



## CITY OF NEW ORLEANS ETHICS REVIEW BOARD

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

[erb@nolaerb.gov](mailto:erb@nolaerb.gov)

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

### BOARD MEETING

Thursday, October 1, 2020

3:30 P.M. – 5:30 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. Report on resignation of IG Derry Harper (Chair).
4. Discussion of monthly report from the Office of Inspector General (Chair).
5. Discussion of monthly report from the Office of Independent Police Monitor (Chair).
6. Discussion of monthly report from the Ethics Trainer (Chair).
7. Report of Executive Administrator and General Counsel (Chair).
8. Discussion of ERB Peer Review.
9. Vote on joining the COUNCIL ON GOVERNMENTAL ETHICS LAWS (COGEL), the leading organization of government ethics bodies and personnel.
10. Adjournment (Chair).

**Draft Minutes of  
Previous Board  
Meeting**



**Ethics Review Board for the City of New Orleans**

**Board Meeting of September 4, 2020 at 1:30 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 1:32 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.* The Board unanimously approved the minutes for the July 27, 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 IG discussed his office's monthly report (attached). 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. Mr. Harper reported that the Audubon II report will be released in the next few weeks. Mr. Ricks asked whether that report would supersede the office's January 2020 report. Mr. Harper did not know the answer and would report back to Mr. Ricks.
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 reported that he office has had much dialogue with NOPD regarding the "tear gas" incident near the CCC bridge.
  - 5.4. Ms. Hutson reported that her office was "very busy."
  - 5.5. Mr. Sanders asked whether the OIPM has ready access to NOPD body cams. Ms. Hutson responded that her office has direct on-line access to them. Access is not "immediate," but she does have access promptly when PIB releases any preliminary "lock down" after an incident.
  - 5.6. Dr. Cowan asked about the NOPD policy on chokeholds in the wake of the recent nationwide demonstrations. Ms. Hutson did not know, but would check wither her staff.
  - 5.7. Mr. Sanders noted that he believed that the City Council would address policing issues, including the use of tear gas and possibly chokeholds, by way of an ordinance.

6. *Report of the Ethics Trainer.*

- 6.1. Ms. Hackett and Mr. Caulfield did not attend the board meeting.
- 6.2. Ms. Hackett filed no monthly report.

7. *Report of Executive Administrator and General Counsel.*

- 7.1. Mr. Ciolino reported that no new complaints had been received.
- 7.2. Mr. Ciolino noted that today's executive session would be lengthy.
- 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 board member Ms. Brooks. 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 6:27 p.m.
- 8.3. The board took no action or votes after the executive session.

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 6:28 p.m.

\* END \*

**Item 1**

## HARPER RETIREMENT

Derry Harper <DHarper@nolaoig.gov>

Fri 09/11/2020 12:34 PM

To: Michael Cowan <mcowan@zmail.loyno.edu>

Cc: Elizabeth Calderon (ecaldero@tulane.edu) <ecaldero@tulane.edu>; Joe M. Ricks Jr. <jmricks@xula.edu>; Dane S. Ciolino <dane@daneciolino.com>; Dylan C. Utley <dylan@dylanutley.com>

Dr. Michael Cowan,

Having served 41 years as a licensed attorney and public servant, including over 12 years as an Inspector General for several state and local entities I have decided to retire in order to spend more time with my family.

Therefore, I hereby inform you of my intent to resign from the position of Inspector General for the City of New Orleans effective October 31, 2020. Thank you for agreeing that I may, at a later time submit a more formal letter of resignation to the members of the Ethics Review Board.

I am available, at your convenience, to discuss any details that will ensure an orderly transition.

Derry



Derry Harper  
Inspector General Esq., CIG

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# **Monthly Report of OIG**



**Report to the Ethics Review Board**  
**August 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 Inspector General and the First Assistant Inspectors General for Audit and Evaluations finalized the OIG 2021 Annual Work Plan and was released as of August 31, 2020 in accordance with the City Ordinance.

**Investigations**

The Investigations Division received seven (7) complaints in August 2020. All 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 opened an administrative investigation concerning a complaint filed against an NOPD employee.

OIG Information Security Division activities for August 2020:

Recurring Monthly tasks

- Daily backup monitored.
- All backups are working effectively.
- Daily e-mail health check.
- E-mail is working as expected.

Technical Support provided, hardware related

- Printer replacement for remote work.
- Technical equipment installation completed.

