

Ethics Review Board

City of New Orleans

May 12, 2015

3:30 – 6:00 P.M.

East New Orleans Regional Library | 5641 Read Boulevard | New Orleans, Louisiana 70127

Minutes

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

Guests: Mr. Ed Quatrevaux, Inspector General
Ms. Susan Hutson, Independent Police Monitor

At 3:40 p.m., a quorum being present, the chair called the meeting to order. On a motion by Mr. Rodgers seconded by Dr. Ricks, the board unanimously approved the minutes of March 10, 2015.

Inspector General Quatrevaux described the findings and recommendations of the report on NOPD Funding just issued by the OIG. The report provided a complete picture of all NOPD Revenues and Costs for the first time. There were 2 findings and recommendations. The evaluation found that the City's budget book and ResultsNOLA reports did not provide the Council or the public with details about performance that could lead to informed decision-making about budgeting. The OIG recommended the City adopt a more complete police performance measurement model and evidence-based policy, which would provide decision-makers with the information needed to allocate appropriate resources to the NOPD. NOPD's data were unreliable and could not be used to evaluate NOPD performance. The report recommended that NOPD institute better controls on data collection.

Inspector General Quatrevaux told the board that the OIG underwent a second triennial Peer Review. The review confirmed once again the OIG's adherence to professional standards. The Peer Review Report is posted on the OIG's website. The IG also announced that Eduardo Hernandez, an Investigator for the OIG has been recognized by the Department of Justice for his exceptional efforts in the investigation and prosecution of former Mayor Ray Nagin. The trial team will receive the Director's Award for "Superior Performance by a Litigative Team" in Washington D.C. in June 2015.

Inspector General Quatrevaux told the board that he met with the new Orleans Parish School Board Superintendent, Dr. Henderson Lewis Jr. He advised that the 4th Circuit Court of Appeals decision meant the OPSB was outside the OIG's legal jurisdiction and that it would be unable to

conduct IG activities on its behalf. He noted that the OPSB could change that situation easily through legislative amendment if it so desired.

In response to a question posed by Dr. Cowan, the IG described other feedback received from the triennial Peer Review. The Peer Reviewers conducted an Exit Briefing and stated that they tested adherence with the standards and the work complies with all of the standards. Peer Reviewers gave oral observations, ideas and thoughts for the IG to consider. There were 4 Peer Reviewers assembled by the Association who conducted the review during March 9-13, 2015. The Peer Reviewers interviewed all Assistant IG's and all employees in the Audit Division, the Investigations Division and the Inspections & Evaluations Division. The Peer Reviewers also conducted interviews with the Acting Assistant Special Agent in Charge of the Federal Bureau of Investigation, New Orleans Field Office; The First Assistant District Attorney of the Orleans Parish District Attorney's Office; The President of the Metropolitan Crime Commission, Inc.; The Police Superintendent of the New Orleans Police Department; A Member of the Quality Assurance Review Advisory Committee; and The Chair of the Ethics Review Board. Review team expenses for travel, lodging and per diem were paid by the OIG.

In response to a question the IG explained that the report on NOPD Funding is the second in the series that's been funded by a grant from Baptist Community Ministries (BCM). The objective is to document the total funding, revenues and expenses, of each element in the Justice System, which includes the jail, District Attorney, the courts, NOPD, the Youth Study Center, and the Orleans Parish Prison.

Independent Police Monitor Susan Hutson updated the board. OIPM's 2014 Annual Report, which is a one year snapshot of last year's work and NOPD's Accountability Systems, came out at the end of March. Year to date there have been 33 complaints, 14 contacts only, 6 liaisons with crime victims, 1 commendation, 8 monitored cases, 2 mediations and 4 critical incidents.

(OIPM) Executive Director of Community Relations Ursula Price updated the board on several categories of contacts with citizens last year in the form of complaints. OIPM is often contacted by crime victims; the complaint process takes several months and usually needs more immediate intervention. Ms. Price told the board that OIPM helps the crime victims in bridging communications with the detectives. Another category is Case Monitoring; when citizens have already filed a complaint with the Public Integrity Bureau and OIPM is asked to monitor the investigation. Ms. Price told the board that monitoring often entails observing witness interviews, discussing cases and evidence with investigators, and ultimately reviewing the final investigation. Contact Only is another category; often citizens contact OIPM and do not follow up with the complaint. Ms. Price also noted that a large amount of the Case Monitoring last year was requested by police officers who asked OIPM to monitor investigations regarding their complaints. Another category is Inquiries; when OIPM reaches out to the Public Integrity Bureau to confirm if a case seen on the news is being investigated.

In response to Dr. Ricks, Ms. Price told the board that OIPM often receives complaints from police officers filing a complaint against another police officer and OIPM is asked to monitor to prevent possible retaliation.

Ms. Price told the board that, anecdotally, that there is an uptick in NOPD Officer DWI Cases and an uptick in complaints about the off-duty conduct of NOPD Officers. Ms. Price noted that the Retaliation Policy has been a priority of OIPM. OIPM received 15 complaints of retaliation last year. OIPM is committed to investigating spouse/domestic partner abuse of power issues by NOPD officers. A support group has been formed for NOPD spouses. The assault on a police officer charge was noted as a common fear among NOPD spouses. Research on best practices is ongoing.

