

Ethics Review Board

City of New Orleans

September 21, 2015

5:00 P.M. – 8:00 P.M.

City Council Chambers | 1330 Perdido Street | New Orleans, Louisiana 70130

Minutes

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

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

At 5:00 p.m., a quorum being present, the Chair called the meeting to order. On a motion by Dr. Cowan seconded by Mr. Brown, the board unanimously approved the minutes of July 14, 2015.

Inspector General's Report

The Inspector General referenced the following reports and public letters issued by the OIG since the ERB's July meeting: Sewerage & Water Board of N.O. Payroll, Traffic Court Funding, City Evaluation of Professional Services Contractors, Allegation that Parking Control Officers Waste Extended Periods of Time in Coffee Shops and Hotel Lobbies While on Duty, Public Letter to NOPD Superintendent Michael Harrison, and the 2016-2019 Strategic Plan.

Assistant Inspector General for Investigations Howard Schwartz reported that the Investigations Division's statistical accomplishments for 2012-2014 included 66 criminal actions (29 Federal indictments/bills of information, 23 convictions, 7 sentences, and 7 local bills of information), 25 administrative actions/terminations/suspensions, and 171 cases opened (81 criminal and 90 administrative). The potential economic loss prevented as a result of the Division's activities is \$29,291,084.

Chief of Audit & Review Erica Smith reported that the Audit Division's activities have resulted in potential savings of \$19,390,754 from January 2013 to present. Most recently, the Audit & Review Division released the Sewerage & Water Board (S&WB) of New Orleans Payroll Performance Audit. The S&WB Payroll Audit included three major findings: \$3 million in overtime was paid in violation of Civil Service Rules, S&WB exceeded its overtime budget by \$4.8 million, and S&WB employees were paid \$1.5 million in stand-by pay that was in violation of the Louisiana Constitution.

In response to Vice Chair Miller, Ms. Smith told the board that S&WB is running an operation with significant challenges. S&WB is not aware of how many employees are needed, overtime is not being monitored, and 32 people were paid to be on call and were never called within the

course of a year. Ms. Smith told the board that S&WB does not have a mechanism to restrict the activities of their on-call employees.

In response to Mr. Brown, the IG told the board that there is no evidence that favoritism was shown to employees for overtime and standby pay. The IG stated that the OIG will continue to evaluate S&WB and he hopes to identify additional issues with staffing and deployment. Through these additional projects, the OIG will recommend how many employees are needed for each S&WB work function and how the workforce is deployed.

In response to Mr. Brown, Ms. Smith told the board that the Louisiana Attorney General opined that S&WB employees can be paid to be on call only if they are sufficiently restricted (e.g., cannot run personal errands while on call). Ms. Smith told the board that S&WB does not have the mechanism to restrict their employees. In response to Mr. Rodgers, Ms. Smith told the board that S&WB will likely spend an additional \$1.5 million in 2016 until there is an effective policy put in place.

Assistant Inspector General for Inspections & Evaluations Nadiene Van Dyke presented the board with information on the Traffic Court Funding report. The report found state law requiring the New Orleans City Council to fund Traffic Court while also granting the Court with the ability to raise its own funds undermines the Council's authority to provide oversight to ensure responsible use of public funds. The OIG recommended that the City and Court seek amendments to state statutes to allow Council oversight of the Court's budget. From 2008 to 2012, Traffic Court collected between \$9.1 million and \$12.9 million each year. During that period, the cost of running the Court was approximately \$6 million per year.

Dr. Cowan stated that he hopes the responsible public officials will welcome the OIG's assistance and recognize the OIG as an asset in running an honest, effective, and efficient organization.

Mr. Brown stated that he has seen a lot of sewerage and water breaks in his neighborhood and it has taken several days and weeks before it is repaired.

In response to Mr. Brown, the IG told the board that the OIG will evaluate how effective the "on call" system is at S&WB.

Independent Police Monitor's Report

Independent Police Monitor Susan Hutson reported OIPM's year to date activities: 59 complaints have been received, 19 contacts only, 3 inquiries, 5 police commendations, 15 criminal case liaisons, 11 critical incidents that include officer involved shootings, in custody deaths and hospitalizations as a result of force and 20 disciplinary hearings.

The IPM told the board that the OIPM was sad to lose Deputy Police Monitor Simone Levine. She left in August to take the Executive Director position at Court Watch NOLA. The IPM told the board that prior to leaving, Ms. Levine completed the reviews of all the disciplinary hearings

that the OIPM attended. The OIPM has a number of case hearings that will be submitted to the public in the upcoming months.

The IPM told the board that the OIPM mediation program is required by the ordinance and has been very successful. The IPM is currently working to upgrade the Mediation Coordinator position so that it will include the responsibility of complaint intakes.

