



Ethics Review Board for the City of New Orleans

Board Meeting of January 28, 2019 at 3:30 P.M.

**City Council Chambers, New Orleans City Hall
1300 Perdido Street, New Orleans, Louisiana 70112**

Minutes

1. *Call to order.*
 - 1.1. Board members present:
 - 1.1.1. Brandon Boutin.
 - 1.1.2. James Brown, Chair.
 - 1.1.3. Elizabeth Livingston de Calderon.
 - 1.1.4. Michael Cowan.
 - 1.1.5. Joe Ricks.
 - 1.1.6. Howard Rodgers, Vice-Chair.
 - 1.2. Board Members absent: None.
 - 1.3. Staff member present: Dane S. Ciolino, Executive Administrator and General Counsel.
 - 1.4. At 3:30 p.m., a quorum being present, the Chair called the meeting to order.
 - 1.5. The agenda for the meeting is attached.
2. *Approval of minutes.* The board unanimously approved the minutes of the December 12, 2018, board meeting.
3. *Report of the Office of Inspector General.*
 - 3.1. The OIG's monthly report is attached.

- 3.2. IG Derry Harper appeared for the OIG.
- 3.3. Mr. Harper reported that he is still in the process of filling his staff.
- 3.4. Mr. Harper has offered a position to Larry D. Douglas to run the Audit Division. Mr. Douglas has 20-years experience in auditing. He is a certified government auditor and has an information systems certificate. He will start in March 2019. Mr. Harper noted that the other finalist for this position was Erica Smith, who will continue to work in the OIG. His office conducted a national search for this position and more than sixty individuals were considered.
- 3.5. Mr. Harper stated that he has considered more than 20 applicants for the General Counsel position. He has personally interviewed six applicants. An ideal applicant has experience in HR and contracting. He would like a well-experienced lawyer for the position. He expects to have a lawyer on board in 6-8 weeks. He said that this will not hold up reports from his office.
 - 3.5.1. Mr. Brown and Ms. Calderon had Mr. Harper clarify that the General Counsel will be a contractor for “short term” purposes.
 - 3.5.2. Mr. Harper clarified that the long-term plan is to hire an in-house lawyer as a full-time employee.
- 3.6. Mr. Ricks asked Mr. Harper about the training goals for the OIG. Mr. Harper noted that although he has a “mature staff,” he still wants them to improve their skills. For example, some members have become certified fraud examiners. Many have engaged in activities with trade associations. Mr. Ricks followed up and asked about “specific training plans.” Mr. Harper responded that there are no current “skill gaps,” but that he would continue to seek to better the skills of the members of his staff.
- 3.7. Mr. Cowan asked Mr. Harper about the plan to combine the audit function of the OIG with the investigation function.
 - 3.7.1. Mr. Harper responded that Investigations and Audits are the core of IG work.
 - 3.7.2. Mr. Douglas will head up the combined unit.
 - 3.7.3. Mr. Douglas is not a CPA. However, CPAs will remain on staff and handle the audit function.
- 3.8. Mr. Brown probed Mr. Harper about the draft audits that are awaiting review by counsel.
 - 3.8.1. Mr. Harper responded that there were such drafts, including an audit of the Audubon Institute.

- 3.8.2. Mr. Brown noted that OIG’s fall workplan called for several reports to be released by now but that have not been. What is the status? Mr. Harper responded by noting that he was “reluctant” to provide a timeline for completion. This was so because he needed the work product to be reviewed by a lawyer.
- 3.9. Mr. Brown asked Mr. Harper about any audits or investigations into the S&WB. Mr. Harper responded that there was a plan to look at billing systems. An audit is also nearing completion. He also noted that there is discussion of embedding an auditor at the S&WB.
- 3.10. Mr. Brown asked Mr. Harper about the OIG’s work with regard to the Department of Public Works. Mr. Harper stated that a report was “closer to legal review,” and that his office would be “meeting on this soon.”
- 3.11. Mr. Brown asked for Mr. Harper to update the ERB with new estimated ETAs for the work plan and reports.
- 3.12. Mr. Cowan asked about the risk-assessment process and whether it included the entire city. Mr. Harper responded in the affirmative, that the process was “system wide,” and includes boards and commissions.
 - 3.12.1. Mr. Cowan requested that Mr. Harper explain more about the risk assessment process at the next ERB meeting.
 - 3.12.2. Mr. Harper noted that the process is two-way, uses a matrix of factors, and ranks projects. He also noted that it takes a lot of hours to complete.
- 3.13. Mr. Cowan noted that the S&WB is the “Achilles heel” of the City and asked about the relationship between the OIG and the S&WB.
 - 3.13.1. Mr. Harper responded that S&WB has asked the OIG for assistance with certain matters.
 - 3.13.2. Mr. Harper noted that he has consulted with the director of the S&WB.
 - 3.13.3. Mr. Harper noted that his office has a number of initiatives at the S&WB.
- 3.14. Mr. Ricks noted that since the OIG will provide an overview of the risk assessment process at the next ERB meeting, would he please provide also written guidelines for the process—a “whitepaper” or the like. Mr. Harper agreed.
- 4. *Report of the Office of Independent Police Monitor.*
 - 4.1. The OIPM’s monthly report is attached.
 - 4.2. Ms. Hutson, IPM, and Tanya McClary, Chief Monitor, appeared for the OIPM.

- 4.3. Ms. Hutson read from the monthly report.
- 4.4. Ms. Hutson reported that there was a killing by NOPD on January 4, 2019, after no fatal incidents in 2018.
- 4.5. Mr. Ricks asked about “accidental discharges,” and whether there were any “overall issues” with training or something systematic.
 - 4.5.1. Ms. Hutson noted that the problem was noted a few years ago.
 - 4.5.2. Ms. McClary then stated that an accidental discharge occurred recently with a secondary weapon that was not properly registered. NOPD did a full investigation on secondary weapons and NOPD Academy practices. As a result, the NOPD has changed the process for registering secondary weapons. The OIPM was pleased with the NOPD’s efforts.
 - 4.5.3. Mr. Ricks probed further on “why” the accidental discharge occurred. Ms. Hutson distinguished between “accidental” discharges, which involve mechanical gun problems, and “negligent” discharges, which involve human errors. Ms. Hutson promised to “take a deeper dive” into these discharges.
 - 4.5.4. Ms. Calderon asked if the consequences were different for different types of discharges. Ms. Hutson responded that officers are not always disciplined for negligence in NOPD; generally, the NOPD follow up with training rather than discipline. However, Ms. Hutson noted that most problems are caused by human error rather than mechanical issues.
 - 4.5.5. Ms. Calderon asked whether there was any evidence of intentional misclassification of firearm discharges by NOPD. Ms. Hutson responded, “no.”
- 4.6. Mr. Brown asked again about the January fatal shooting. Ms. Hutson responded that the matter was still under investigation and that no use-of-force review proceeding had yet occurred. Indeed, the matter is still an active homicide investigation. Ms. McClary and Ms. Hutson said they both personally responded to the scene of the shooting and the hospital where the victim was taken.
- 4.7. Ms. McClary explained in more detail how the OIPM handles use of force investigations. They are on call 365/24/7. Someone is always available to go to the scene and they always have access to the scene.
- 4.8. Mr. Rodgers asked if the OIPM considers self-defense in shootings. Ms. McClary responded that “all factors” are considered, including defenses and constitutional issues.

- 4.9. Mr. Boutin asked about the new police chief and whether Ms. Hutson had a good working relationship with him. She responded that she has known him for a long time but has not met with him since his appointment.
- 4.10. Mr. Brown asked whether data-access issues had been resolved. Ms. Hutson noted that she is still working on an MOU with NOPD. This was delayed because of the change in the administration of NOPD, but that this will soon begin moving along again.
5. *Report of the Ethics Trainer.*
 - 5.1. The ethics trainer's monthly report is attached.
 - 5.2. No one appeared for the Ethics Trainer.
6. *Quality Assurance Review Committees.*
 - 6.1. Mr. Brown noted that both the ERB and the Mayor's office have completed their appointments to both QAR committees.
 - 6.2. Mr. Brown noted that the board is still awaiting appointments from the City Council for both QAR committees. He noted that he has personally been in contact with council staffers regarding this this issue.
7. *New Executive Administrator and General Counsel Position.*
 - 7.1. Mr. Brown reported that Dane S. Ciolino started his new position on January 1, 2019.
 - 7.2. Mr. Ciolino's new title is "Executive Administrator and General Counsel."
8. *Report of the Executive Administrator and General Counsel.*
 - 8.1. Mr. Ciolino reported on the status of this transition into his new position. He noted that obtaining a credit card has delayed the transition to some extent, but that he hopes to have the issue resolved before the next ERB meeting.
 - 8.2. Mr. Ciolino reported on the creation of a "Members Dashboard" for ERB members to the status on various matters including: Pending Complaints; Public Records Requests; Upcoming Events and Deadlines.
 - 8.3. Mr. Ciolino reported that he and Mr. Brown would soon contact the City Council to attempt to implement the ordinance to give the OIG the ability to prosecute violations of the City Ethics Code.
 - 8.4. Ms. Calderon volunteered to meet with Mr. Ciolino to review the internal ERB Rules and the ERB Bylaws.

8.5. Mr. Ricks asked Mr. Ciolino to consider having an outside reviewer review the ERB Rules for Enforcement. He also suggested that the OIG should have input into those rules and the ordinance.

9. *Adjournment.*

9.1. Mr. Ricks moved to adjourn the meeting. Ms. Calderon seconded the motion.

9.2. The board unanimously passed the motion and the Chair declared the meeting adjourned at approximately 5:01 p.m.

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