



CITY OF NEW ORLEANS ETHICS REVIEW BOARD

525 St. Charles Avenue New Orleans, LA 70130-3409

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<https://www.nolaerb.gov/>

BOARD MEETING

Friday, September 4, 2020

1:30 P.M. – 4:30 P.M.

The board will conduct this meeting via Zoom Video Conference and Telephone Conference

Video Conference Link: <https://loyno.zoom.us/j/5049753263>

Telephone Conference Dial-In Number: 312-626-6799; ID No. 504 975 3263

Certification of Necessity: The board hereby certifies that it is unable to satisfy live-meeting quorum requirements due to the COVID-19 declaration of emergency. See [State of Louisiana, Executive Department Proclamation No. JBE 2020-30 § 4](#) (Mar. 16, 2020) (permitting video conference meetings due to gubernatorial declaration of state of emergency); [State of Louisiana, Executive Department Proclamation No. 111 JBE 2020 § 1](#) (August 26, 2020) (providing that “statewide public health emergency is declared to continue to exist”).

AGENDA

1. Ratification of certification of necessity for videoconference/teleconference meeting (Chair).
2. Approval of minutes of previous board meeting (Chair).
3. Discussion of monthly report from the Office of Inspector General (Chair).
4. Discussion of monthly report from the Office of Independent Police Monitor (Chair).
5. Discussion of monthly report from the Ethics Trainer (Chair).
6. Report of Executive Administrator and General Counsel (Chair).
7. Vote to hold executive session (two-thirds of members present required) (Chair).
8. Executive Session. To join the executive session click here:
<https://loyno.zoom.us/j/94458781250?pwd=TnglV3dmMTNvaUxKRk9BZ1haZGVXdz09>
Passcode TBA. Advance registration for Zoom is required to assure confidentiality.
 - a. Discussion of the character, professional competence, or physical or mental health of a person pursuant to La. Rev. Stat. § 42:17(A)(1).
9. Reconvening of public meeting to take final action on any matters discussed in Executive Session (Chair).
10. Adjournment (Chair).

**Draft Minutes of
Previous Board
Meeting**



Ethics Review Board for the City of New Orleans

Board Meeting of July 27, 2020 at 3:30 P.M.

Conducted via Zoom Teleconference Due to COVID-19 Emergency

Minutes

1. *Call to Order.*
 - 1.1. Board members present:
 - 1.1.1. Wanda Brooks.
 - 1.1.2. James Brown.
 - 1.1.3. Elizabeth Livingston de Calderon.
 - 1.1.4. Michael Cowan (Chair).
 - 1.1.5. Monique G. Doucette.
 - 1.1.6. Joe Ricks.
 - 1.1.7. Torin Sanders.
 - 1.2. Board members absent: None.
 - 1.3. Staff member present: Dane S. Ciolino, Executive Administrator and General Counsel.
 - 1.4. A 3:30 p.m., the Chair declared that a quorum of the board was present and commenced the meeting via Zoom videoconference and teleconference.
 - 1.5. The agenda for the meeting is attached.
2. *Ratification of Prior Written Certification of Emergency Need for Video Conference Meeting.* Pursuant to [State of Louisiana Executive Department Proclamation No. JBE 2020-30 Section 4 \(March 16, 2020\)](#) and subsequent orders and legislation addressing the

COVID-19 state of emergency, the ERB unanimously agreed to conduct this meeting by video conference and audio conference after certifying that the ERB would not otherwise have been able to operate due to quorum requirements due to the ongoing COVID-19 emergency.

3. *Approval of the Minutes.*

- 3.1. Mr. Ricks suggested a correction to the minutes to note that in Section 5.6 he suggested the need for “definitive standards and best practices” to guide the work of the Quality Assurance Committees.
- 3.2. The Board unanimously approved the minutes as corrected for the June 29, 2020 board meeting.

4. *Discussion of Monthly Report of the Office of Inspector General.*

- 4.1. The Office of the Inspector General was represented by IG Derry Harper and Larry Douglass. Other staff members were in attendance as well.
- 4.2. The OIG filed its monthly report late. Mr. Harper attributed it to “Cox problems.”
- 4.3. Mr. Douglass and Mr. Harper discussed the report (attached).
- 4.4. Among other investigations, the OIG discussed the report regarding the S&WB. Mr. Cowan asked whether there was any time period within which the S&WB should comply with the suggestions made in the report. Mr. Douglass responded, “six months.”
- 4.5. Ms. Brooks inquired into how any follow up would be conducted. Mr. Douglass discussed how documents would be gathered and other matters monitored.

5. *Discussion of Monthly Report of the Office of the Independent Police Monitor.*

- 5.1. IPM Susan Hutson appeared for the OIPM.
- 5.2. Ms. Hutson read from and emphasized various portions of the monthly report of the OIPM (attached).
- 5.3. Ms. Hutson noted that her office has received a record number of complaints, due in part because of the NOPD use of tear gas at a protest. She also noted that there have been recent officer-involved shootings.
- 5.4. Mr. Brown congratulated Ms. Hutson for being president of NACOLE.
- 5.5. Ms. Calderon probed Ms. Hutson on what real reforms were happening in the NOPD. Ms. Hutson noted that officers involved in shootings have been drug tested. She also noted that her office is obtaining more community input. She also reported that the City Council is supporting her efforts.

- 5.6. Mr. Ricks probed as to whether mediations have increased as a result of the recent protests and civil unrest. Ms. Hutson reported that the NOPD has increased the issuance of summonses rather than arrests as a result of the protests.
 - 5.7. Dr. Cowan asked how the NOPD has performed in the recent civil protests. Ms. Hutson reported that the NOPD performed well, knelt with protestors, but, unfortunately used tear gas. That conduct was a “big setback,” and “changed the narrative.”
 - 5.8. Dr. Cowan asked about the status of the OIPM peer review. Ms. Hutson noted that it was underway, but that there has been some turnover in the composition of the committee. Dr. Cowan emphasized that it was important to have an independent peer review even with Ms. Hutson’s position as president of NACOLE.
6. *Report of the Ethics Trainer.*
- 6.1. Ms. Hackett and Mr. Caulfield attended the board meeting.
 - 6.2. Ms. Hackett filed no monthly report.
 - 6.3. Ms. Hackett noted that there have been no in-person training sessions. She noted that her training is designed to be in-person and that it has made her job difficult to do trainings otherwise.
 - 6.4. Mr. Ricks asked Ms. Hackett to re-engage the state board on on-line ethics training.
 - 6.5. Ms. Calderon noted that Ms. Hackett should work toward getting trainings on-line. It is “important to adapt,” she emphasized.
 - 6.6. Dr. Cowan agreed and queried why on-line training is perceived to be less effective. Mr. Caulfield noted that candor in the room is critically important. Dr. Cowan suggested that rule changes would be appropriate at the state board level to permit more on-line training.
7. *Report of Executive Administrator and General Counsel.*
- 7.1. Mr. Ciolino reported that no news complaints had been received.
 - 7.2. Mr. Ciolino noted that there were several complaints and other issues to deal with at the executive session.
 - 7.3. Mr. Ciolino discussed the Board’s upcoming deadlines and events.

8. *Executive Session.*

- 8.1. The ERB went into executive session after a motion by Mr. Brown and second to do so by another board member. The ERB went into executive session after a unanimous “affirmative” vote of the board.
- 8.2. After the executive session, the board unanimously voted to go back into public session at 7:04 p.m.
- 8.3. The board unanimously voted to dismiss two complaints, namely, 2020-01 and 2020-03 after board members made the appropriate motions and seconds.
- 8.4. The board unanimously voted to defer matter 2020-02 at the request of the complainant after an appropriate motion and second.

9. *Adjournment.*

- 9.1. A motion was made to adjourn the board meeting. The motion was seconded.
- 9.2. The Board unanimously voted to adjourn.
- 9.3. The meeting was adjourned at 7:07 p.m.

* END *

Monthly Report of OIG

Report to the Ethics Review Board
July 2020

Audit & Review

The Audit & Review division has the following audits underway: Audubon Payroll Internal Controls, Audubon Disbursements, BRASS Purchasing, Orleans Parish Communications District, and the Department of Public Works and Sewerage & Water Board coordination. We anticipate the completion and release of the Audubon reports within a 90-day timeframe.

Please see the attached project status spreadsheet for details.

Inspections & Evaluations

The I&E group also has the following two evaluations underway: Firefighter's Pension Fund and the Job Ordering Contracts.

Please see the attached project status spreadsheet for details.

Administration

The First Assistant Inspectors General for Audit and Evaluations, Criminal Investigations, and Legal Affairs/General Counsel met with City CAO Gilbert Montano, CFO Norman White, and City Attorney Sunni LeBeouf to discuss and consider potential OIG projects and/or reviews to address and mitigate current and emerging risks to ensure the prevention and detection of fraud, waste and/or abuse.

Investigations

The Investigations Division received nine (9) complaints in July 2020. Seven (7) were matters outside of the OIG's purview.

OIG Investigations Division activities and cases:

- Criminal Investigations:

The case alleging misappropriation of funds from the New Orleans Public Library Foundation by Irvin Mayfield and Ronald Markham is in the discovery phase. A trial scheduled in federal court has been postponed until September 2020.

Three former Sewerage and Water Board Employees are awaiting trial for theft of brass and three arrest warrants remain outstanding.

- Administrative Investigations:

Pursuant to a Memorandum of Understanding with the New Orleans Police Department, the OIG Investigations Division completed an administrative investigation concerning a complaint filed against an NOPD employee.

OIG Information Security Division activities:

- 2020 Staff Augmentation for Exchange Migration

Current IT Environment:

The OIG currently had one physical server hosting our exchange e-mail. This setup had storage limitations because the physical drive space can't be expanded in real time which has been corrected. Information Security Division (ISD) has been migrated Windows Server 2016 with Exchange 2016 or Exchange 2019, depending on viability.

Staff Augmentation:

All key infrastructure (hardware and software) is in place and has been converted and is functioning properly with the new system.

Key Improvements

1. Upgraded our Physical Domain Controller Hardware to increase performance
 - a. Added Fans
 - b. Added Memory
 - c. Added Additional CPU
2. Archived old exchange server
3. Updated Operating system to the most viable operating system
4. Archive and deleted old profiles visible online to reduce our footprint to hackers
5. Elevated Domain Forest Security Level
6. Fixed Errors presented in DC Diagnostic Tools
7. Installed and Configured Exchange to the most viable version
8. Updated VMware Center Software
9. Upgraded ESXi Software to the most viable version
10. Upgraded Backup Server to the most viable version

Status Report for OIG Projects - Audit and Evaluations Division

Report Date: Friday, July 31, 2020

Project Number	Project Name	Project Phase *					
Audit/Review		Planning	Fieldwork	Draft Report	Supervisory Review	Legal Review	IG Review
AD-15-0001	Audubon Payroll Internal Controls				X	X	
AD-15-0003	Audubon Disbursements						X
AD-19-0001	Short-term Rentals Suspended 1/31/2020						
AD-19-0002	DPW/SWB Coordination	X					
AD-20-0001	BRASS Purchasing	X					
AD-20-0002	Orleans Parish Comm District (OPCD)+	X					

+ - The Current OPCD audit is awaiting a scheduled hearing from The Civil District Court to determine jurisdictional authority to obtain The requisite financial rec

Project Number	Project Name	Project Phase *					
Inspections/Evaluations		Planning	Fieldwork	Draft Report	Supervisory Review	Legal Review	IG Review
IE-18-0003	S&WB Billing Dispute Resolution Released 6/5/2020						
IE-19-0001	Firefighter's Pension Governance		X				
IE-20-0001	Job Ordering Contracts		X				

Legend	Description
Planning	Background Research, Data Gathering , Initial Interviews, and/or Controls Assessment
Fieldwork	Data and Statistical Analyses, Interviews, Testing of Procedures, Onsite Obsevation and/or Physical Inspections
Draft Report	Data/Statistical Reviews, Documentaries of Fieldwork Results, Initial Report Writing, Revisions and Internal QAR prior to supervisory review
Supervisory Review	Review by both Division Director and First Assistant Inspector General to ensure sufficiency and appropriateness of evidence, fieldwork presentation and readability
Legal Review	Report Review by In-house General Counsel and/or Contracted Counsel Services for appropriate and proper legal citations and/or interpretation
IG Review	Report Review by Inspector General, based on corrections and recommended changes resulting from the Legal Review

* Project phase determination is based on the objective(s), scope, and methodology for each audit/evaluation project, and is not determined by a standard set of This phase will be decided based on the nature of work to be performed, and at the discretion of OIG management.

** Expected Release timeline for the report may be determined based on the start of the legal review process, and may be later reevaluated based on both the timing of the IG reviews, and the 30-day timeline of the proposed final report to the client and the subsequent receipt of management responses.

Expected Release Timeline for Report**		
30-45 Days	60 Days	90 Days
		X
		X

ords to proceed.

Expected Release Timeline for Report**		
30-45 Days	60 Days	90 Days

v
ocedures, proper conclusions, content,
tations

hours and/or phase deadline.

legal and

Monthly Report of OIPM

THE OFFICE OF THE INDEPENDENT POLICE MONITOR



MONTHLY REPORT

JULY 2020

Community Letter

Dear New Orleans Community,

In June, with the support and partnership of the Independent Police Monitor, City Council voted on resolution R-20-175, which put into motion a public facing database for the community to access necessary and relevant police disciplinary histories and records. The resolution was the first important step in ensuring that the NOPD provide information to the public about the steps they are taking to hold officers accountable. This information would inform the public of the accountability reforms and progress being made by the NOPD and empower the community to participate in that accountability process. In the coming month, the OIPM will continue to work with our community partners to put forth an ordinance to make this public facing database a reality.

This month marked the kick-off of a series of training opportunities for the office through the National Association of Civilian Oversight of Law Enforcement (NACOLE). During the coming months, the OIPM staff will continue to participate in these national discussions and trainings regarding best practices around oversight and police monitoring. The OIPM looks forward to sharing the information and skills gained with the people of New Orleans.

In July, the OIPM continued to monitor both disciplinary hearings and Use of Force Investigations. The Deputy Independent Police Monitor continued to attend, monitor, and provide recommendations in disciplinary proceedings conducted by the Public Integrity Bureau and the Superintendent's Committee – one of which resulted in the termination of an officer. The OIPM was present during a response and investigation into an accidental discharge in Mid-City. The Chief Monitor of Use of Force, continued to monitor all officer and rank statements taken for the Force Investigation Team's investigation into the response to the June 3, 2020 protests on the Crescent City Connection bridge. The OIPM will continue to monitor these investigations and disciplinary steps moving forward to ensure the voices of the community are heard and all relevant concerns are addressed.

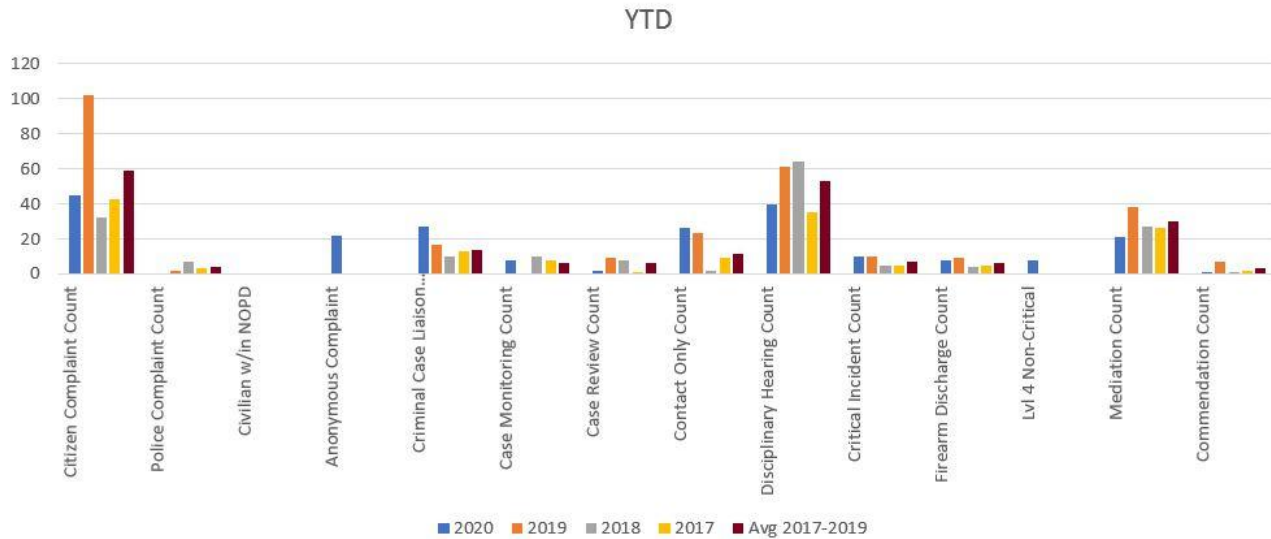
OIPM welcomed the feedback the Quality Assurance Review Advisory Committee (QARAC) for the second year in a row this month. The Quality Assurance Review is an opportunity for the work product of OIPM to be critically assessed and evaluated. For the second year in a row, the OIPM received praise on the quality and quantity of work produced by the office in the fields of use of force, complaints, discipline, community outreach, and mediation. The QARAC provided candid feedback regarding how the OIPM can further excel through updating our website, expanding our commendation outreach, better publicly showcasing our recommendations and work to the public, and recommending we receive more access to policing data from the NOPD to expand our work. We thank the QARAC for their time, feedback, and insight. Their evaluation is invaluable to the growth of the OIPM.

Finally, with Covid19 spread and the protests regarding policing still as relevant as ever, the OIPM will continue to monitor these events and engage with the community to ensure we are responsive to their changing needs. There is a role for everyone in the reform and the public health efforts being put forth this summer and OIPM will strive to continue to uphold our responsibilities by representing the voice of the community moving forward.

Thank you,

Susan Hutson

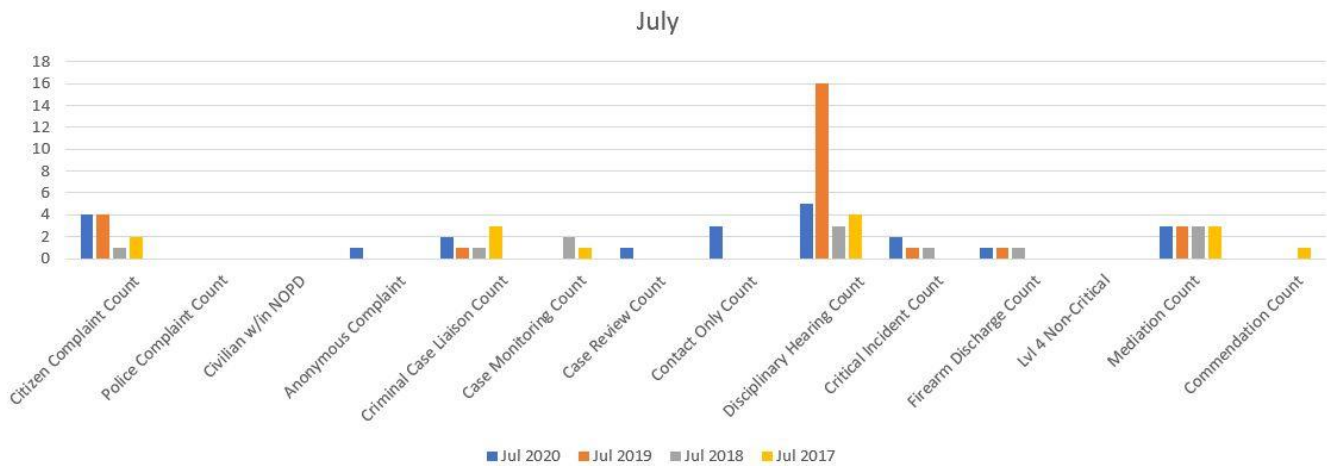
Year to Date Overview



	2020	2019	2018	2017	Avg 2017-2019
Citizen Complaint Count	45	102	32	43	59.00
Police Complaint Count	0	2	7	3	4.00
Civilian w/in NOPD*	0	0	0	0	0
Anonymous Complaint*	22	0	0	0	0
Criminal Case Liaison Count	27	17	10	13	13.33
Case Monitoring Count	8	0	10	8	6.00
Case Review Count	2	9	8	1	6.00
Contact Only Count	26	23	2	9	11.33
Disciplinary Hearing Count	40	61	64	35	53.33
Critical Incident Count	10	10	5	5	6.67
Firearm Discharge Count	8	9	4	5	6.00
Lvl 4 Non-Critical*	8	0			
Mediation Count	21	38	27	26	30.33
Commendation Count	1	7	1	2	3.33
Grand Total	218	278	170	150	199.33

*indicates a new category

July Overview



	Jul 2020	Jul 2019	Jul 2018	Jul 2017	Avg 2017-2019
Citizen Complaint Count	4	4	1	2	2.33
Police Complaint Count	0	0	0	0	0.00
Civilian w/in NOPD*	0				-
Anonymous Complaint*	1				-
Criminal Case Liaison Count	2	1	1	3	-
Case Monitoring Count	0	0	2	1	1.00
Case Review Count	1	0	0	0	0.00
Contact Only Count	3	0	0	0	0.00
Disciplinary Hearing Count	5	16	3	4	7.67
Critical Incident Count	2	1	1	0	0.67
Firearm Discharge Count	1	1	1	0	0.67
Lvl 4 Non-Critical*	0				-
Mediation Count	3	3	3	3	3.00
Commendation Count	0	0	0	1	0.33
Grand Total	22	26	12	14	14.33

*indicates a new category

July Overview

Anonymous Complaint	
AC2020-0026	According to an anonymous complainant, the homicide division of the NOPD is not operating effectively or fairly and it is due to problematic supervision.
Anonymous Complaint Count: 1	

Criminal Liasion	
CL2020-0026	OIPM assisted an individual with reaching out to the Coroner's Office to learn the status of an investigation.
CL2020-0027	An individual reached out to the OIPM concerning a possible elder abuse issue.
Criminal Liasion Count: 4	

Citizen Complaints	
CC2020-0065	The complainant alleges that a detective with the NOPD continues to harass and send threatening emails to her.
CC2020-0067	According to the complainant, two officers failed to investigate an incident from 2012.
CC2020-0068	According to the complainant, an officer failed to conduct a full investigation when responding to a car accident call to service in March.
CC2020-0069	Complainant alleges that her husband was falsely arrested of assault with a deadly weapon when they were the victims and her husband never possessed a weapon.
Citizen Complaints Count: 4	

Case Review	
CR2020-0002	OIPM received a case review request regarding CC2019-0065 / 2019-0514-P regarding how the NOPD handled the arrest of a street musician.
Case Review Count: 1	

July Overview

Contact Only	
CO2020-0030	Individual reached out anonymously to inform us employees in his / her work place who were potentially exposing other employees to Covid19.
CO2020-0031	Individual reached out to OIPM to communicate how seeing the police makes her feel and her dislike of feeling profiled.
CO2020-0032	Public defenders reached out to OIPM regarding police arrests on perscribed misdemeanor warrants. OIPM is looking into the practice and looking for potential recommendations to make to NOPD leadership.
Contact Only Count: 3	

Disciplinary Hearings	
DH2020-0036	Officer is accused of using unauthorized force in violation of NOPD policy. Officer resigned prior to his disciplinary hearing.
DH2020-0037	Officer is accused of not being accurate or truthful in her reporting and recount of a response for threats. Officer is accused of failing to include information regarding threats the complainant received and the complainant's fear for her safety.
DH2020-0038	An officer is accused of using unauthorized force by utilizing their Conducted Electrical Weapons (CEW) against an individual who was not actively or aggressively resisting. Another officer failed to fully report earlier force used against the individual. Both officers failed to activate their Body Worn Cameras (BWC) during the interaction.
DH2020-0039	Officer is accused of operating his personal vehicle and getting into an accident while off duty and under the influence of alcohol.
DH2020-0040	Three officers are accused of illegally searching a car and failing to collect and preserve evidence.
Disciplinary Hearings Count: 5	

July Overview

Critical Incident	
CI2020-0009	The officer was seated on his sofa disassembling the weapon for cleaning when he stood up holding the weapon with his finger on the trigger. As he pulled the slide back, a round went into the chamber and the weapon discharged one time. The bullet went through the living room wall and exited the bedroom wall landing on the bedroom floor. There were no injuries.
CI2020-0010	Officers were in an authorized vehicle pursuit of carjacking suspects. While in pursuit, the suspects struck a civilian and three vehicles. The civilian was hospitalized and later released.
Critical Incident Count: 2	

Firearm Discharge	
FD2020-0008	See CI202-0009
Firearm Discharge Count: 1	

Mediation	
Mediation cases are confidential.	
Mediations Held: 3	

Complaints and Discipline

The OIPM serves as an alternative site for civilians and police officers alike to file complaints of misconduct against the NOPD. These complaints and allegations are compiled into referrals by the OIPM and provided to the Public Integrity Bureau (PIB) for them to investigate. The OIPM monitors and reviews the classification and investigation conducted by PIB. If the complaint continues into a disciplinary proceeding, the OIPM will continue to monitor and review the disciplinary process. OIPM monitors and reviews disciplinary proceedings conducted by NOPD to ensure accountability and fairness. The OIPM reviews the disciplinary investigation and attends the subsequent disciplinary hearings where the OIPM will provide systemic and individualized findings and recommendations based on NOPD's investigation. The OIPM conducts a thorough review of the proceedings, findings, and recommendations that is available for review by both the NOPD and the New Orleans community.

