

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL: October 20, 2022

CALENDAR NO. 33,950

NO. _____ MAYOR COUNCIL SERIES

BY: COUNCILMEMBER MORRELL

AN ORDINANCE to ordain section 2-1122 of the Code of the City of New Orleans to provide for subpoena and investigatory responsibilities of the Orleans Independent Police Monitor; and otherwise to provide with respect thereto.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, That the Code of the City of New Orleans, Louisiana is hereby amended by adding a section to be numbered as section 2-1122, which said section shall read as follows:

“ARTICLE XIV. - OFFICE OF THE INDEPENDENT POLICE MONITOR

Section 2-1122. - Office of the Independent Police Monitor Subpoena and Investigatory Responsibilities; Confidentiality

(1) Purpose.

(a) The purpose of this section is to establish that the independent police monitor may conduct oversight over the police department through criminal and administrative investigations, inspections and evaluations, audits, and monitoring. This includes joint investigations and projects with other oversight or law enforcement agencies, including but not limited, to the Office of the Orleans Parish District Attorney, the Office of the Inspector General, and the Office of Police Secondary Employment.

(2) Subpoena and Investigatory Responsibilities

(a) For purposes of collecting data or performance of its oversight and investigatory duties, the independent police monitor may administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any records which the independent police monitor deems relevant or material to police

- 21 misconduct and police discipline.
- 22 (b) In the performance of his or her duties, the independent police monitor may
23 compel the attendance of witnesses to be deposed under oath or the production of
24 public and governmental records by issuing a subpoena. The subpoena may be
25 served by certified mail, return receipt requested, at the addressee's residence or
26 business address, or by representatives appointed by the independent police
27 monitor.
- 28 (c) The procedure for obtaining approval of such subpoena shall be in accordance
29 with the requirements of state law.
- 30 (1) Any person or entity that is the subject of a subpoena issued by the office
31 of independent police monitor may challenge the sufficiency or scope, or
32 both, of the subpoena by filing a protective order or motion to quash in the
33 Orleans Parish Civil District Court.
- 34 (2) If a person or entity refuses to comply with a subpoena issued by the office
35 of independent police monitor, the Orleans Parish Civil District Court may
36 issue an order requiring the person or entity to appear before the court to
37 show cause why an order should not be issued ordering such person to
38 comply with the subpoena.
- 39 (3) Any costs and attorney's fees incurred by the office of independent police
40 monitor may be taxed against the person who failed or refused to comply
41 with the terms of the subpoena.
- 42 (3) *Powers.*
- 43 (a) The independent police monitor shall have access to all records, information, data,
44 reports, plans, projections, matters, contracts, memoranda, correspondence,
45 audits, reviews, papers, books, documents, computer hard drives, e-mails, instant
46 messages, recommendations, and any other material of the police department that
47 the independent police monitor deems necessary to facilitate an investigation,
48 audit, inspection, or performance review. This includes any and all information
49 relative to the purchase of supplies and services or anticipated purchase of
50 supplies and services from any contractor by any city department, agency, board,
51 commission, or public benefit corporation, and any other data and material that is

52 maintained by or available to the city which in any way relates to the programs
53 and operations with respect to which the police department has duties and
54 responsibilities.

55 (b) The independent police monitor may request information, cooperation, and
56 assistance from any city department, agency, board, commission that conducts
57 relevant policing work or operations for the police department. Upon receipt of a
58 request for such information, cooperation, and assistance from the independent
59 police monitor, each person in charge of any city department, or the governing
60 body of any city agency, board, commission, shall furnish the independent police
61 monitor or her / his authorized representative with such information, cooperation,
62 and assistance.

63 (c) The independent police monitor shall have direct and prompt access to all
64 employees of the police department and the office of secondary employment.

65 (d) At all times, the independent police monitor shall have access to any building or
66 facility that is owned, operated or leased by the police department.

67 (e) No subpoena is required for the information or documents mentioned in this
68 paragraph. All information and documents are to be provided upon written request
69 from the office of independent police monitor.

70 (4) *Records disclosure.*

71 (a) All records of the office of the independent police monitor shall be exempt from
72 public disclosure and shall be considered confidential, unless it is necessary for
73 the independent police monitor to make such records public in the performance
74 of his or her duties. Unauthorized disclosure of information by the independent
75 police monitor or any employee of the office of the independent police is subject
76 to review and disciplinary action by the appointing authority. The office of the
77 independent police monitor is otherwise subject to all state laws concerning
78 public records.

79 (b) The independent police monitor is not subject to state laws concerning public
80 records requests when the independent police monitor determines that making the
81 information public could endanger any person's life, physical safety, or property,
82 or could lead to retaliatory acts.

83 (c) The independent police monitor is not subject to the issuance of a subpoena when
84 the independent police monitor determines that making the information public
85 could endanger any person's life, physical safety, or property, or could lead to
86 retaliatory acts.

87 (5) *Exemptions to disclosure.*

88 The following information is exempt from disclosure by the office of the independent
89 police monitor:

90 (a) Information revealing the identity of persons who file complaints with the office
91 of the independent police monitor, if the independent police monitor determines
92 that disclosure could endanger any person's life, physical safety, or property, or
93 could lead to retaliatory acts.”

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS _____

PRESIDENT OF THE COUNCIL

DELIVERED TO THE MAYOR ON _____

APPROVED:

DISAPPROVED: _____

MAYOR

RETURNED BY THE MAYOR ON _____ AT _____

CLERK OF COUNCIL

ROLL CALL VOTE:

YEAS:

NAYS:

ABSENT:

RECUSED: