



CITY OF NEW ORLEANS ETHICS REVIEW BOARD

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

erb@nolaerb.gov

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

BOARD MEETING

Monday, March 8, 2021

3:30 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 pipeline report process (Ciolino).
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 annual evaluations of IG and IPM (Doucette, Sanders, Brooks), and responses of OIG and OIPM.
7. Discussion of expanding triennial evaluations of IG and IPM (Chair), and responses of OIG and OIPM.
8. Ethics awards (Callia, Jefferson).
9. Discussion and vote on Marcello/BGR recommendations (Chair, Ciolino).
10. Discussion of board officer selection process (Chair).
11. Report of Executive Administrator and General Counsel (Chair).
 - a. Report on status of RFP for executive search firm for new Inspector General.

- b. Report on status of creation of ethics trainer classified position.
- 12. Executive Session. Discussion of investigative proceedings regarding allegations of misconduct pursuant to La. Rev. Stat. § 42:17(A)(4).
- 13. Adjournment (Chair).

**Draft Minutes of
Previous Board
Meeting**



Ethics Review Board for the City of New Orleans

Board Meeting of February 8, 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 A. Brooks.
 - 1.1.2. Elizabeth Livingston de Calderon.
 - 1.1.3. Michael A. Cowan (Chair).
 - 1.1.4. Holly Callia.
 - 1.1.5. Monique G. Doucette.
 - 1.1.6. Tyrone G. Jefferson, Jr.
 - 1.1.7. Torin T. Sanders.
 - 1.2. Board members absent: None.
 - 1.3. Staff member present: Dane S. Ciolino, Executive Administrator and General Counsel.
 - 1.4. A 3:32 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.* A motion was made to note in the minutes that OPCD is an acronym for Orleans Parish Communications District—not the sheriff’s office. The Board unanimously approved the minutes of the December 28, 2020, board meeting as corrected.
4. *Report of the Office of Inspector General.*
 - 4.1. The Office of the Inspector General was represented by Interim IG Ed Michel. Other OIG staff members were also in attendance, including Erica Smith and Larry Douglass.
 - 4.2. Ms. Smith discussed the budget. *See Attached Slides.*
 - 4.2.1. Ms. Calderon and Mr. Sanders asked why the OIG legal expenses were so high.
 - 4.2.2. Ms. Smith replied that the OIG has no full-time general counsel, so the cost was to pay Chaffe McCall, a contractor.
 - 4.3. Mr. Michel discussed the monthly report. *See Attached Monthly Report.*
 - 4.4. Mr. Michel noted that his office has investigated some wrongdoing relating to the application of the homestead exemption by the assessor’s office. This instance was reported to the assessor’s office and addressed. He noted that this particular complaint came in over the website.
 - 4.4.1. Ms. Callia asked whether there should be a better way to find out about such violations more readily and more often.
 - 4.4.2. Mr. Michel reported that he would discuss this with the assessor’s office.
 - 4.5. Mr. Cowan asked whether the OIG could quantify the monetary benefits attributable to the office’s work as it has done in years past. Mr. Michel agreed to do so in future reports.
 - 4.6. Mr. Cowan complimented the OIG on its efforts to communicate the work of the office to the ERB and to the public.
5. *Vote on the Salary for the Interim Inspector General.*
 - 5.1. A motion was made to amend the agenda to vote on the salary of the Interim Inspector General. The motion was passed unanimously by all board members.

- 5.2. A motion was made to set the salary of the Interim IG at \$205,000 plus benefits—the same amount previously paid to former IG Derry Harper. The motion was seconded.
 - 5.2.1. The board permitted public comment on the motion. The board received no public comments.
 - 5.2.2. The board discussed the motion. Board members noted that Mr. Michel is doing the same job that Mr. Harper was previously hired to do and should be paid the same salary.
 - 5.2.3. The board unanimously approved the motion and set Mr. Michel’s salary at \$205,000 per annum plus regular City benefits.
- 6. *Report of the Office of the Independent Police Monitor.*
 - 6.1. IPM Susan Hutson appeared for the OIPM.
 - 6.2. Ms. Hutson discussed her monthly report. *See Attached Monthly Report.*
 - 6.3. Ms. Hutson gave the new board members an overview of the personnel and functions of the OIPM. *See Slideshow.*
 - 6.4. Ms. Brooks asked whether there were “repeat offenders” who are responsible for habitual misconduct at NOPD. Ms. Hutson responded that there is not as much as it was in the past because of the consent decree.
 - 6.5. Mr. Sanders asked whether the OIPM investigates all complaints. Ms. Hutson reported that “we don’t investigate,” but the office processes complaints, refers them to NOPD, and then monitors NOPD’s internal investigations.
 - 6.6. Mr. Cowan asked about the plan of the office to monitor NOPD after the consent decree. Ms. Hutson reported that her office will continue to do its current jobs but do “meta-audits” of NOPD’s internal audits. She noted that the NOPD has come a long way.
- 7. *Report of Executive Administrator and General Counsel.*
 - 7.1. Mr. Ciolino reported that one new complaint had been received.
 - 7.2. Mr. Ciolino discussed the Board’s upcoming deadlines and events.
 - 7.3. Mr. Ciolino reported on the hiring process for replacing the Inspector General. A meeting will be held next month to choose a search firm to spearhead the national search.

