inspector General (April 1) at \$200,564 + benefits
 - AIG Legal Counsel (May 15) at \$150,000 + benefits
 - Mgmt Dev. Specialist (February 1) at \$60,000 + benefits
 - Investigator IV (July 1) at \$79,000 + benefits
 - Auditor IV (July 1) at \$79,000 + benefits
 - Evaluator IV (July 1) at \$79,000 + benefits
- Furloughs for OIG employees in 2021
 - Staffing is down approximately 50% from 2015-2016
 - Every pay period equivalent to one full-time position
 - 2021 risk assessment and sensitive ongoing criminal investigations require full staffing
 - OIG operationally independent and operates within budget
 - Fund Balance \$220,344 - \$471,028



Changes since November 1, 2020

- Optimized external stakeholder relationships
- Established OIG budget
- Paid OIG bills timely to ensure critical services are not disrupted
- Hired an attorney to provide legal services with respect and professionalism
- Ensured IT manager had proper access to conduct IT protocols
- Established monthly/weekly meetings to ensure transparency / deliver leadership guidance and direction
- Initiated hiring to fill critical vacancies
- Initiated improvements to hardware/software to safeguard bulk data
- Presented 2021 Budget to New Orleans City Council
- Reengaged use of social media to facilitate OIG objectives



January through February 2021

- Establish and Post 2021 Budget
- Complete Significant Investigations in First Quarter 2021
- Release 2021 Risk Assessment
- Initiate Hiring for Critical Vacancies (Management Dev. Specialist, Investigator, Auditor, Evaluator)
- Establish an Acting IG Program
- Create and Administer an Oath of Office with Credentials commensurate with employee positions



OIG Administrative Changes

- Former ERB Executive Director reassigned to initial classified position (Management Development Analyst II)
- Duties are commensurate with position
- Hiring a Management Development Specialist II
 - Human Resources
 - Budget
 - Expenditures
 - Supervise Management Development Analyst II
 - February start date



OIG Audit/Evaluation Engagements

- Litigation with Orleans Parish Communication District (OPCD) – challenging jurisdiction
- BRASS Purchasing Audit
- DPW/S&WB Coordination Efforts Audit
- S&WB Internal Audit Follow-up Audit
- Job Ordering Contracts Evaluation
- Firefighters Pension Fund Evaluation
- Public Record Requests

- More projects to be added once we increase staffing



OIG Investigations

- On November 10, 2020, Irvin Mayfield and Ronald Markham pled guilty to defrauding the NOPLF out of \$1,316,232. Press release from the US Attorney's office recognized the OIG's efforts
- Residential properties received homestead exemption/senior freeze reduction on deceased owners
- Assessor's Office retroactively raised the property tax assessments on three properties from 2018 – 2020.
- Report of Interview to CAO re: Four City employee domicile violations
- Significant indictments in Q1 2021



Contact Information

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**Monthly Report of
OIG**

Report to the Ethics Review Board
December 2020

Audit & Review

The Audit & Review division has the following audits underway: BRASS Purchasing, Orleans Parish Communications District, and the Department of Public Works and Sewerage & Water Board coordination.

Please see the attached project status spreadsheet for details.

Inspections & Evaluations

The I&E group also has the following two evaluations underway in the fieldwork phase: Firefighter's Pension Fund and the Job Ordering Contracts.

Please see the attached project status spreadsheet for details.

Investigations

The Investigations Division received seven (7) complaints in December 2020. Six (6) concerned matters outside of the OIG's purview.

OIG Investigations Division activities and cases:

- Criminal Investigations:

Three former Sewerage and Water Board Employees are awaiting trial for theft of brass and three arrest warrants remain outstanding.

- Administrative Investigations:

Subsequent to the issuance of an OIG Report of Investigation, four (4) City employees were suspended for not maintaining an actual domicile within the Parish of Orleans in violation of the City Domicile Ordinance and the Chief Administrative Office Policy Memorandum No. 19(R), Domicile Requirements for City Employees, dated April 15, 2013.

On December 11, 2020, the CAO office issued a letter to the OIG stating that the following actions were taken:

The Chief Administrative Office recommended that each of the four (4) EMD employees received disciplinary action of a three (3) suspension day without pay that began Wednesday, December 2 through Friday, December 4, 2020 for the violation.

Each employee was also required to submit to the Chief Administrative Office a Domicile Exemption Request to obtain approval from the CAO for a waiver of the City's domicile requirement due to a specified hardship. Any employee who is not granted a waiver will be notified of a specified deadline by which they must comply with the City's Domicile requirement, by establishing a primary domicile within Orleans Parish, as defined by the policy.

The employees have been advised that any further violation of the policy, including but not limited to providing any false information on their waiver application, will result in dismissal from City government employment.

- OIG Information Security Division activities for December 2020:

Recurring Monthly tasks

Daily backup monitored. All backups are working effectively.
E-mail is working as expected.

Software updates

Microsoft 365 License received. User account license updated.

Technical Support provided, hardware related

Newline digital display installed in the conference room. (training to be scheduled for January)

Technical Support provided, non-hardware related

37 service desk tickets resolved.

Facilitated user credentials for OIG staff regarding BRASS resources for purchasing processing.

Facilitated user credentials for ERB staff to access BRASS resources for purchasing processing.