Technical Support provided, non-hardware related

- 14 service desk tickets resolved.
- Scheduled several ZOOM meetings for office staff
- Assistance with connecting to webinar software
- Assisted with large file transfers to external entities

Communications

- OIG Annual Work Plan 2021 sent to stake holders via constant contact and posted to the website.
- FRB building UPS maintenance

COX service desk ticket internet and phone outage.

- Office Internet and phone issues occurred on the following dates:
  - 8/7/2020
  - 8/8/2020
  - 8/27/2020
  - 8/31/2020

Purchasing

- IT Cyber Security Training software for office staff license renewed.
- e-mail Spam filter appliance license renewal completed.

Training

- MS Office 365 Fundamentals Exam postponed to Oct 2020

## Status Report for OIG Projects - Audit and Evaluations Division

**Report Date:** Monday, August 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
AD-15-0003	Audubon Disbursements						
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 records.

Project Number	Project Name	Project Phase *					
Inspections/Evaluations		Planning	Fieldwork	Draft Report	Supervisory Review	Legal Review	IG Review
IE-19-0001	Firefighter's Pension Governance		X				
IE-20-0001	Job Ordering Contracts		X				

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



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## **MONTHLY REPORT**

**AUGUST 2020**

# Community Letter

Dear New Orleans Community,

This month has been one of great collaboration between OIPM and the community and OIPM and NOPD leadership. During August, OIPM amplified the voices of those in our community and those employed by the NOPD to ensure that the concerns that arise from any police interaction – whether it be on the street or in the NOPD workplace – are addressed respectfully.

In August, OIPM received a handful of significant complaints from employees within the NOPD. These complaints brought the OIPM's attention to the possibility of some concerns of culture and supervision that may exist in some departments within the NOPD. OIPM leadership reached out to the Deputy Chief of the Public Integrity Bureau and started a dialog about how to best address these employment concerns that may require a management-based solution rather than allegations of misconduct. OIPM looks forward to continuing these conversations with the NOPD leadership as we work together to explore how to best investigate these unique concerns and resolve the underlying culture complaints that may erode an officer's employment experience within the NOPD and hurt officer retention.

Over the last several months, OIPM leadership made a series of policy recommendations to Captains within the Professional Standards and Accountability Bureau and the Public Integrity Bureau. These recommendations included how to make the retaliation policy more responsive to the needs of the NOPD employees filing complaints, improving the conflict policy to address and eliminate inappropriate relationships initiated by officers with members of the public during calls of service, and enhancing and clarifying the strip search policy to resolve the ongoing confusion regarding visual vs physical inspection by officers. In August, OIPM received copies of policy drafts incorporating our recommendations and addressing our concerns. The OIPM appreciates the proactive and receptive collaboration with the NOPD leadership on changing these policies and looks forward to continuing this valuable work with these departments.

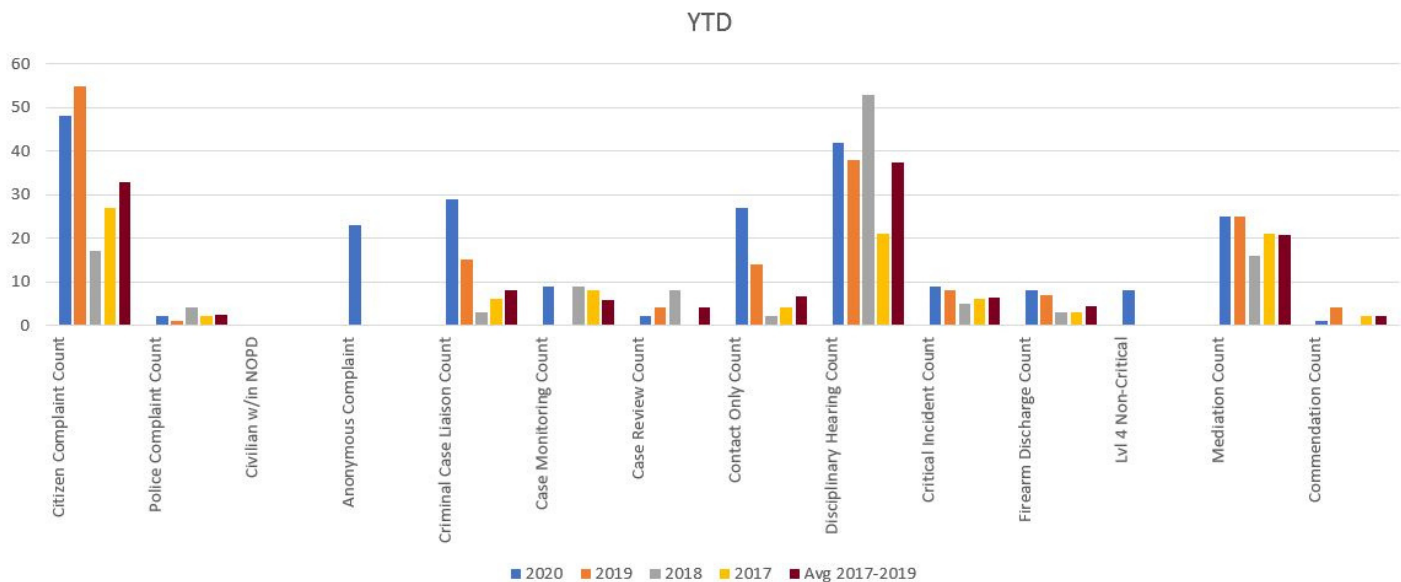
Finally, the OIPM continued to act as a resource in the development of possible city ordinances to address policing and the sharing of policing resources with criminal justice partners. The OIPM participated in community coalitions and provided feedback to various organizations pursuing police reform efforts and access to Body Worn Camera footage, including sharing national best practices and context to NOPD policies. During August and in the coming months, many of these ordinances, incorporating OIPM feedback, may appear before City Council and the New Orleans community for consideration and implementation.