The IPM reported that a report was issued in August on the investigation into the shooting death of Wendell Allen, which occurred in March 2012. This was the OIPM's first complete critical incident that involved an officer shooting.

The IPM told the board that NOPD by consent decree now has to conduct an Administrative Investigation following the Criminal Investigation into the case; this is called the Use of Force Review Board.

The IPM told the board what's most important about the report is the monitoring and recommendations from the beginning of the OIPM; they were able to make recommendations to NOPD to change the way they were conducting officer involved shooting investigations.

The IPM told the board that the OIPM was a part of the Urban League's Katrina 10 Celebration. The Urban League's Katrina 10 Memorial book mentions that the OIPM is a very important part of the reforms of the city since Hurricane Katrina.

The IPM told the board that the Mediation Coordinator has been invited to travel all over the country to present on the mediation program; the mediation program is an innovative program that was created by the members of the ERB, the City Council, the public, the Police Association, and community groups.

The IPM told the board that she and Ms. Price will be presenting at the National Association for Civilian Oversight of Law Enforcement (NACOLE) Conference in October. The IPM will present on de-escalation training in police departments so that issues are resolved without the use of force.

The IPM also told the board that the OIPM will be meeting with foreign visitors from the Philippines, the State of Kashmir, and the Ukraine. The IPM told the board that the OIPM is receiving international exposure in dealing with agencies around the world that are creating police oversight or just need information.

Executive Director of Community Relations Ursula Price told the board that meeting with the foreign visitors is done as a courtesy to their colleagues in the oversight community and the OIPM is also learning a great deal by spending an hour talking with the visitors.

In response to Mr. Brown, Ms. Price told the board that there have been 14 mediations since the start of the program in June 2014. In addition, there are also five more that will be completed soon. Ms. Price told the board that the OIPM has the capacity to do more and believes they have

worked out an agreement with the Public Integrity Bureau (PIB) to improve how complaints are transmitted.

Ms. Price told the board that 18 complaints were sent back to PIB for the following reasons: not appropriate for mediation, misclassification of an allegation, officer denied voluntary participation, civilian declined voluntary participation, a date and time could not be agreed upon within the policy's time limitations, there was inaccurate contact information for the civilian, or the civilian was a suspect to a crime.

Ms. Price updated the board on training that OIPM has done with NOPD Officers. Ms. Price told the board that OIPM is not specifically mandated to train NOPD; however, they are mandated to review training and identify training solutions to problems that they come across in their work.

Ms. Price told the board that the OIPM identified some issues with misconduct investigations and were asked to train the new Sergeant class of NOPD, specifically on identifying complaint allegations, credibility determinations, and active listening. Ms. Price also told the board that OIPM has been asked by NOPD to conduct the active listening trainings weekly. The OIPM does not have the capacity to provide the training free of charge; however, the curriculum is not easily transferred. Sister Alison McCrary is currently doing the training with NOPD.

Ms. Price told the board that OIPM has also conducted Legal Observers Training in an effort to increase their capacity. One of the functions in monitoring NOPD is to monitor large and public events. The National Lawyers Guild has volunteers who monitor public events for civil rights violations. OIPM has trained the volunteers to collect information that is needed for the work of OIPM.

Ms. Price reported that the OIPM attended the International Law Enforcement Auditors Association training in Memphis, in July of this year. Ms. Price told the board that she is working to receive an Auditors Law Enforcement Certification.

Ms. Price also reported that the OIPM received a \$10,000 grant from Baptist Community Ministries to purchase some technology that will be used to purchase a Learning Management System. The Learning Management System will be used to conduct trainings for the trainers and to make materials readily available.

Ms. Price told the board that there is a huge demand for the "Know Your Rights and Responsibilities" training. Currently, these trainings are conducted twice a month at the Orleans Parish Prison. Occasionally, the OIPM receives requests from Liberty's Kitchen and a few other entities.

In response to Dr. Cowan, Ms. Price told the board that based off of information the OIPM has, mediation programs start off much smaller than the OIPM. According to Sister McCrary, other entities attending the national conferences are very impressed with OIPM's 14 mediations done in their first year. Ms. Price told the board that mediation programs are very slow to build.

In response to Dr. Cowan, Ms. Price told the board that mediations are often sent back because the civilian and officer are sometimes not interested; other times when both are interested, the paperwork is not signed within the time limitation. Ms. Price told the board that it can sometimes be very difficult to reach the police officers; officers are mandated to check their emails daily but that does not always happen.

In response to Dr. Cowan, Ms. Price told the board that the OIPM was asked by the Second Line Community and the Mardi Gras Indian Community to monitor their events for any problems or constitutional violations.

