

Ethics Review Board

City of New Orleans

February 29, 2016

3:30 P.M. – 5:30 P.M.

City Council Chambers | 1330 Perdido Street | New Orleans, Louisiana 70112

Minutes

Present: Dr. Michael Cowan, Chair; Mr. Allen Miller, Vice Chair; Mr. James Brown;
Mr. Howard Rodgers; Dr. Joe Ricks; Rev. Brandon Boutin
Staff: Dane Ciolino, General Counsel
Guest: John Washington, The Hackett Group, ethics education trainers

At 3:32 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 January 25, 2016 with corrections.

Inspector General's Report

The Inspector General (IG) Ed Quatrevaux discussed a program evaluation report on Law Department Funding.

The IG told the board that the finding focused on a capacity to manage legal functions and evaluators found that attorneys did not track their time by case, which made it impossible to determine how the Law Department used public resources.

The IG told the board that the OIG employees track time on projects in increments of 15 minutes, 30 minutes and 1 hour. At the end of each year, the OIG can determine the employee that completed the project and the total time of each project.

The IG told the board that the Law Department did not have easy access to basic, reliable information about its cases and performance. During 2014, the Traffic Court started using a case management system and the Law Department prosecutors in Traffic Court began entering into the system the name of the attorney's associated with each case.

The IG told the board that the Municipal Court case management system remained inadequate because it did not record basic information such as the attorney assigned to a case.

The IG told the board that other findings included the Law Department allowing prosecuting attorneys to have outside legal employment which could lead to numerous conflicts of interest.

Also, some of the Law Department's performance measures did not meet standards because they did not provide the information needed to assess the workload or output.

In response to Dr. Ricks, the IG told the board that the Law Department accepted the recommendation to ensure that the case monitoring system contains accurate data.

In response to Mr. James Brown, the IG told the board that the Law Department uses a case numbering system.

Mr. Brown told the board that he recommends the Law Department use daily time sheets that will include case numbers.

In response to Dr. Cowan, the IG told the board that the risk involved with the City Attorneys having outside legal employment increases the potential for conflicts of interest. The IG also told the board that one of the elements for the consent decree expresses concerns regarding civil judgements against the New Orleans Police Department (NOPD).

The IG told the board the OIG has overcome its challenges with information security. In the past year, there were several attempts to breach the OIG's system, presumably to capture personnel data. This was traced to well-known IP addresses in China and Eastern Europe. The IG told the board that the OIG's website is now three websites that all end in ".gov". The ".org" emails will be auto forwarded to the .gov accounts. The OIG website is now secure.

In response to Dr. Cowan, the IG told the board that the OIG has measures to alert if documents are downloaded by employees who should not have access. The IG, also, told the board that the OIG has malware detection software that runs constantly to detect and alert if the system is in danger.

The IG told the board that the OIG's firewalls will stop a document from being loaded and automatically scans all documents in the system.

The IG also told the board during these intrusion attempts no data was lost and the system was not compromised.

Independent Police Monitor's Report

The Independent Police Monitor (IPM) Susan Hutson reported the Office of the Independent Police Monitor's (OIPM) year-to-do activities for 2016: 9 complaints, 4 case monitorings, 1 law suit monitoring (re: retaliation), 1 criminal liaison, 2 contacts only, 1 new case review, and 4 mediations completed with 4 being scheduled.

The IPM told the board that the OIPM's Mediation Coordinator is working with the Public Integrity Bureau (PIB) and the Compliance Bureau to make changes to the Mediation Program,

including expanding to racial profile cases. The Department of Justice expressed support for the expansion.

The IPM told the board that the OIPM is still building its office and are currently creating and opening positions. The IPM also told the board that OIPM lost Jordan Shannon mid-month and will soon open the Writer Position.

The IPM told the board that the OIPM met with visitors from the continent of Africa through the New Orleans Citizen Diplomacy Council from South Africa, Mauritania, Madagascar, and others to exchange ideas on dealing with police officers.

In response to Rev. Boutin, the IPM told the board that the OIG has been helping the OIPM with all the technology and the process should be completed soon. The IPM also told the board that the OIPM will have new email addresses and telephone numbers.

The IPM told the board that the OIPM will be making brochures and will send email blasts to the public that will include their new email addresses and phone numbers.

The IPM told the board that the OIPM will have small contracts with community groups all over the city to conduct their outreach.

In response to Rev. Boutin, the IPM told the board that there is no time limit on complaints and the OIPM will look at all complaints.

In response to Dr. Cowan, the IPM told the board that, “all over the city”, does mean all Councilmanic Districts.

In response to Mr. Rodgers, the IPM told the board that the OIPM is monitoring how the Force Investigations Team (FIT), a part of PIB is conducting its investigation into the Jefferson Parish Sherriff Office (JPSO) shooting case. The OIPM is concerned about the communications between the New Orleans Police Department (NOPD) and JPSO in a pursuit case like this.

The IPM told the board that the OIPM believes that there may be policy and planning issues. The OIPM would like to know, “How did JPSO notify NOPD in this specific case” and “How do the two notify each other while inside of each other’s parishes.” The OIPM has spoken to the families of both victims in the car. The Federal Bureau of Investigation (FBI) and the District Attorney’s Office (DA) are both involved in the criminal investigation.

In response to Dr. Cowan, the IPM told the board that the OIPM does not have investigatory authority over most misconduct complaints, but the OIPM does have some state law investigatory powers with respect to the Office of Police Secondary employment.

In response to Dr. Cowan, the IPM told the board that the OIPM looks at cases once completed but the OIPM has an MOU with the NOPD and primarily PIB to monitor cases.

In response to Dr. Cowan, the IPM told the board that the OIPM reviews cases. The OIPM does not call witnesses, does not interview, does not collect or test evidence or anything that investigators would do.

The IPM told the board that the OIPM monitors PIB and NOPD during investigations. The IPM has an MOU which governs the OIPM to conduct case reviews of completed investigations and the MOU also governs the OIPM to monitor the investigations as they are ongoing. This includes misconduct cases and officer involved shootings.

In response to Dr. Cowan, the IPM told the board that the OIPM gives recommendations as needed while cases are still being investigated.

General Counsel's Report

Mr. Dane Ciolino reported 3 matters to the board: The Ethics Review Board Rules, specifically Chapter 13 Section 13-03, calls for a 5 year periodic review of the ERB's substantive provisions, its codes of enforcement and its rules & procedures.

Mr. Ciolino told the board that this review process is now in process and he proposes to contact the City of New Orleans' Mayor's Office and City Council Offices by mail to advise them that the ERB's periodic review is currently in progress and invites any suggestions for proposed rule changes to be submitted by April 15, 2016.

Mr. Ciolino also told the board that he also invites interested citizens with any public comments for proposed rule changes to be submitted by April 15, 2016. All proposals and suggestions of rule changes will be published and placed on the agenda for a Public Hearing at the ERB's April 25, 2016 meeting which will also include public discussions.

Mr. Ciolino told the board that he also proposes that the ERB's June meeting should include a vote on all proposals of rule changes and procedures.

In response to Dr. Ricks, Mr. Ciolino told the board that notification of these proposals will reflect in the February 29, 2016 minutes, this information will be posted on the ERB's website once it is operational and letters will be mailed to the Mayor's Office and the City Council.

Mr. Ciolino told the board that he is working with the OIG to get the website accessible to him.

Mr. Ciolino told the board that the OIG's office separated the ERB's website functionality from the OIG's during the time of the attempted breach.

Mr. Ciolino told the board that the ERB's server operations are independent. He also told the board that the ERB's website will be an informational website that will include agendas, meeting minutes and proposed actions.

Mr. Ciolino told the board that he plans to have the ERB website implemented in one week.

Mr. Ciolino advised the board that he has 3 matters reserved for executive session.

In response to Dr. Cowan, Mr. Ciolino told the board that the periodic review will also include the City Code of Ethics adopted by the City Council and any charter changes.

Ethics Education Report

Hackett Group legal counsel Rose Hager with Aaron & Gianni PLC told the board that the Hackett Group encourages employees to continue to take the required one hour state ethics training in addition to receiving the customized ERB.

Ms. Hager told the board that the Hackett Group has received positive feedback from all employees that have attended the ethics education training.

Ms. Hager told the board that the last two ethics education training sessions were with the Sewerage and Water Board. The first session included employees that work off-site and the second session included the administrators.

Ms. Hager told the board that each session was two hours and very lively.

Ms. Hager told the board that the ethics education training with the Mayor's Office and the City Council are a work in progress.

Ms. Hager told the board that the Hackett Group updated their training packets to include information on "whistle blowers", "employment during and after retirement from the city" and "receiving gifts".

Ms. Hager told the board that the Hackett Group has given the ERB's contact information to employees that are interested in getting advice.

In response to Dr. Cowan, Ms. Hager told the board that during the ethics education training the trainers learned from the Sewerage and Water Board employees that they had already been practicing good ethical behavior prior to the ethics education training provided by the Hackett Group.

In response to Dr. Ricks, Ms. Hager told the board that the difference in feedback was that the administrators were more focused on the whistle blowing, whereas the off-site employees were more focused on employment during and after retirement with the city.

In response to Dr. Cowan, Ms. Hager told the board that each ethics education session includes concepts and scenarios tailored to specific issues that employees face internally in each department.

Dr. Cowan told Ms. Hager that the board expects the ethics trainers to have a good summary that includes questions, concerns and scenarios for each department that can be used in the future.

Dr. Cowan told the board that he would like the ERB Self Evaluations to be available to board members in an online form. He also told the board that the text has been finalized for the ERB Self Evaluations and welcomes any available feedback from members.

Dr. Cowan told the board that the ERB Self Evaluations will be available with an updated submission date as soon as the ERB's website is available.

Dr. Cowan told the board at the previous meeting the board discussed the cost of living raise for the IG. The Bureau of Labor Statistics using the urban consumer price index was 234% in December 2014 and 236% in December 2015.

Dr. Cowan told the board that he suggested to the IG to research the Miami Dade County because they function as a model office and was used when establishing the OIG. The Miami Dade's scope, mission and function are very similar to the OIG.

Dr. Cowan told the board that the Miami Dade's budget is \$5 million a year and the OIG's budget in 2015 was \$4.2 million; Miami Dade's has 30 employees and the OIG has 25 employees without including OIPM.

Dr. Cowan told the board that the founding Miami Dade IG's compensation was above \$250,000 and the current Miami Dade IG's compensation is \$209,475, with a car allowance of \$6,500, an executive benefit of \$10,000 and healthcare.

Dr. Cowan told the board that a 5% increase to the City of New Orleans' IG would bring his salary to \$208,198.

Mr. Brown told the board that the IG has had major accomplishments, has a large staff and has a real impact on the culture of New Orleans; he recommended an increase of 3%-3.5%.

In response to Mr. Rodgers, Dr. Cowan told the board that the OIG's overall budget can afford the 5% increase and the IG plans to reward his senior staff with a 5% increase.

Mr. Miller told the board that a 5% increase in the private sector is considered to be high; he recommended an increase of 2%-4%.

Mr. Brown told the board that a 5% increase in the private sector is considered to be high but he would like to reward the IG for very good work; he recommended an increase of 3.5%-4%.

Mr. Rodgers told the board that he recommends an increase of 3.5%-4%.

Rev. Dr. Frampton told the board that he recommends an increase of 3.5%-4%.

Dr. Ricks told the board that he recommends an increase of 3%.

On a motion by Mr. Miller seconded by Mr. Rodgers, the board unanimously approved an increase of 3.5% to the IG's compensation.

The chair called for a vote to adjourn to executive session pursuant to Louisiana Revised Statutes section 42:16 to report 2 pending matters and 1 informational matter regarding a complaint. Mr. Brown moved and a second was offered by Dr. Ricks, at 4:35 p.m.

The board, by an affirmative vote of all members present, held an executive session.

At the conclusion of the executive session, the board reconvened its public meeting. Mr. Miller moved and a second was offered by Dr. Ricks.

At 5:08 p.m., Dr. Ricks moved that the meeting adjourn, a second was offered by Mr. Brown. The motion carried unanimously and the meeting adjourned.