- 4** CITIZEN COMPLAINTS
- 5** DISCIPLINARY PROCEEDINGS
- 0** POLICE INITIATED COMPLAINTS
- 1** ANONYMOUS COMPLAINTS



Community-Police Mediation

Mediation is an alternative to the traditional process of resolving complaints of police officer misconduct. Mediation is a process facilitated by two professionally-trained community mediators to create mutual understanding and allow the civilian and officer to be fully heard and understood in a non-judgmental way.

3

MEDIATIONS
REFERRED

7

MEDIATIONS
HELD

3

MEDIATIONS
PENDING

I liked the chance to talk
and that the mediators
were good listeners. The
process turned out good.”
– Officer Participant



“ This was a good opportunity to
express my concerns of how things
were handled with the officer. I learned
not to categorize the entire department
because of one officer’s mistake. The
officer learned to take time to listen
before acting. This program should
continue. Please don’t stop!”
–Civilian Participant

Use of Force

The OIPM is required by City Code 2-1121 to monitor the quality and timeliness of NOPD's investigations into use of force and in-custody deaths. If an incident occurs, the OIPM is notified and a member of the incident and will report immediately to the scene. The OIPM will stay engaged from the occurrence of the incident, through investigation, and Use of Force Review Board hearings.

2

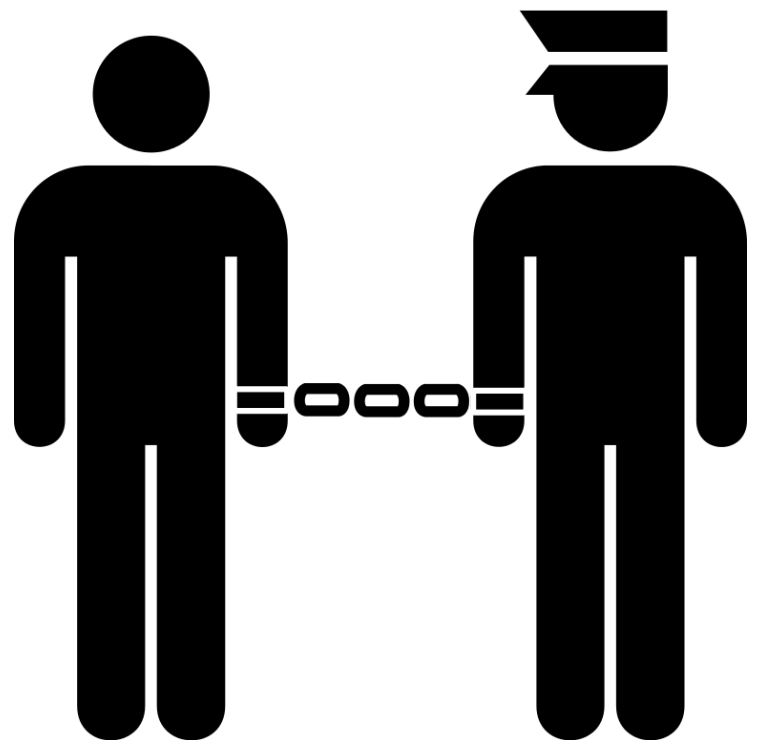
**CRITICAL
INCIDENTS**

1

**FIREARM
DISCHARGES**

0

**LEVEL 4
NON-CRITICAL
INCIDENT**



Community Relations

OIPM participates in community events to help extend the message of the OIPM and participates in activities to impact the nature of the relationships the community has with police officers. OIPM is committed to being present in the community, but also presenting helpful information to the public.

Panel Discussions

July 15, 2020 - Vera Institute "We Got the Power" Panel

July 27, 2020 - St. Charles Center for Faith+ Action - Policing New Orleans

July 31, 2020 - Criminal Justice Committee - City Council Meeting



Monthly Report of Ethics Trainer

No report received.