- 7.4. Mr. Ciolino reported on the process to hire a full-time ethics trainer. The Civil Service Department was in the process of approving a classified position and the city personnel department will advertise the position for applicants.
- 8. *Marcello Report.*
 - 8.1. At the request of the Chair, Prof. David Marcello attended the board meeting. At the meeting he presented the attached proposals. *See* Marcello Proposals.
 - 8.2. Mr. Cowan suggested that the board implement several of his proposals at the next board meeting.
- 9. *Executive Session.*
 - 9.1. The board went into executive session after a motion to do so was made, seconded, and approved by a unanimous vote of the board. The purpose of the executive session was to discuss investigative proceedings regarding allegations of misconduct pursuant to La. Rev. Stat. § 42:17(A)(4).
 - 9.2. After meeting in executive session, the board went back into general session and publicly voted to dismiss complaints 2020-01, 2020-02, and 2020-5 for failure to state a prima facie violation of the Code of Ethics of the City of New Orleans.
- 10. *Adjournment.*
 - 10.1. A motion was made to adjourn the board meeting. The motion was seconded.
 - 10.2. The Board unanimously voted to adjourn.
 - 10.3. The meeting was adjourned at 6:12 p.m.

* END *

Monthly Report of OIG

Report to the Ethics Review Board
February 2021

Administration

The OIG recently released the Citywide Risk Assessment Report dated February 10, 2021, which is the blueprint to allocate our limited resources efficiently and effectively, identify potential project, and determine audit and evaluation priorities for both the current year and subsequent years.

Audit & Review

The Audit & Review division has the following audits underway: BRASS Purchasing, Orleans Parish Communications District, and the Department of Public Works and Sewerage & Water Board coordination. We also initiated a follow-up project for the Sewerage & Water Board's Internal Audit Performance Audit report originally issued August 2019.

Please see the attached project status spreadsheet for details.

Inspections & Evaluations

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

Please see the attached project status spreadsheet for details.

Investigations

The Investigations Division received seven (7) complaints in February 2021. Five (5) concerned matters outside of the OIG's purview.

OIG Investigations Division activities and cases:

- Criminal Investigations:

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

- Administrative Investigations:

The OIG recently published a Report of Investigation concerning an allegation that three residential properties benefited from homestead exemptions and special assessment level tax exemptions despite the listed homeowners reportedly being deceased. As a result of this investigation, the Assessor's Office removed the homestead exemptions and age freezes for the three properties, retroactive to 2017. According to the Bureau of the Treasury, the City of New Orleans is due \$48,452.48 in additional property tax revenue.

Further, the OIG sent a letter dated February 8, 2021 to the Assessor's Office concerning a residential property owner that was the beneficiary of two homestead exemptions, one in Orleans Parish, and the other in Jefferson Parish. The Assessor's Office subsequently issued a letter to the property owner stating that they were rescinding the homestead exemption for the residence located in Orleans Parish.

OIG Information Security Division activities for February 2021:

Recurring Monthly tasks

Daily backup monitored, and all backups are working effectively.

Software updates

Windows Server and various application security updates are completed.

Technical Support provided, hardware related

Installed, configured new network switches, and distributed new computer equipment to staff

Technical Support provided, non-hardware related

45 service desk tickets resolved

New software conversion completed for Audit Division

Assisted with public records requests

General e-mail assistance

Communications

Created support requests via the COX communications to resolve internet access issues

Communicated with software and hardware vendors to schedule upgrades and implement new services

Working with vendors to acquire new Staff Credentials

Purchasing

Assisted the Deputy IG of Audit with the purchase renewals for support and licensing expirations

Training

Coordinating with staff to complete the required City of New Orleans Cyber Security Training

Training

Completed level one training for hardware security.