Assisted staff with Public Records Request and document access.

TimeForce edit for Audit department.
dotgov.gov registration renewed.

Communications

Created support requests via the COX communications to change Admin access.
Updated the website to better direct customers on how to submit complaints to the hotline.

Purchasing

Assisted Audit with purchase renewals for support and licensing expirations.

Training

Worked individually with each OIG user to ensure a successful connection to BRASS to complete purchase requests.

Worked with ERB staff to ensure a successful connection to BRASS to complete purchase requests.

Status Report for OIG Projects - Audit and Evaluations Division

Report Date: Thursday, December 31, 2020

Project Number	Project Name	Project Phase *						
		Audit/Review	Planning	Fieldwork	Draft Report	Supervisory Review	Legal Review	IG Review
AD-19-0002	DPW/SWB Coordination			X				
AD-20-0001	BRASS Purchasing			X				
AD-20-0002	Orleans Parish Comm District (OPCD)+	X						

+ The Current OPCD audit confirming jurisdictional authority was heard and adjudicated by the Civil District Court on September 29th. However, we have learned the ruling, with an anticipated filing by end-November.

Project Number	Project Name	Project Phase *						
		Inspections/Evaluations	Planning	Fieldwork	Draft Report	Supervisory Review	Legal Review	IG Review
IE-19-0001	Firefighter's Pension Governance			X				
IE-20-0001	Job Ordering Contracts			X				

Legend	Description
Planning	Background Research, Data Gathering , Initial Interviews, and/or Controls Assessment
Fieldwork	Data and Statistical Analyses, Interviews, Testing of Procedures, Onsite Observations and/or Physical Inspections
Draft Report	Data/Statistical Reviews, Documentaries of Fieldwork Results, Initial Report Writing, Revisions and Internal QAR prior to supervisory review
Supervisory Review	Review by both Division Director and First Assistant Inspector General to ensure sufficiency and appropriateness of evidence, fieldwork presentation and readability
Legal Review	Report Review by In-house General Counsel and/or Contracted Counsel Services for appropriate and proper legal citations and/or interpretation
IG Review	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 criteria. 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 reviews, and the 30-day timeline of the proposed final report to the client and the subsequent receipt of management responses.

Expected Release Timeline for Report**		
30-45 Days	60 Days	90 Days

and the OPCD is expected to appeal

Expected Release Timeline for Report**		
30-45 Days	60 Days	90 Days

<p> <small>N</small> ocedures, proper conclusions, content, tations </p>

hours and/or phase deadline.

legal and

**Monthly Report of
OIPM**

THE OFFICE OF THE INDEPENDENT POLICE MONITOR



MONTHLY REPORT

DECEMBER 2020

SUSAN HUTSON
INDEPENDENT POLICE MONITOR

Community Letter

Dear New Orleans Community,

The end of a year brings about moments of quiet reflection and this year is no different. While 2020 has been full of challenges and obstacles, it has been a year of growth and perseverance as well. The OIPM is taking this time to evaluate the progress we made in 2020 and identify areas where we can better serve our public.

During the month of December, the Office of the Independent Police Monitor focused much of its energy in monitoring and evaluating the largest administrative use of force investigation to take place in recent history – the June 3rd Crescent City Connection Protest Tear Gas Incident. The OIPM was integral in identifying administrative, communication, policy and training gaps in the NOPD. We worked with NOPD leadership and Force Investigation Team to address many of these concerns during the course of the investigation. Additionally, the OIPM facilitated meetings between the NOPD and community groups in which NOPD presented its investigation prior to the Use of Force Review Board Hearing. OIPM communicated with NOPD leadership and comprehensively reviewed and monitored the Use of Force Review Board meeting, and will subsequently monitor and review disciplinary proceedings, changes to policy, practice, and training, to ensure there is appropriate discipline and accountability from this event and a system is built to ensure leadership and the NOPD are better equipped to handle events like this in the future. The OIPM anticipates releasing its final report in the coming months.

The OIPM received six (6) complaints of alleged misconduct from the community this month. These accounts ranged from interactions the public had with the NOPD during calls of service to inappropriate behavior of NOPD supervisors. While hearing any complaint is always concerning, the OIPM is comforted that our connection to the community, including NOPD officers, has remained intact if not improved.

The OIPM has continued our work with community-based coalitions and networks about policing strategies being enforced during the COVID-19 pandemic. One of the major concerns of these groups is officers effecting arrests instead of issuing summons. In December, the City Council adopted a new ordinance prioritizing the community over arrests. This ordinance requires NOPD officers to issue a summons in lieu of making an arrest for misdemeanor and some non-violent crimes. This is major step forward in criminal justice reform and keeping NOPD a leader in progressive policing.

