

QUALITY ASSURANCE REVIEW ADVISORY COMMITTEE FOR THE OFFICE OF INDEPENDENT POLICE MONITOR

ANNUAL REVIEW 2020

I. EXECUTIVE SUMMARY

The Quality Assurance Review Advisory Committee (“QARAC”) conducted an independent review of written records produced by the Office of Independent Police Monitor (“OIPM” or “IPM”) in calendar year 2020. As outlined in detail in this report, the overall conclusions of the QARAC’s review as to the quality and quantity of work by the OIPM are positive.

Given that 2020 created numerous challenges for the OIPM, the amount and quality of work it performed was still impressive. The COVID pandemic meant OIPM’s oversight had to be conducted almost entirely virtually, and the focus of OIPM’s work shifted to address issues such as NOPD compliance with PPE protocols, monitoring COVID checkpoints, and urging NOPD’s use of contactless summons in place of arrests in low-level, non-violent cases. In addition to losing Tonya McCrary, its Chief Monitor for Use of Force, the OIPM’s budget was frozen and voluntary salary reductions and furloughs were taken. Nonetheless, the small but effective OIPM staff rose to the challenges presented by local protests in the wake of the murder of George Floyd. The OIPM was at the center of the investigation of NOPD’s response to peaceful protests on the Crescent City Connection bridge on June 3, 2020. To date, the OIPM continues to work with NOPD to craft effective policies with respect to handling protests.

The OIPM continues to play a crucial and important role in monitoring the activities of NOPD and making positive change in NOPD practice and policy. The OIPM continues to produce objective and thorough work product that garners the respect of NOPD and the public. However, there is so much more the staff of OIPM would like to do and could do if they had the resources. With former IPM Susan Hutson’s leaving, the OIPM is woefully understaffed. Now, more than ever, the City of New Orleans needs to bolster this important organization with increased staff and funding.

II. OVERVIEW OF QARAC

The QARAC engages in an independent annual review of written records produced by the OIPM in the preceding calendar year. Municipal Ordinance Art. XIV, Sec. 2-1121(22) provides: “Completed reports, inspections, performance reviews, public reports of investigation, and other records, shall be subject to an annual quality assurance review by a third-party advisory committee, known as the quality assurance review advisory committee for the office of the independent police monitor.”

In terms of the membership of the QARAC, according to Sec. 2-1121 (22): “The quality assurance review advisory committee for the office of the independent police

monitor shall include a representative appointed by the city council, who shall serve as chair of the committee; a representative appointed by the office of the mayor; and a representative appointed by the ethics review board.” The members of this QARAC, appointed to review the OIPM for the calendar year 2020 are as follows:

- Janet C. Hoeffel, Catherine D. Pierson Professor of Law, Tulane Law School, Chair, appointed by the city council;
- Imtiaz A. Siddiqui, IAS LAW LLC, appointed by the office of the mayor;
- Marcus M. Kondkar, Ph.D., Associate Professor of Sociology, Loyola University, appointed by the ethics review board.

Pursuant to instructions from the Ethics Review Board, “QA[RA]C functions as a common sense, ‘citizen check’ on IPM’s work. QA[RA]C may consider whether reports are well written, objective, reflective of a sound method/fair process; report its views as to the breadth and volume of the IPM’s work product; evaluate whether the work is reflective of the IPM’s annual budget and the needs of the public, etc.” (Memo to Chair, QARAC, May 7, 2019, titled, “IPM Quality Assurance Review Advisory Committee, Description of Work & Duties”).

III. OIPM DUTIES AND RESPONSIBILITIES

Municipal Ordinance Sec. 2-1121(3) sets out the duties and responsibilities of the OIPM, as follows:

The independent police monitor shall monitor the New Orleans Police Department, particularly in the areas of: civilian and internally-generated complaints; internal investigations; discipline; use of force; critical incidents; and in-custody deaths. The independent police monitor shall review and analyze the numbers and types of complaints; assess the quality and timeliness of New Orleans Police Department investigations; review the adequacy of data collection and analysis; review the public integrity bureau's policies, procedures, and resource needs; conduct risk management reviews; review the operations and effectiveness of New Orleans Police Department "early warning system"; review specific issues regarding supervision, training, and discipline; and conduct relevant pattern analysis.

The OIPM’s self-stated mission is “to improve police service to the community, civilian trust in the NOPD, and officer safety and working conditions.” (OIPM website, at <https://nolaipm.gov/our-mission/>). Further, the OIPM states it “has six broad responsibilities”:

- To ensure that all complaints regarding police misconduct are classified and investigated or mediated at the appropriate level and that those investigations are fairly, timely, and thoroughly handled; to ensure that discipline is fair, timely, appropriate, and upheld upon appellate scrutiny. To make information about this review process available to the public.