Working on completing CEUs for Comptia Security+ certification.

Status Report for OIG Projects - Audit and Evaluations Division

Report Date: Friday, February 26, 2021

Project Number	Project Name	Project Phase *						Expected Release Timeline for Report**		
Audit/Review		Planning	Fieldwork	Draft Report	Supervisory Review	Legal Review	IG Review	30-45 Days	60 Days	90 Days
AD-19-0002	DPW/SWB Coordination		X							
AD-20-0001	BRASS Purchasing		X							
AD-20-0002	Orleans Parish Comm District (OPCD)+	X								
AD-21-0001	SWB Internal Audit Follow Up	X								

+ The Current OPCD audit confirming jurisdictional authority was heard and adjudicated by the Civil District Court on September 29th. However, the OPCD has filed an appeal with the 4th Circuit Court, and we are filing our response to their appeal by March 4, 2021.

Project Number	Project Name	Project Phase *						Expected Release Timeline for Report**		
Inspections/Evaluations		Planning	Fieldwork	Draft Report	Supervisory Review	Legal Review	IG Review	30-45 Days	60 Days	90 Days
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 Obsevatons 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 procedures, proper conclusions, content, 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 interpretations
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 methodolgy for each audit/evaluation project, and is not determined by a standard set of hours and/or phase deadline. 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 legal and 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.

2020 OIG Expenditures as of 2/5/2021

PAID Operating Expenditures	Amount
Auto Expenses	\$6,000
Drug Tests – New Hires	\$105
IT – Audit Software	\$12,467
IT - Communications	\$65,558
IT – Data Security	\$56,141
IT - Equipment	\$13,615
IT – Forensic Related	\$17,900
IT – Research Software	\$21,272
IT – Investigative Software	\$11,514
IT – Software	\$6,898
IT - Staffing	\$8,000
Legal Services	\$5,292
Miscellaneous	\$8,939
Office Supplies	\$645
Rent	\$414,278
Recruiting Services	\$14,000
Travel-Related	\$512
Total Paid Operating Expenditures	\$663,136

ENCUMBERED Operating Expenditures	Amount
IT - Equipment	\$42,112
IT - Infrastructure	\$7,490
IT – Research Software	\$1,701
Total Encumbered Operating Expenditures	\$51,303

OIG should be able to provide final 2020 actual expenditures at March meeting



2020 OIG Fund Balance as of 3/3/2021

Funding:	\$3,992,339
Expenditures:	
Personnel Expenditures	(\$2,391,301)
Total Actual Operating Expenditures	(\$443,456)
Total Encumbered Operating Expenditures	(\$70,089)
Fund Balance	\$1,087,493



2020 OIG Expenditures as of 3/3/2021

Operating Expenditures	PAID Amount	Actual Expenditure
Auto Expenses	\$6,000	\$6,000
Drug Tests – New Hires	\$105	\$0
IT – Audit Software	\$12,467	\$12,467
IT - Communications	\$65,558	\$50,099
IT – Data Security	\$56,141	\$28,498
IT - Equipment	\$13,615	\$11,716
IT – Forensic Related	\$17,900	\$17,900
IT – Research Software	\$21,272	\$12,735
IT – Investigative Software	\$11,514	\$8,381
IT – Software	\$6,898	\$1,989
IT - Staffing	\$8,000	\$0
Legal Services	\$5,292	\$5,292
Miscellaneous	\$8,939	\$2,100
Office Supplies	\$645	0
Rent	\$414,278	\$256,790
Recruiting Services	\$14,000	\$0
Travel-Related	\$512	\$1,511
Total Paid Operating Expenditures	\$663,136	\$443,456

ENCUMBERED Operating Expenditures	Amount
IT - Equipment	\$42,112
Credit Card Expenditures	\$27,977
Total Encumbered Operating Expenditures	\$70,089



Monthly Report of OIPM

THE OFFICE OF THE INDEPENDENT POLICE MONITOR



MONTHLY REPORT

FEBRUARY 2021

Community Letter

Dear New Orleans Community,

The Office of the Independent Police Monitor is continuing to push ahead with our goals for the 2021 year to provide data transparency and amplify the voices of our community.