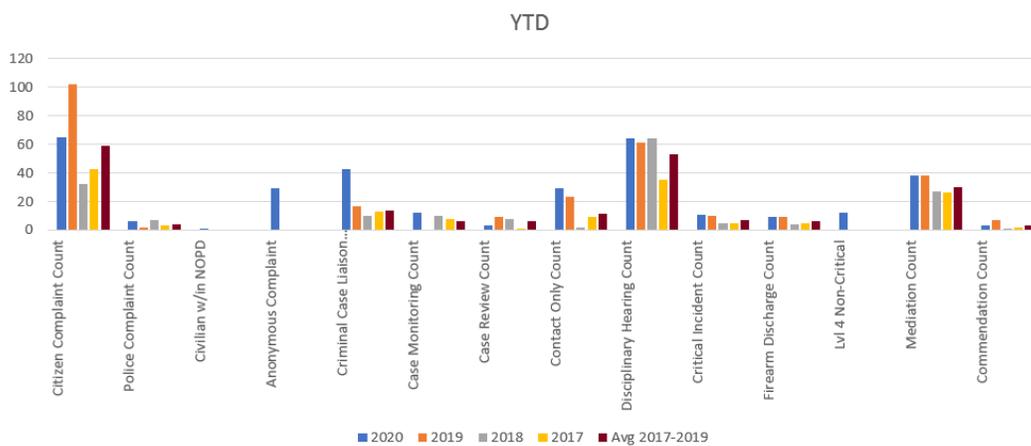
The OIPM would like to acknowledge the herculean efforts of community groups, such as Eye on Surveillance, and City Council in reducing the possible harms of policing by banning facial recognition, predictive policing and other surveillance technology. In 2019, the OIPM met with many of these community groups and helped facilitate discussions with NOPD, the Real Time Crime Center and other city agencies. The OIPM is looking forward to seeing the community having more input on public safety and policing in the future.

In 2020, our strength came from amplifying the voices of our community. As we move forward, we remain committed to creating spaces for our community members to be heard in meaningful ways that are not limited by truncated public comments and one-sided presentations. This year has taught us the only way to move forward is together. Appropriate accountability cannot happen without the voice of our community and we will ensure that the community is informed of and engaged in our next steps.

Sincerely,
Susan Hutson

Year to Date Overview

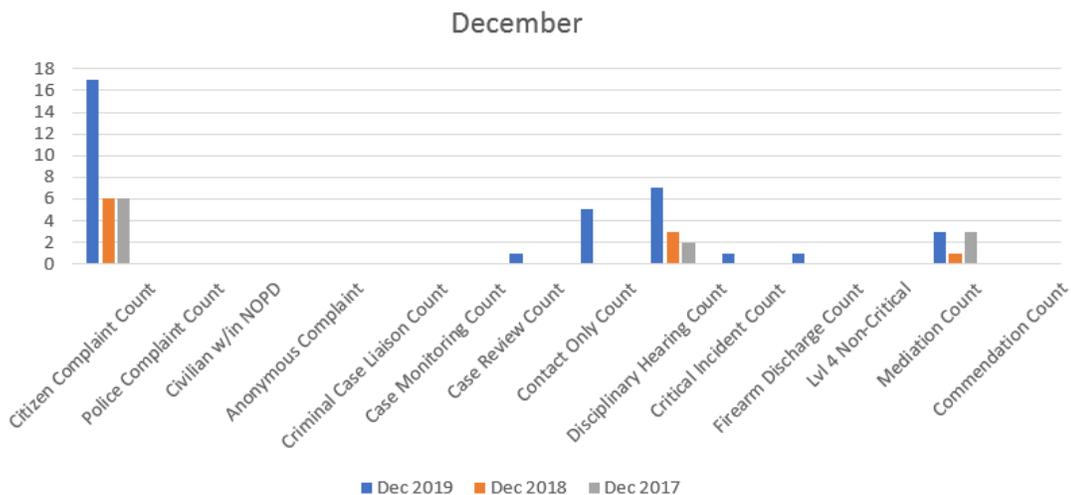
	2020	2019	2018	2017	Avg 2017-2019
Citizen Complaint Count	65	102	32	43	59.00
Police Complaint Count	6	2	7	3	4.00
Civilian w/in NOPD*	1	0	0	0	0
Anonymous Complaint*	29	0	0	0	0
Criminal Case Liaison Count	43	17	10	13	13.33
Case Monitoring Count	12	0	10	8	6.00
Case Review Count	3	9	8	1	6.00
Contact Only Count	29	23	2	9	11.33
Disciplinary Hearing Count	64	61	64	35	53.33
Critical Incident Count	11	10	5	5	6.67
Firearm Discharge Count	9	9	4	5	6.00
Lvl 4 Non-Critical*	12	0			
Mediation Count	38	38	27	26	30.33
Commendation Count	3	7	1	2	3.33
Grand Total	325	278	170	150	199.33



*indicates a new category

December Overview

	Dec 2020	Dec 2019	Dec 2018	Dec 2017	Avg 2017-2019
Citizen Complaint Count	4	17	6	6	9.67
Police Complaint Count	1	0	0	0	0.00
Civilian w/in NOPD	0				-
Anonymous Complaint	1				-
Criminal Case Liaison Count	3	0	0	0	-
Case Monitoring Count	0	0	0	0	0.00
Case Review Count	0	1	0	0	0.33
Contact Only Count	0	5	0	0	1.67
Disciplinary Hearing Count	0	7	3	2	4.00
Critical Incident Count	0	1	0	0	0.33
Firearm Discharge Count	0	1	0	0	0.33
Lvl 4 Non-Critical	2				-
Mediation Count	1	3	1	3	2.33
Commendation Count	0	0	0	0	0.00
Grand Total	12	35	10	11	14.33