Mr. Miller introduced Mr. Dane Ciolino, the selectee for the ERB General Counsel. Mr. Ciolino is a professor at Loyola University at New Orleans and has an accomplished resume in the areas of Legal and General Business Ethics.

Mr. Ciolino told the board, during his meeting with Dr. Cowan they discussed the priorities for the ERB going forward, which included: advising the board on issues relating to compliance with public meeting laws, issues relating to compliance with financial disclosure provisions, issues relating to the scope of the ERB's authority to conduct the judicative procedures & hearings and to provide general legal advice to the board.

Mr. Miller told the board that he has worked with Mr. Ciolino as an adjunct professor in trial academies and considers him to be a premier expert in ethics and legal ethics. Mr. Miller told the board that they couldn't have chosen a better selectee.

Mr. Brown told the board that he seconds Mr. Miler's comments and that he has also worked with Mr. Ciolino.

Dr. Cowan told the board when he and Mr. Ciolino met; he discussed the critiques of the ERB that Dr. David Marcello recently published. The ERB would like Mr. Ciolino to look carefully at every point raised and advise the board on what needs to be done.

Mr. James Brown told Mr. Ciolino that the ERB received 2 advisory opinions from the State Ethics Review Board and the ERB was advised that the board was not subject to the financial disclosure requirement.

Mr. Brown also advised Mr. Ciolino that Dr. Marcello has given criticisms on the way that the ERB describe matters that go before Executive Session. There are State Laws that limit the ERB's ability to describe ethics complaints that are referred to the board. The State Ethics Code prohibits any individualized description in reference to any particular ethics complaint. In addition, it would be considered a misdemeanor to individually identify or give any description about an ethics complaint before the State Ethics Review Board decides to make it public. Mr. Brown asks Mr. Ciolino to particularly look into the State Law to see if it has been misread by the ERB.

Dr. Cowan told the board that the ERB is close to resolution and are currently waiting on the signatures of the City of New Orleans' Supplier Diversity for the ERB General Counsel contract.

Mr. Brown moved a vote to retain Mr. Ciliano as the ERB General Counsel, a second was offered by Mr. Rodgers. All were in favor and the motion passed unanimously.

Dr. Cowan introduced Ms. Toni Hackett Antrum and the Hackett Group as the selectee for the ERB Ethics Education Consultant.

Ms. Hackett Antrum told the board that the Hackett Group is a consultant firm based in New Orleans. The Hackett Group believes that the enforcement and understanding of ethics rules and regulations by employees, contractors and board members are a part of good government.

Ms. Hackett Antrum told the board that the Hackett Group looks forward to providing not only a rule based approach but to spend time and really help the participants recognize situations where the ethics rules and regulations may apply. Ms. Hackett Antrum told the board that the Hackett Group would like to create an interactive, informative and lively training for the participants.

Senior Consultant John Washington told the board that the Hackett Group has already started the process by identifying the key persons within the 6 organizations that were discussed with the ERB.

Legal Counsel Rose Hager told the board that Aaron & Gianna, PLC will be reviewing the ethics laws and ethics rules. Also, they will advise the Hackett Group of any new information that has arisen so that it can be incorporated into the situational teaching experiences.

Mr. Brown told the board that he would like for the Hackett Group to build the training around real life situations that employees in City Departments are faced with. Mr. Brown also told the board that ethics education is not just simple rules; that ethics rules can be complicated and it's not always easy to see how the rules apply in real time.

In response to Mr. Brown, Ms. Hackett Antrum told the board that ethics education is a continuing education.

Mr. Brown told the board that the ethics education contract has a set of deliverables and a set of time frames. The ERB would like to see the deliverables so that the board can measure what has been accomplished.

In response to Mr. Brown, Ms. Hackett Antrum told the board that the Hackett Group is working hard to make sure that they have a great evaluation instrument that would be used after the training is provided. The instrument would be used to gather information, analyze information and create feedback for improving the training.

Dr. Cowan told the Hackett Group that the ERB is looking to collaborate with them in creation of this program; a partnership in that way would be very important to the success of the Ethics Education training.

Mr. Miller moved a vote to retain the Hackett Group as the ERB Ethics Education Consultants, pending approval from the City of New Orleans, a second was offered by Mr. Brown. All were in favor and the motion passed unanimously.

Dr. Cowan told the board that Rev. Frampton and Rev. Boutin will look at the ERB Self-Evaluation process. The board has developed a Board Member Self-Evaluation and would like to go beyond that by developing a Board Process Evaluation. The ERB will have an update on the Self-Evaluations at the next ERB meeting.

Agenda Item #7, proposed ERB 2016 budget was deferred.

There is no new business.

At 6:11 p.m., Dr. Cowan moved that the meeting adjourn, a second was offered by Mr. Rodgers. The motion carried unanimously and the meeting adjourned.