Dr. Cowan referred to page 5 of OIPM's 2014 Annual Report. It reads, "The OIPM is not statutorily permitted to conduct its own administrative investigations, except in regards to police details, but does oversee, analyze, and make recommendations regarding the administrative investigations and disciplinary actions of the NOPD." Dr. Cowan asked whether an investigation had to be done before it could be reviewed. Ms. Hutson replied that OIPM can intervene during any part of an investigation. A complaint is taken and OIPM monitors the investigation and upon completion the investigation is reviewed by OIPM.

A discussion ensued regarding the recent armed robbery and fatal shooting at a New Orleans East Dollar Store. The press reported that OIPM was on the scene the entire time and reviewed video footage from several cameras. Ms. Hutson told the board that she is working with NOPD to be as transparent as possible. The NOPD consent decree monitor was on the scene as well. Dr. Cowan questioned Ms. Price about her credentials to make comments to the media about ballistics issues. In response Ms. Price told the board that she is not trained to review ballistics tests. Ms. Hutson told the board that OIPM is trained on proper methods of reviewing police involved shootings. Dr. Cowan then asked Ms. Price about a comment attributed to her in the press in the case of a recently dismissed police officer that there was "definitely malfeasance" [by NOPD] here. She denied making the comment. Dr. Cowan noted that it was important for the board to know whether the NOPD investigation of that case was underway when OIPM staff reviewed videos and made public comments. Mr. Miller noted the difference between investigating and monitoring, suggesting that the former involved securing evidence and interviewing witnesses. He asked the IPM whether OIPM personnel did either of those during active NOPD investigations. The IPM told the board that OIPM does not collect evidence or interview witnesses; OIPM monitors.

Mr. Brown cautioned the IPM that speaking to the press during an investigation is risky. In response, Ms. Hutson noted that Ms. Price is her liaison to the press and told the board that OIPM has discussed what can and cannot be said to the press during an ongoing investigation. Dr. Cowan noted that he has a serious concern about whether the OIPM is respecting the boundary between investigation and monitoring specified in the ordinance establishing the office.

(OIPM) Deputy Police Monitor Simone Levine told the board that she monitors disciplinary hearings that occur within NOPD and also monitors critical incidents. There were 17 disciplinary hearings scheduled to be heard in 2014. In 2014, 11 of the disciplinary hearing investigations which were scheduled for hearing began as rank or department initiated complaints and 6 began as civilian initiated complaints. In 2014, 2 NOPD Officers were dismissed. One was dismissed for having committed fraud involving the working of paid details

and the second NOPD officer was dismissed for inappropriate of force incident against a civilian. Four NOPD employees resigned while under investigation. There were 17 critical incidents that occurred in 2014. Eleven of these critical incidents involved the firing of an officer's firearm.

In response to Mr. Brown, Ms. Levine told the board that she works extensively with the Public Integrity Bureau (PIB), which is called the "Force Investigative Team." Ms. Levine meets weekly with the Force Investigative Team to receive all completed reports and discuss cases in detail. OIPM monitors all interviews that occur with the witnesses that were interviewed and give feedback and recommendations of any additional questions if needed.

Dr. Cowan combined the agenda items on RFP's: Progress Report and the Selection Committee's Representation. A RFP for an Ethics Trainer and General Counsel has been released by the City of New Orleans. The ERB hopes to receive updated information on the RFP's in the next 30 days. The Selection Committee is composed of Mr. Celestine who manages the RFP's for the City of New Orleans, 1 member of ERB and an appointee of the Chief Administrative Office. Dr. Cowan indicated that he had asked Dr. Ricks to represent the ERB on the Ethics Trainer RFP and Mr. Miller to represent the ERB on the Counsel RFP, and they had agreed to do so.

A discussion took place prompted by Dr. David Marcello's e-mail to the chair about whether ERB members are subject to financial disclosure requirements. Mr. Brown explained that the ERB had received two opinions from the state ethics board indicating that its members were not subject to filing disclosure statements as long as contracts let in its name were below \$15,000 or received CAO approval. He suggested that, nonetheless, ERB members should consider filing the disclosure forms in a show of good faith. Mr. Miller and Dr. Ricks expressed reservations about doing that unless it becomes clear that members are required to do so. Mr. Miller insisted on the opportunity to review the form in question before deciding whether or not to sign it. Following an extensive discussion, the chair suggested that the answer may hinge on whether the CAO's signature on city contracts above \$15,000 constitutes the required approval and, if it does, does that mean that the ERB's financial independence is compromised, as Dr. Marcello suggested during the discussion? Being currently without counsel, the board agreed to let its counsel review this matter when hired and make a prompt recommendation to the board.

There are no active complaints.

At 5:14 p.m., Dr. Cowan moved that the meeting adjourn, a second was offered by Mr. Miller. The motion carried unanimously and the meeting adjourned.