*indicates a new category

December Overview

Citizen Complaints	
CC2020-0100	The complainant stated that an NOPD officer was driving at an excessive speed during a non-emergency and disregarding a stop sign while talking on a cellphone. In addition, the complainant stated that the same officer was seen again talking on a cellphone while driving a police vehicle.
CC2020-0101	According to the complainant, an officer failed to take necessary and appropriate police action during a call to service involving the complainant and his neighbor.
CC2020-0102	The complainant alleges he has been harassed and falsely arrested in the past and recently for charges based on false statements.
CC2021-0001	The complainant alleges officers were discourteous during an investigation. Additionally, the complainant alleges an officer did not return her identification card.
Citizen Complaints Count: 4	

Anonymous Complaint	
AC2020-0103	The complainant stated that an officer was discourteous and cursed at her during Celebration in the Oaks in City Park.
Anonymous Complaint Count: 1	

Criminal Liaison	
CL2020-0041	A community member contacted the OIPM concerning NOPD not responding to calls for service at their business. The OIPM connected the community member with NOPD leadership and ensured police reports were taken.
CL2020-0042	A survivor of a hit and run accident contacted the OIPM for assistance in finding out the status of the investigation.
CL2020-0043	A member of the public contacted OIPM for assistance in correcting a traffic accident report.
Criminal Liaison Count: 3	

December Overview

Police Complaint	
PO2020-0099	The complainant, a NOPD officer, alleges being subjected to inappropriate behavior by a supervisor. Additionally, the complainant alleges being retaliated against and harassed.
Police Complaint Count: 1	

Level 4 Non-Critical Use of Force	
UF2020-0012	Officers responded to a call for service regarding simple battery. When officers arrived on scene, the alleged suspect walked away from the officers. The officers ordered him to return. The alleged suspect did not comply and the first officer deployed his taser multiple times, ineffectively. The second officer effectively deployed his taser multiple times and apprehended the alleged suspect without further injury or incident.
UF2020-0013	The officer was transporting a drunk driver to University Hospital after an auto accident. When the officer attempted to remove the subject from the back of the police vehicle the subject spat blood and saliva in the officers face. The officer put his hand up to stop the subject from spitting again and struck the subject in the face. The officer bent his face forward to remove the bodily fluids from his face and held the subject by the neck and jaw. No injuries were sustained as a result of the force.
Level 4 Non-Critical Use of Force: 2	

Mediation	
Mediation cases are confidential.	
Mediations Held: 1	

Complaints and Discipline

The 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.

- 4** CITIZEN COMPLAINTS
- 0** DISCIPLINARY PROCEEDINGS
- 1** POLICE INITIATED COMPLAINTS
- 1** ANONYMOUS 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.

4

**MEDIATIONS
REFERRED**

1

**MEDIATIONS
HELD**

1

**MEDIATIONS
PENDING**

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



“ 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

Use of Force

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.

0

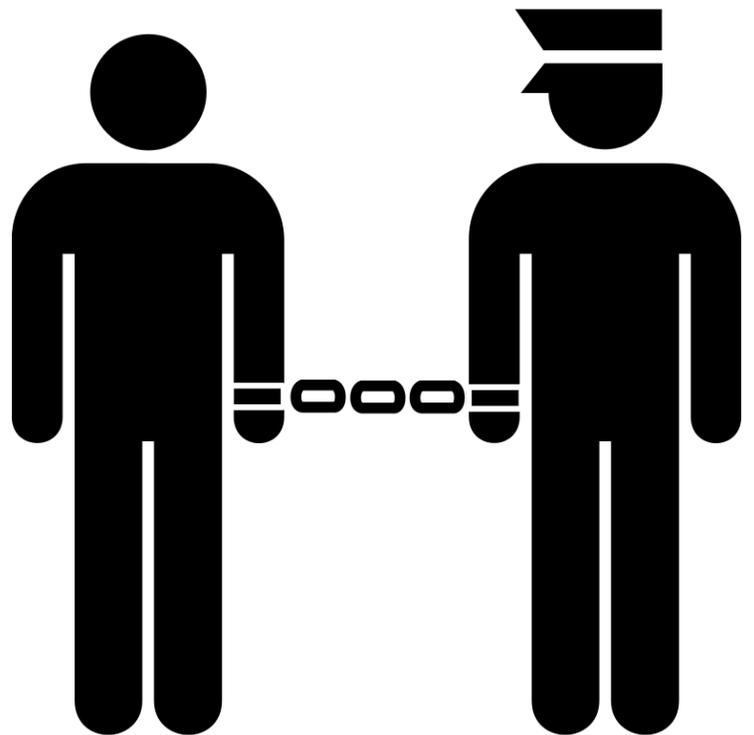
CRITICAL
INCIDENTS

0

FIREARM
DISCHARGES

2

LEVEL 4
NON-CRITICAL



OIPM End of Year Budget

Category	Total Obligations	Full Adopted NOLA Budget	Variance
600-A-Salaries and Wages	\$ 724,273.43	\$ 848,601.00	\$124,327.57
600-B-Operating	\$ 329,524.72	\$ 329,525.06	\$ 0.34

Item 1

Revitalizing New Orleans' Office of Inspector General Depends on Quality of New Leader, Improved Oversight

December 21, 2020



Recent news reports have exposed several problems in the administration of New Orleans' Office of Inspector General (OIG), including high staff turnover, internal disputes and the inspector general's significant absences.¹ Facing concerns about the office's productivity and his own potential dismissal, the inspector general resigned in October before completing his first term.² Now, the New Orleans Ethics Review Board (the Board) must find and appoint the office's next leader.