The OIPM announced the release of its internal data to the public through the launch of our data dashboard regarding our complaint intake work. The data dashboard can be found online at: **complaints.nolaipm.gov/data**. This dashboard contains data visualizations regarding our complaint process and the complaints the Office of the Independent Police Monitor received. The charts and graphs capture different aspects of our internal process regarding complaint intake or information about the complaints or the complainant themselves. The data only captures the accounts of officer misconduct submitted directly to the Office of the Independent Police Monitor.

While OIPM is excited about the release of our data dashboard, it does not replace the public facing database City Council voted on in resolution R-20-175. This month, OIPM, along with The Innocence Project New Orleans and Orleans Public Defenders, hosted an online community forum focusing on the future public facing database and police transparency. We were able to hear from the community about needs and wants as it relates to accessing information related to law enforcement.

During the month of February, the Office of the Independent police monitor continued to provide vital monitoring and facilitating services. On February 3, 2021, the OIPM monitored the investigation of an Officer Involved Shooting in the monitored an officer involved shooting in the 400 block of Tricou Street. Our staff reported to the scene to monitor the investigation and ensure the NOPD followed all necessary protocols. Also, this month we monitored misconduct investigations and witness statements made at the Public Integrity Bureau at the request of NOPD leadership. OIPM appreciates the trust and respect NOPD has shown towards our office during these investigations.

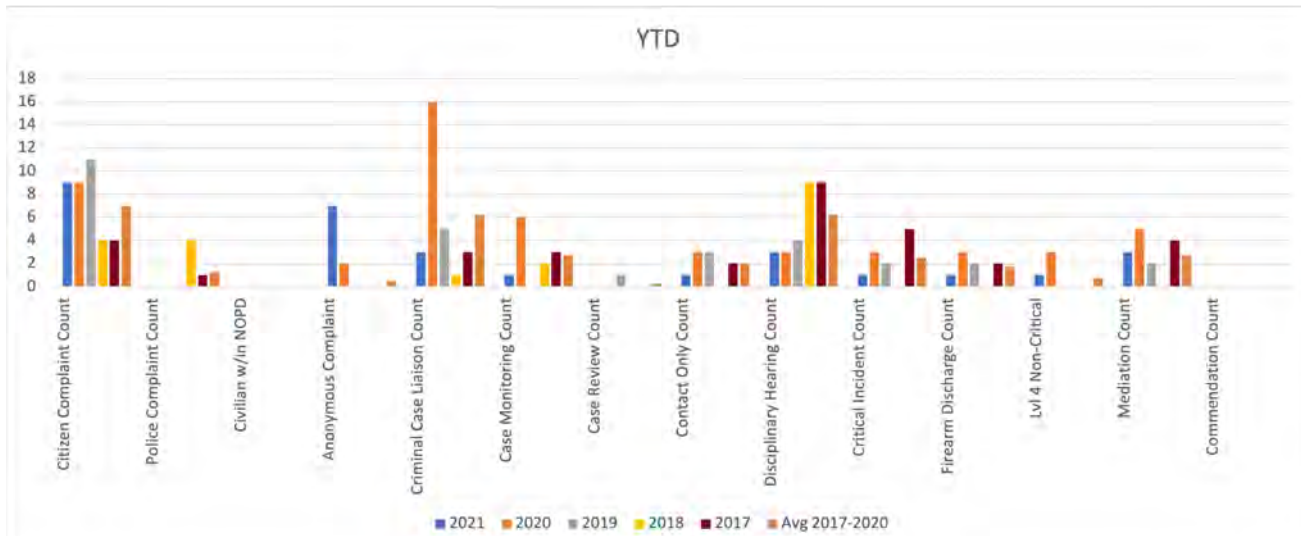
The OIPM is also continuing to monitor all facets of the investigation involving former New Orleans Police Officer Rodney Vicknair. Last September, the OIPM received an anonymous complaint regarding the possibility of sexual misconduct and worked with all involved parties to ensure there was a swift and sensitive response the allegations. We recognize the importance of this case and will continue to monitor it through the criminal justice system as we do for every investigation involving criminal or civil proceedings.

Lastly, the OIPM extends its deepest condolences to the family, friends, and colleagues of Martinus Mitchum, a Tulane University police officer and Reserve Deputy Constable who tragically lost his life in the line of duty.