OIPM seeks to continue to serve our community as this summer of pandemic and community protests continue. The OIPM is a resource to all and will continue to demand accountability, fairness, and transparency from the NOPD. We look forward to continuing our work with you.

Thank you,

Susan Hutson

# Year to Date Overview

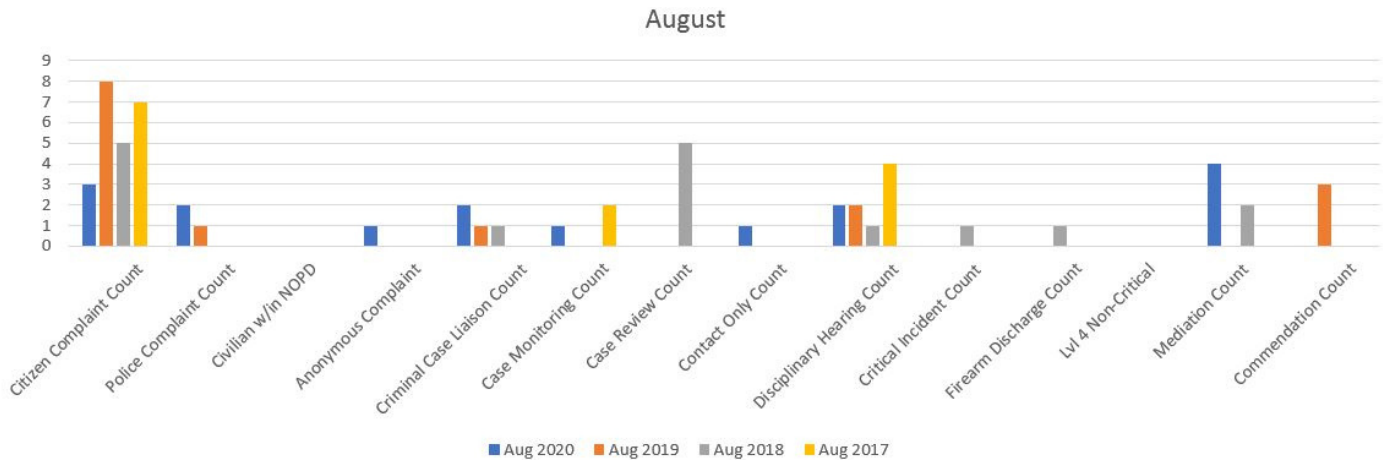


	2020	2019	2018	2017	Avg 2017-2019
Citizen Complaint Count	48	55	17	27	33.00
Police Complaint Count	2	1	4	2	2.33
Civilian w/in NOPD*	0	-	-	-	-
Anonymous Complaint*	23	-	-	-	-
Criminal Case Liaison Count	29	15	3	6	8.00
Case Monitoring Count	9	0	9	8	5.67
Case Review Count	2	4	8	0	4.00
Contact Only Count	27	14	2	4	6.67
Disciplinary Hearing Count	42	38	53	21	37.33
Critical Incident Count	9	8	5	6	6.33
Firearm Discharge Count	8	7	3	3	4.33
Lvl 4 Non-Critical*	8	-	-	-	-
Mediation Count	25	25	16	21	20.67
Commendation Count	1	4	0	2	2.00
<b>Grand Total</b>	<b>233</b>	<b>171</b>	<b>120</b>	<b>100</b>	<b>130.33</b>