The appointment will be a crucial one. The next inspector general must have the leadership ability to address personnel problems, turn around the office's performance and revitalize its mission. The purpose of the OIG is to detect and prevent fraud, waste and abuse, as well as promote efficiency and effectiveness, in City of New Orleans government (City).³

The Board, which consists of seven New Orleans residents, appoints the inspector general to a four-year term.⁴ The Board can reappoint the inspector general to unlimited additional terms and, if necessary, remove the inspector general for cause.⁵ The Board helps to protect the OIG's independence from City government, while also providing public accountability for the office and its leadership.

The recent problems facing the OIG, combined with the inspector general's resignation, have raised questions about the Board's effectiveness in those key roles. They also demonstrate a need for the Board to strengthen its upcoming selection process for, and future oversight of the new inspector general. The Board has acknowledged it must improve in these areas and, to its credit, has already taken or proposed steps to address these deficiencies.

In this release, BGR discusses both the Board's selection process and its oversight role. It examines recent measures either proposed or implemented by the Board to im-

prove the existing selection process and strengthen Board oversight of the next inspector general. Finally, the release makes recommendations for further improvement.

THE SELECTION PROCESS

The Board must initiate the selection process for a new inspector general within 60 days of a vacancy.⁶ The Board already has met this requirement as it began discussing the selection process at its October and November meetings.⁷

The City's charter and ordinances establish the process to select the inspector general. In reviewing those laws and the previous inspector general search process, BGR identified three objectives important to the upcoming search:

- Developing a broad pool of candidates
- Conducting an efficient and effective nationwide search
- Ensuring a transparent selection process with public participation

Developing a Broad Pool of Candidates

Individuals applying for the inspector general position must meet the following minimum requirements:

- Hold a bachelor's degree from an accredited institution.
- Demonstrate knowledge or skills in conducting audits, investigations, inspections and performance reviews.
- Have at least five years of experience as an inspector general or a supervisor within an inspector general's office, a federal law enforcement officer, a federal or state judge, a licensed

attorney experienced in audit or investigation of fraud, waste and other abuses, a senior-level auditor or comptroller, or other professional with investigative experience.

- Obtain an inspector general professional certification within one year of appointment.⁸

Additionally, City law requires a waiting period for certain candidates. Former or current elected officials and employees of City government as well as governmental entities that receive City funds are not eligible for the inspector general position unless at least four years have passed since their time of service.⁹ The four-year waiting period also applies to former or current elected officials and employees of the State of Louisiana (State) and its political subdivisions, such as other parish or municipal governments.¹⁰ The restriction, however, does not apply to current employees of the New Orleans OIG who have served in the office for at least two years.¹¹

The rationale behind the waiting period is to maintain the office’s independence and prevent conflicts of interest. The eligibility restrictions discourage potential applicants with City or State government connections who might politicize the work of the office or improperly use information obtained for the OIG’s work (e.g., identifying a whistleblower whose complaints resulted in an investigation).

However, the Board contends that the eligibility restrictions limit the pool of potential candidates and prevent capable individuals from applying for the job. In 2017, for instance, the Board could not consider a candidate from another Louisiana inspector’s general office because of the four-year waiting period.

The Board has asked the City Council to consider amending these restrictions.¹² The Board proposes making employees of other inspector general offices in Louisiana immediately eligible as long as they have served in their respective offices for at least two years. The proposed change mirrors the eligibility exception currently given to employees of the New Orleans OIG and should enable more qualified candidates to apply for the position.

The Board also proposes reducing the four-year waiting period to two years for all former or current elected officials or employees of the City, government entities that receive City funds, and the State and its political subdivisions. A two-year waiting period may be sufficient for officials or employees of the State or its political subdivisions because their work or service likely does not directly involve City government or City funds. However, a two-year waiting period for employees and officials of the City and City-funded governmental entities would increase the risk of conflicts of interest that could harm the

CURRENT AND PROPOSED WAITING PERIODS FOR INSPECTOR GENERAL CANDIDATES

	New Orleans Office of Inspector General employees with at least 2 years of service		Former or current elected officials or employees of the City of New Orleans, including governmental entities that receive City funds	
	Current	No waiting period	4 years	
	Proposed	No waiting period	2 years	
	Employees of other Louisiana offices of inspector general with at least 2 years of service		Former or current elected officials or employees of the State of Louisiana or its political subdivisions, such as parish or city governments and school districts	
	Current	4 years	4 years	
	Proposed	No waiting period	2 years	

Sources: City of New Orleans, Code of Ordinances Sec. 2-1120(3)(d) and City of New Orleans Ethics Review Board, Letter to the New Orleans City Council regarding Ethics Review Board Ordinance Request, received by the City Council on November 19, 2020.

OIG's independence. The public must have confidence that the next inspector general will audit, investigate and evaluate City government without bias and not use the office or its work for political purposes.¹³

Conducting an Efficient and Effective Search

City ordinance requires the Board to conduct a nationwide search to find the next inspector general.¹⁴ The Board plans to hire a professional firm to assist with the search. A search firm can bring expertise and experience to the hiring process, as well as generate interest in the position by using its professional networks and connections.

A search firm also can perform much of the time-intensive legwork to attract and vet potential candidates. Typically, a search firm will develop a profile for the position. This would include the qualifications and requirements for the inspector general, issues facing the OIG, and a description of the Board's ideal candidate. The firm would then create a job listing, advertise for the position, identify and evaluate applicants, and provide the Board with a shortlist of recommended candidates.

To find a qualified search firm, the Board is preparing a request for proposals (RFP). The RFP will provide the details about the search and the Board's expectations of the search firm. The Board will ask prospective firms to provide a timeline for the search, a history of hiring successes and an explanation of their candidate evaluation processes. It also will require the firm to advertise for the position in a manner that will produce a diverse pool of candidates. The Board has allocated up to \$50,000 for search firm expenses based on preliminary information it gathered on current prices for executive searches.¹⁵

Selecting a firm through a competitive process will help support the overall quality and transparency of the search. By contrast, the Board did not pursue a request for proposals for the 2017 search. In an effort to expedite the search, the Board asked a single firm to submit a proposal for slightly less than \$15,000, the City's threshold for requiring a competitive process.¹⁶ The City awarded the contract without advertising for the work or requesting proposals from other firms.¹⁷

Once the Board hires a search firm, it must maintain engagement with the firm throughout the search process

“**A well-structured evaluation and ranking process would help ensure full Board engagement in decisions on semi-finalists, finalists and ultimately the selected candidate.**”

and hold the firm accountable for performance and deliverables. The Board has proposed requiring the search firm to provide regular updates on its progress during open meetings. This would ensure ongoing communication between the Board and the search firm, as well as improve transparency and public awareness.

In addition, the Board is considering whether to create a committee to work directly with the firm. The creation of a formal committee would yield several benefits. It would allow a few board members to work efficiently and consistently with the search firm to develop the shortlist of candidates for consideration by the full Board. The committee members could bring a mix of perspectives and insights to the discussions with the search firm. And, under Louisiana law, a committee of a public body must conduct its business during open meetings.¹⁸ This would give the public more access to the search process and elevate the work and decisions of the committee.

During its last search, two Board members worked with the search firm on behalf of the full Board. However, because the Board did not formally create a committee, it did not require the two members to conduct or discuss their work in open meetings.

Finally, though the Board must carefully evaluate each candidate on the shortlist, it has not defined a process for doing so. The Board should create an evaluation process to assess qualifications, record and weigh opinions, and rank candidates. Under City law, inspector general candidates must meet the minimum education and professional requirements, as well as demonstrate integrity, potential for strong leadership, and ability to work with law enforcement agencies and the judiciary.¹⁹ Given the recent problems within the inspector general's office, the Board may wish to conduct an extensive background review of candidates and add criteria that gauge candidates' management skills.²⁰ A well-

structured evaluation and ranking process would help ensure full Board engagement in decisions on semi-finalists, finalists and ultimately the selected candidate.

Ensuring a Transparent Search Process with Public Participation

For its upcoming search, the Board has not yet determined how the public will participate in the selection process, including which documents will be shared with the public (e.g., candidate resumes and shortlists), what mechanism the public will use to communicate with the Board throughout the process, and how the public will provide input and ask questions during meetings. A clear Board policy on these matters is necessary to support meaningful public engagement.

The Board also should interview and evaluate candidates during open meetings, unless there is a valid reason to move into a closed executive session. While the Board, at its discretion, can enter into executive session to privately discuss candidates' character, professional competence and other matters specifically allowed by State law, it should do so only when necessary and not as a matter of course.²¹ Some observers say candidate interviews and evaluations in open meetings might discourage qualified individuals concerned about jeopardizing their current employment. However, conducting this work in executive session would remove transparency and public participation from the process.

In addition, the Board's current practice of holding virtual meetings, instead of in-person meetings at City Hall, has made it easier for members of the public to attend. The Board should consider offering this option throughout the selection process.

While the Board released the resumes of all candidates who made the shortlist for the 2017 search, it interviewed the semi-finalists in a closed executive session. The opportunity for public participation occurred at the end of the process during the Board's meeting to vote

on the two finalists. The Board held a public meeting during which each finalist gave a presentation and answered questions from the Board. It also gave the public an opportunity to comment on or question the finalists before it voted.

By committing to an open process that limits executive session discussion only to necessary matters consistent with State law, the Board can assure the public it will act in a transparent and accountable manner.

OVERSIGHT OF THE INSPECTOR GENERAL

The OIG is an independent office established in the City charter, separate from the Board. While the Board appoints and sets the salary of the inspector general, this person is not an employee of the Board.²² City law directs the OIG to follow professional standards and "work cooperatively with the ethics review board in carrying out its functions and duties."²³

In addition, while the Board can remove the inspector general for cause, it faces a high bar. The Board must hold a public hearing, obtain an affirmative vote of at least five of its seven members, and then publicly report the reasons for removal to the City Council. According to the charter, causes for removing the inspector general may include an abuse of power, a felony conviction, discrimination, ethical misconduct in office, unprofessional conduct or "other acts tarnishing the integrity of the office of inspector general."²⁴ Weak performance or ineffectiveness could keep an inspector general from being reappointed, but they are not causes for removal during the four-year term. The serious bases for removal from office protect the inspector general's independence in a line of work that is often politically unpopular.