Thank you,

Susan Hutson

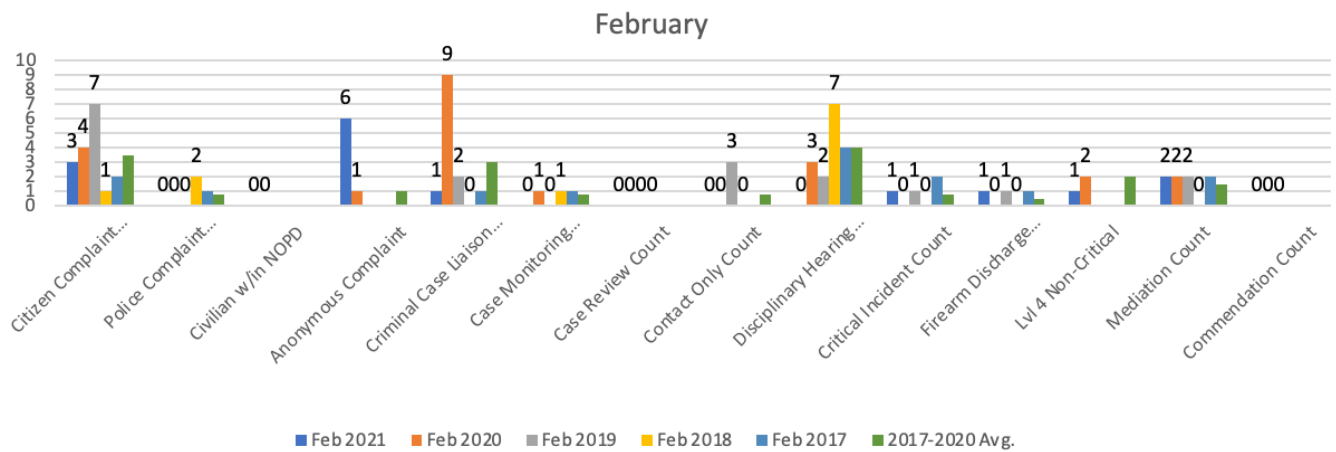
Year to Date Overview



	2021	2020	2019	2018	2017	Avg 2017-2020
Citizen Complaint Count	9	9	11	4	4	7.00
Police Complaint Count	0	0	0	4	1	1.25
Civilian w/in NOPD*	0	0	0	0	0	0
Anonymous Complaint*	7	2	0	0	0	0.5
Criminal Case Liaison Count	3	16	5	1	3	6.25
Case Monitoring Count	1	6	0	2	3	2.75
Case Review Count	0	0	1	0	0	0.25
Contact Only Count	1	3	3	0	2	2.00
Disciplinary Hearing Count	3	3	4	9	9	6.25
Critical Incident Count	1	3	2	0	5	2.50
Firearm Discharge Count	1	3	2	0	2	1.75
Lvl 4 Non-Critical*	1	3	0	0	0	0.75
Mediation Count	3	5	2	0	4	2.75
Commendation Count	0	0	1	0	0	0.00
Grand Total	30	53	30	20	33	34.00

*indicates a new category

February Overview



	Feb 2021	Feb 2020	Feb 2019	Feb 2018	Feb 2017	2017-2020 Avg.
Citizen Complaint Count	3	4	7	1	2	3.50
Police Complaint Count	0	0	0	2	1	0.75
Civilian w/in NOPD*	0	0	-	-	-	0.00
Anonymous Complaint*	6	1	-	-	-	1.00
Criminal Case Liaison Count	1	9	2	0	1	3.00
Case Monitoring Count	0	1	0	1	1	0.75
Case Review Count	0	0	0	0	0	0.00
Contact Only Count	0	0	3	0	0	0.75
Disciplinary Hearing Count	0	3	2	7	4	4.00
Critical Incident Count	1	0	1	0	2	0.75
Firearm Discharge Count	1	0	1	0	1	0.50
Lvl 4 Non-Critical*	1	2	-	-	-	2.00
Mediation Count	2	2	2	0	2	1.50
Commendation Count	0	0	0	-	-	0.00
Grand Total	15	22	18	11	14	16.25