\*indicates a new category



# August Overview



	Aug 2020	Aug 2019	Aug 2018	Aug 2017	Avg 2017-2019
Citizen Complaint Count	3	8	5	7	6.67
Police Complaint Count	2	1	-	-	1.00
Civilian w/in NOPD*	0	-	-	-	-
Anonymous Complaint*	1	-	-	-	-
Criminal Case Liaison Count	2	1	1	0	-
Case Monitoring Count	1	0	0	2	0.67
Case Review Count	0	0	5	0	1.67
Contact Only Count	1	0	0	0	0.00
Disciplinary Hearing Count	2	2	1	4	2.33
Critical Incident Count	0	0	1	0	0.33
Firearm Discharge Count	0	0	1	0	0.33
Lvl 4 Non-Critical*	0	-	-	-	-
Mediation Count	4	0	2	0	0.67
Commendation Count	0	3	-	-	3.00
<b>Grand Total</b>	<b>16</b>	<b>15</b>	<b>16</b>	<b>13</b>	<b>14.33</b>

\*indicates a new category

# August Overview

Citizen Complaints	
CC2020-0070	According to the complainant, after her car was totalled in an accident, the investigating officer made a finding of "no fault" despite the complainant's pictures and other evidence available during the on-scene investigation.
CC2020-0071	Complainant stated she was injured during the June 3rd protest on the Crescent City Connection Bridge by an NOPD officer leaving her with a concussion and torn rotator cuff.
CC2020-0075	The complainant alleges that a Detective has "given her the runaround" and failed to thoroughly investigate the sexual assault of her family member.
Citizen Complaints Count: 3	

Police Complaint	
PO2020-0073	According to a Sergeant within the NOPD, the lieutenant and captain she reported to demonstrated unprofessional behavior, bias, and favoritism.
PO2020-0074	According to a Lieutenant within the NOPD, a subordinate has behaved aggressively towards her and is resistant of her management. When the complainant tried to address concerns she has regarding this employee, she felt Deputy Chiefs and her Captain expressed racial bias and / or favoritism towards that employee.
Police Complaint Count: 2	

Anonymous Complaint	
AC2020-0072	An anonymous complainant works in the NOPD Crime Lab and alleges that another officer frequently makes racist remarks and degrades women while on duty and in the office.
Anonymous Complaint Count: 1	

Criminal Liasion	
CL2020-0029	OIPM assisted an individual with reaching out to the Coroner's Office to learn the status of an investigation.
CL2020-0030	An individual reached out to the OIPM concerning a possible elder abuse issue.
Criminal Liasion Count: 2	

# August Overview

Case Monitoring	
CM2020-0009	An individual reached out to OIPM regarding a pending misconduct investigation and concerns the individual is having with PIB and the District Attorney's Office. OIPM is assisting the individual with getting information from PIB and facilitating conversations with various offices.
Case Monitoring Count: 1	

Contact Only	
CO2020-0033	An individual reached out to OIPM and other city government leaders regarding "blue line corruption." OIPM reached out to the individual requesting additional information and did not receive a response.
Contact Only Count: 1	

Disciplinary Hearings	
DH2020-0041	An officer is accused of operating his department vehicle for personal use while not on duty under the influence of alcohol, and getting into a collision. The officer is accused of failing to utilize the city resources or notifying his supervisor of the accident but instead trying to call a private towing company to retrieve the car.
DH2020-0042	Officer is accused of entering a holding cell with a child (juvenile) arrested subject then shoving and slapping the child. The officer is accused of committing the misdemeanor offense of simple battery and using unauthorized force in violation of NOPD policy.
Disciplinary Hearings Count: 2	

# 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.

**3**

**CITIZEN  
COMPLAINTS**

**2**

**DISCIPLINARY  
PROCEEDINGS**

**2**

**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.

5

MEDIATIONS  
REFERRED

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



4

MEDIATIONS  
HELD

“ 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

2

MEDIATIONS  
PENDING

# **Monthly Report of Ethics Trainer**

No report received.