Within this context, City law still provides the Board with specific avenues of performance oversight. The inspector general must present the OIG's findings for each investigation, audit or evaluation to the Board,

“OIG employees brought complaints about the inspector general informally to individual Ethics Review Board members. In light of this, the Board has acknowledged the need for a policy or law that enables OIG staff to report concerns regarding the inspector general confidentially to the Board.”

CURRENT GAP IN OVERSIGHT OF NEW ORLEANS' INSPECTOR GENERAL



as well as the office's activities from the past year and its work plan for the upcoming year.²⁵ In practice, the Board receives updates during its monthly meetings from the inspector general.

In addition, the Board receives periodic, external performance evaluations of the OIG's work. An annual citizen-led evaluation reviews the office's work and processes from the prior year, but does not evaluate specific findings or recommendations.²⁶ In 2019, the citizen committee raised serious concerns about the OIG's lack of productivity.²⁷ In response, the inspector general pointed to problems he inherited as the reason for low productivity.²⁸ While most Board members shared the committee's concerns, they expected the OIG's productivity to improve in the coming year.²⁹ In 2020, the citizen committee noted an increase in the OIG's productivity; however, it raised concerns that the savings uncovered by the office were not commensurate with its annual budget.³⁰

The OIG also undergoes a peer review every three years.³¹ The review, conducted by national peers of the inspector general, primarily focuses on whether the OIG's audits, investigations and inspections follow pro-

fessional standards. This follows a national best practice for reviews by a nonpartisan and objective group every three to five years.³² The most recent peer review, conducted in 2018, found the OIG met all current and relevant standards for the previous three years.³³

However, periodic reporting to the Board and external evaluations did not bring to light the internal problems that led to the departure of the inspector general. OIG employees brought those complaints informally to individual Board members. In light of this, the Board has acknowledged the need for a policy or law that enables OIG staff to report concerns regarding the inspector general confidentially to the Board.³⁴ It should define and limit the types of concerns to behavior by the inspector general that might qualify as cause for removal, and exclude complaints that should be addressed by OIG management or human resources staff. The Board also should establish a clear process to receive, investigate and resolve complaints in a manner that protects employee confidentiality.³⁵ This process would allow the Board to field and address specific complaints about a future inspector general that might be grounds for removal, without infringing on the OIG's independence.

CONCLUSION AND RECOMMENDATIONS

Finding the right leader to turn around New Orleans' OIG depends on the quality of the Board's selection process. The Board is considering some steps to improve the process, including the competitive selection of a search firm and the creation of a committee to interact with the firm. However, the Board's proposed change to shorten the waiting period for employees and elected officials of the City and City-funded governmental entities from four years to two years would erode the OIG's separation from City government and protection against conflicts of interest. The Board and City Council should not pursue it. The Board must also determine how it will evaluate and rank the candidates who emerge on the shortlist and include the public in the selection process.

In addition, the current problems facing the OIG demonstrate a need to strengthen the Board's ability to hold the office and its leadership accountable for performance. The Board should maintain existing oversight mechanisms, including regular updates from the inspector general and the external reviews. It also should follow through on its plan to create a confidential way for OIG staff to report serious concerns or complaints about the inspector general to the Board.

A well-structured, transparent selection process and stronger oversight of the next inspector general will help the Board revitalize the OIG so it can achieve the impacts its mission envisions for citizens and taxpayers. With these goals in mind, BGR makes the following recommendations.

Recommendations

To broaden the pool of eligible applicants for inspector general while protecting the office's independence, the City Council should:

- Retain the eligibility restriction that prohibits former or current City employees or elected officials, or those of government entities that receive City funding, from applying for the inspector general position unless at least four years have passed since their time of service.

- Approve the proposed two-year waiting period for former or current employees or officials of the State and its political subdivisions, as well as the immediate eligibility of employees in other Louisiana inspector general offices who have served at least two years.

To improve the inspector general selection process, the Board should:

- Clearly set forth the scope of work and deliverables in its contract with the search firm. Publish the contract on the Board's website, along with the RFP documents.
- Appoint a Board committee to work directly with the search firm in open meetings to increase transparency, oversight and involvement in developing the shortlist of inspector general candidates for Board consideration.
- Develop a process to require Board members to rank candidates on the shortlist based on qualifications, experience, skill set and other relevant criteria.
- Conduct the Board's interviews and evaluations of semi-finalists and finalists and other business related to the selection process during public meetings and adopt a policy that provides for public participation throughout the process. The Board should limit its executive sessions to necessary private discussions of character and professional competence of individual candidates and other matters allowed by State law.

To improve its oversight of the inspector general, the Board should:

- Establish a mechanism to properly and confidentially handle complaints from OIG employees about behavior by the inspector general that might qualify as cause for removal.