*indicates a new category

February Overview

Anonymous Complaint	
AC2021-0010	The complainant stated that her and her husband were involved in a domestic incident. The complainant stated that the officer tried to flirt with her and when turned down the officer retaliated by arresting her husband.
AC2021-0013	The complainant alleges that an NOPD Officer was observed potentially not devoting his entire time to duty when the complainant was pursuing a hit and run suspect, tried to get the officer's attention, and was ignored.
AC2021-0015	The complainant alleges that an NOPD Sergeant illegally entered a home and conducted a search and tried to cover it up after by retroactively obtaining a search warrant.
AC2021-0017	Complainant alleges an NOPD officer has been harassing and making false claims of "suspicious activity" to the complainant's mother's rental office manager.
AC2021-0018	The complainant alleges that an NOPD officer has committed domestic violence crimes against several black women.
AC2021-0020	The complainant alleges that the NOPD failed to take necessary action and conduct a thorough investigation into the death of her friend.
Anonymous Complaint Count: 6	

Criminal Liaison	
CL2021-0003	A citizen contacted the OIPM about an open criminal investigation. The citizen wanted to ensure NOPD was investigating a OPSO employee for allegedly carrying an unauthorized weapon.
Criminal Liaison Count: 1	

Citizen Complaints	
CC2021-0002	The complainant alleges that two NOPD officers inappropriately pulled her over for a traffic stop to check her sobriety due to her alleged 1-2 second delay in proceeding into the intersection after the traffic light turned green.
CC2021-0003	The complainant alleges that an NOPD officer was aggressive with him during a traffic stop in the French Quarter.
CC2021-0004	The complainant stated that her car was broken into and the police never responded when contacted/requested after being told that an officer was on the way.
Citizen Complaints Count: 3	

Firearm Discharge	
FD2021-0001	Same as CI2021-0001
Firearm Discharge Count: 1	

February Overview

Critical Incident	
CI2021-0001	Officers arrived on the scene to investigate an aggravated assault. After verifying the location of the alleged suspect, officers observed him run inside the residence and arm himself with an AR-15 rifle at which time he began shooting in the direction of the officers. The officers returned fire with no injuries. The alleged suspect then barricaded himself inside the residence. SOD was called out to the location and declared a Swat Roll. The negotiator was on scene and talked the individual out of the residence.
Critical Incident Count: 1	

Level 4 Non-Critical Use of Force	
UF2021-0001	Officers were investigating a hit-and-run when they located the suspected vehicle. As officers approached the vehicle, the individual pushed the officers and attempted the flee. The officers then disengaged before they deployed tasers & subsequently apprehended the individual. The individual experienced a fractured arm and facial lacerations.
Level 4 Non-Critical Use of Force: 1	

Mediation	
Mediation cases are confidential.	
Mediations Held: 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**

0

**DISCIPLINARY
PROCEEDINGS**

0

**POLICE INITIATED
COMPLAINTS**

6

**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.

11

**MEDIATIONS
REFERRED**

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



2

**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

6

**MEDIATIONS
PENDING**

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.