ENDNOTES

- 1 Perlstein, Mike, “[Who’s Watching the Watchdog? | Staff mutiny, Absenteeism lead to departure of New Orleans Inspector General](#),” *WWL-TV*, October 29, 2020. Perlstein, Mike, “[Who’s Watching the Watchdog? | Corruption, payroll irregularities reported in N.O. Inspector General’s office](#),” *WWL-TV*, October 30, 2020. Perlstein, Mike, “[Documents obtained by WWL-TV reveal what pushed New Orleans Inspector General to leave](#),” *WWL-TV*, November 18, 2020.
- 2 The Board appointed the inspector general to a four-year term in December 2017.
- 3 City of New Orleans, Code of Ordinances, Sec. 2-1120(2).
- 4 Home Rule Charter of the City of New Orleans, Sec. 9-402(1) and City of New Orleans, Code of Ordinances, Sec. 2-719(2). The Board consists of seven New Orleans residents who must be registered voters in Orleans Parish. The mayor appoints six of the seven members from nominations submitted by presidents of local universities and colleges, but has discretion to select the remaining member. The City Council confirms all mayoral appointments. Board members should serve staggered seven-year terms and are not subject to term limits. However, delays in replacing members with expired terms have resulted in four new members joining the Board this year. See also *Ibid.* Sec. 2-1120(3)(c).
- 5 *Ibid.* Secs. 2-1120(3)(c) and 2-1120(4).
- 6 *Ibid.* Sec. 2-1120(3)(a). The inspector general resigned on October 31, 2020.
- 7 City of New Orleans Ethics Review Board, meeting agendas for October 26 and November 16, 2020.
- 8 City of New Orleans, Code of Ordinances, Sec. 2-1120(3)(b).
- 9 *Ibid.* Sec. 2-1120(3)(d)(1).
- 10 *Ibid.* Sec. 2-1120(3)(d)(2). Examples of political subdivisions of the State operating in New Orleans include the Orleans Parish School Board and the Port of New Orleans.
- 11 *Ibid.* Sec. 2-1120(3)(d)(1)(a).
- 12 City of New Orleans Ethics Review Board, Letter to the New Orleans City Council regarding Ethics Review Board Ordinance Request, received by the City Council on November 19, 2020.
- 13 For similar reasons, the national Association of Inspectors General recommends a five-year waiting period for inspectors general of federal agencies. Association of Inspectors General, *Model Legislation for the Establishment of Offices of Inspector General*, August 2, 2002.
- 14 City of New Orleans, Code of Ordinances, Sec. 2-1120(3)(b).
- 15 City of New Orleans Ethics Review Board, Meeting Agenda Packet, November 16, 2020.
- 16 The firm submitted a price of \$14,990. City of New Orleans Chief Administrative Office, *Policy Memorandum No. 122 (R), Appendix F: Written Justification for Contracts Under \$15,000*, October 28, 2014. See also City of New Orleans Ethics Review Board meeting minutes, June 14, 2017.
- 17 Professional Services Agreement between the City of New Orleans and Robert E. Slavin, Inc. d/b/a Slavin Management Consultants, August 2017.
- 18 Louisiana Legislative Auditor, *Open Meetings Law*, November 17, 2020, p. 5.
- 19 City of New Orleans, Code of Ordinances, Sec. 2-1120(3)(b)(1).
- 20 The background check may include, for example, whether the candidate has been a subject of an investigation, the results of peer reviews if the candidate is or has served as an inspector general, and disclosure of lawsuits filed against the candidate.
- 21 La. R.S. 42:17.
- 22 City of New Orleans, Code of Ordinances Sec. 2-1120(3)(a)(2).
- 23 *Ibid.* Secs. 2-1120(6)(c) and 2-1120(13).
- 24 *Ibid.* Sec. 2-1120(4).
- 25 *Ibid.* Secs. 2-1120(8), 2-1120(9) and 2-1120(17).
- 26 *Ibid.* Sec. 1120(16)(a). The committee consists of three Orleans Parish residents. The City Council, mayor and Ethics Review Board each appoint a member to the committee.
- 27 Quality Assurance Review Advisory Committee for the Office of Inspector General, *Written Report of Activities for 2018*.
- 28 Williams, Jessica, “[In fiery meeting, New Orleans inspector general defends job against claims he only published one report](#),” *NOLA.com | The Times-Picayune*, June 10, 2019.
- 29 Williams, Jessica, “[Ethics board backs Inspector General Derry Harper despite report that blasted his productivity](#),” *NOLA.com | The Times-Picayune*, June 24, 2019.
- 30 Quality Assurance Review Advisory Committee for the Office of Inspector General, *Written Report of Activities for 2019*.
- 31 City of New Orleans, Code of Ordinances, Sec. 2-1120(16)(b).
- 32 Association of Inspectors General, *Model Legislation for the Establishment of Offices of Inspector General*, August 2, 2002. Members of the Association of Inspectors General conduct the peer review for the New Orleans OIG.
- 33 Peer Review Committee, Association of Inspectors General, *Peer Review of the New Orleans Office of Inspector General, Audit Division, Investigations Division, and Inspections & Evaluations Division*, July 16, 2018.
- 34 Adelson, Jeff, “[After IG’s ouster, stronger whistleblower laws considered by New Orleans Ethics Review Board](#),” *NOLA.com | The Times-Picayune*, November 17, 2020.
- 35 The U.S. Department of Labor provides further detail on establishing an independent complaint review and reporting process in *Best Practices for Protecting Whistleblowers and Preventing and Addressing Retaliation*, April 21, 2015, pp. 6-7, available at https://www.whistleblowers.gov/sites/default/files/2016-11/WPAC_BPR_42115.pdf.

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