1

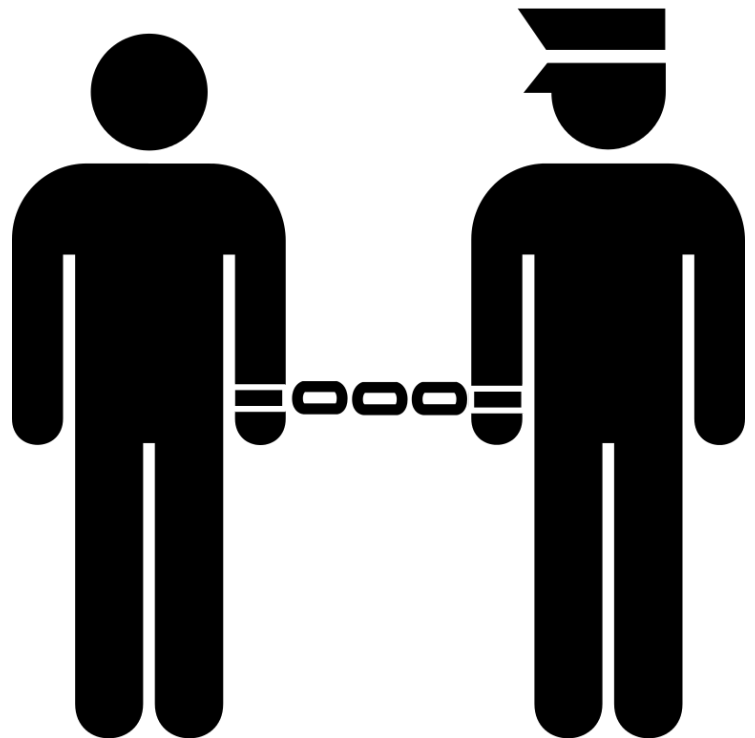
**CRITICAL
INCIDENT**

1

**FIREARM
DISCHARGE**

1

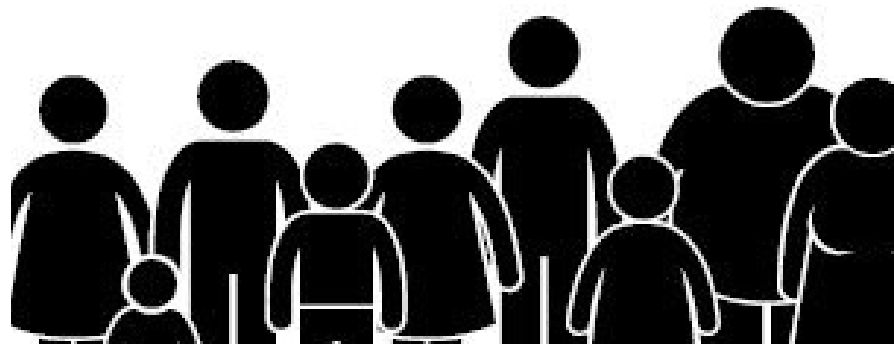
**LEVEL 4
NON-CRITICAL
INCIDENT**



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.

February 8, 2021 - Justice and Beyond Meeting
February 24, 2021- Data Transparency Community Forum



Budget

2021 Total OIPM Budget	\$1,013,681.00
Amounts Spent to Date:	(\$246,561.00)
Projected Amounts to be Spent the Rest of the Year:	(\$849,333.34)
Projected Unexpended Funds	\$164,347.66

OIPM Budget Description	Amount
Personnel	\$688,744.00
Operating	\$324,937.00
2021 Total OIPM Budget	\$1,013,681.00

Item 1

ERB Ordinance and Administrative Reforms 2021

ERB Member Nominations, Appointment, and Confirmation: ERB procedures for making appointments and filling a vacancy should be revised to conform written policies with how the process works in practice. Each one of the six university-nominated seats has come to be associated with a particular institution. To fill those seats, the practice has been to solicit only one list of three names from the particular institution—not six lists of three names each from every university.

Management of Complaints: An anonymous complaint-numbering system should be used in public reports that account for the length of time and ultimate disposition of all complaints received. ERB Rule 502 currently requires "Dating and Docketing" each complaint as it is received, so a numbering system should already exist; what's missing is monthly reporting and transparency, so that the public can track how long it takes the ERB to process complaints.

The ERB should be specific in identifying who is investigating complaints and how they are advancing through the process—and it can do so without breaching important confidentiality restrictions, simply by using an anonymous numbering system.

Disposition of Complaints: When the ERB finally disposes of a complaint, it must do so in a way that enables the complainant to understand why the complaint was dismissed. A complaint that is "Dismissed" with no further explanation affords the complainant no realistic means of judicial review.

ERB Rule 809 deals with "Summary Disposition of Charges." Subparagraph A gives six specific reasons why the board might summarily dismiss a matter. The ERB needs to adhere to its rules and be specific in its disposition of complaints.

Minutes: In order to facilitate public review, a draft of minutes from the prior meeting should be posted on the ERB website within 7-10 days after a meeting.

IG and IPM Succession Plans: The ERB should secure from the IG and IPM written succession plans that will account for an unanticipated vacancy in either position.

David Marcello

Executive Director

The Public Law Center

6329 Freret Street, Suite 216

New Orleans, Louisiana 70118

Phone: (504) 862-8847

ERB DAM Recommendations to Establish Enforcement Capability

The City Code provisions on ethics are riddled with anachronisms. For example, the Office of Municipal Investigations no longer exists. OMI was extinguished years ago.

Ordinances passed over several decades have left behind a residue of language that is sometimes outdated and confusing. Section 2-717 of the City Code, for example, refers to “Criminal Penalties.” Criminal penalties are not the ERB’s bailiwick. But that’s not the end of the story.

The ERB occupies legal terrain that is rich with enforcement opportunities. The following observations plow that rich terrain by identifying enforcement authority in existing City Code and Home Rule Charter provisions and also identifying the need for new ordinances that will contribute to ERB enforcement authority. For ease of reference, I’ve numbered discrete recommendations below.

(1) ERB Schedule of Fines: Section 9-402 of the Home Rule Charter specifically directs that the City Council "shall authorize [the ERB] to enforce the provisions of the Code of Ethics," including authority for the ERB "to impose fines." The ERB should ask the Council to comply with this Charter mandate by establishing via ordinance a schedule of fines (*civil* penalties) that the board can levy whenever it finds a violation.

Moving beyond civil fines, Section 2-716 of the City Code provides a further basis for ERB enforcement authority. Here’s what it says about “Civil Penalties” (emphasis added):

Sec. 2-716. - Civil penalties.

*(a) **Classified employees** shall be subject to disciplinary action by their appointing authority for violation of this division.*

*(b) **Unclassified employees and appointed officials** shall be subject to suspension or dismissal in accordance with section 3-125 of the Charter for violation of this division.*

*(c) **Members of boards, commissions, and agencies** shall be removed and/or shall forfeit their appointment in accordance with section 9-104 of the Charter for violation of this division.*

*(d) **Elected officials** shall be subject to censure by city council resolution for violation of this division.*

And here's how those provisions in Section 2-716 can be turned into enforcement opportunities for the ERB.

(2) ERB Findings as a Basis for Action by Other Municipal Actors: The Council should provide by ordinance that ERB findings are a basis for action by other city entities, pursuant to their existing authority under the Home Rule Charter and the City Code. An ERB finding forwarded to the appropriate entity could support the following enforcement actions:

(A) Disciplinary action by a classified employee's appointing authority.

(B) Suspension or dismissal of unclassified employees and appointed officials as per Section 3-125 of the Charter.

(C) Removal of agency, board, and commission members pursuant to Section 9-104 of the Charter.

(3) ERB Referrals for Criminal Prosecution: The ERB cannot impose the criminal penalties referenced under Section 2-717, but the ERB can and should refer matters to the US Attorney, Attorney General, District Attorney, or City Attorney whenever it becomes aware of potential criminal violations.

(4) ERB Exclusive Enforcement Authority for the City Ethics Code: The ERB has exclusive enforcement authority for the City Ethics Code. Literally, if they don't do it, nobody else will. *Do not overlook* the powerful provisions contained in our City Ethics Code:

(A) The Ethics Code addresses **nonpartisanship and nondiscrimination**, including **discrimination based on "sexual orientation"** (2-770). This is a rare and extraordinary protection among municipal codes of ethics in the United States and it's even more astounding when we consider that the Ethics Code was adopted in 1956.

(B) The Ethics Code protects **freedom from reprisal for disclosure of improper acts** (2-772). ERB members have expressed concerns at prior meetings about better protections for “whistleblowers”? The ERB has explicit authority to do something about it.

(C) The Ethics Code contains **public information protections** (2-773).

(D) The Ethics Code deals with **prohibited financial interests** (2-777).

(E) The Ethics Code imposes **restrictions on leases and concessions** (2-778).

(F) The Ethics Code prohibits **borrowing from or an interest in contractors** (2-779).

(G) The Ethics Code prohibits certain **political activities** (2-781).

(H) And the Ethics Code provision on **recusal of board members** (2-782) explicitly goes beyond the State Ethics Code’s provisions on recusal.

Particularly with regard to "sexual orientation" discrimination, public information protections, and recusal of board and commission members, the ERB enjoys enforcement powers that go beyond matters addressed in the State Ethics Code; those matters will remain unplowed ground unless the ERB exercises its unique authority over each of these subjects.

(5) ERB Dual Jurisdiction under the State Ethics Code: The State Ethics Administration does not accept every alleged violation of the State Ethics Code sent its way, nor are those allegations substantively resolved in every instance. The ERB has shared jurisdiction with the State Ethics Board to enforce the State Ethics Code and retains authority to act on matters where the State Board has decided to take a "pass." The ERB is not restricted exclusively to enforcing the City Ethics Code; that's why one of Dane's first moves as ERB counsel was to propose an amendment to the City Code, explicitly articulating the ERB's power and responsibility to enforce provisions of the State Ethics Code by incorporating them into the City Code. When the State Ethics Board declines to take definitive action on potential violations of the State Ethics Code, the ERB retains authority to act on the matter and should consider doing so.