- To monitor NOPD investigations into use of force to identify violations of civil rights, concerns of officer tactics and safety, risks to life, liberty, and property, and adherence to law and policy.
- To review and analyze aggregate data from complaints, investigations, community concerns, and public policy in crafting recommendations aimed toward improving the quality of services by the NOPD.
- To inform the community about the OIPM, to listen and respond to broader community concerns, and to prepare the community for engagement in NOPD policy and practice.
- To mend police-community relationships by fostering effective police-community partnership.
- To collect police commendations, review and monitor police training and supervision issues, and support a healthy and safe working environment for NOPD employees.”

OIPM website, at <https://nolaipm.gov/our-mission/>.

IV. REVIEW PROCESS

The QARAC requested all written reports issued by the OIPM in calendar year 2020. We reviewed the following documents:

- Public Reports (2020 Annual Report, ERB Monthly Reports, Various Letters and Newsletters Issued)
- Reports on Complaints & Commendations
- Reports on Disciplinary Actions
- Reports on Use of Force
- Mediation Monthly Updates
- Monthly Reports to Ethics Review Board
- Internal Policy Manual Draft

The members of the QARAC want to commend Acting Independent Police Monitor Stella Cziment and her staff at the OIPM for timely supplying the documentation and for their cooperation with this review.

V. ANALYSIS OF WRITTEN REPORTS

The OIPM has three general areas in which it routinely issues written reports to NOPD: use of force, complaints (and commendations), and disciplinary actions. In addition, for the first time this calendar year, we also received the OIPD’s monthly reports to NOPD on mediations. The QARAC divided up its analysis of the quality of these reports according to these areas. As described more fully in each section, the QARAC found that the reports, as a whole, were detailed, thorough, and objective.

A. Use of Force Review

Among the responsibilities of the OIPM is the responsibility “[t]o monitor NOPD investigations into use of force to identify violations of civil rights, concerns of officer tactics and safety, risks to life, liberty and property, and adherence to law and policy.” (OIPM website, at <https://nolaipm.gov/our-mission/>).

The QARAC reviewed the following documents relevant to use of force reports for 2020:

- 2020 Annual Report: OIPM Use of Force Monitoring and Review Activities (hereinafter “2020 OIPM UOF Report”) (the 2020 Annual Report is not yet available on the website)
- Nine Critical Incident Response Forms and one Accidental Discharge Memo
- Nine Lower Level UOF Reviews
- Crescent City Connection Bridge Tear Gas Incident (“CCC Incident”) 2-pager
- Seven-page letter to NOPD highlights & recommendations re: CCC incident

This year, as with last year, an Annual Statistical Review of NOPD’s Use of Force is missing from the Annual Report. The December 2019 Cyber Attack on the City’s databases, including databases the OIPM shares with NOPD, continued to effect OIPM’s ability to access relevant data for a year-end statistical review. The QARAC understands this access is partially restored but continues to be problematic at the time of the writing of this report. Even before the Cyber Attack, this QARAC had concerns over OIPM’s ability to access NOPD’s database. It is critical to the OIPM’s analysis of trends and patterns that this problem get resolved.

1. *Annual Report: 2020 OIPM UOF Report*

The OIPM is required by City Code sec. 2-1121 to monitor the quality and timeliness of NOPD’s investigations into use of force and in-custody deaths. The OIPM personally responds to the scene of all “Critical Incidents,” categorized by the OIPM as:

all incidents involving (1) the use of deadly force by an NOPD officer, including an Officer Involved Shooting (OIS); (2) all uses of force by a NOPD officer resulting in an injury requiring hospitalization; (3) all head strikes with an impact weapon, whether intentional or not; (4) all other use of force by an NOPD officer resulting in death; or (5) all deaths while the arrestee or detainee is in the custodial care of the NOPD. However, the OIPM does monitor some non-critical incidents.

2020 OIPM UOF Report.

According to the Annual Report, there were eleven Critical Incidents in 2020. The Report describes the standard protocol in addressing the incidents as follows: the OIPM is notified of the incident by NOPD’s Public Integrity Bureau (“PIB”)’s Force Investigation Team (“FIT”); an OIPM staff member arrives on the scene within an hour of the notification, reviews the scene, does a walk-through, attends a briefing of the

incident and any officer interviews, and gains access to any video or audio of the incident. The eleven Critical Incidents are described briefly in Appendix B of the Annual Report.

In QARAC's 2019 report, we wrote, "it would be helpful to additionally describe here any findings by the OIPM or any patterns over time." Perhaps in response to that suggestion, OIPM added a chart outlining basic facts from Critical Incidents between 2011 and 2020, giving the number of CIs total, the number of Officer-Involved Shootings, the number of hospitalizations, the number of in-custody deaths, and the total number of deaths. This QARAC appreciated the additional data.

Besides investigating Critical Incidents, the OIPM attends the monthly meetings of the NOPD's Use of Force Review Board ("UFRB"). Pursuant to the 2012 Consent Decree, NOPD developed the UFRB as "a quality control mechanism to ensure timely reviews of all serious uses of force investigations to determine the appropriateness of the investigative findings, and to quickly appraise use of force incidents from a tactics, training, policy, and agency perspective" (NOPD Ops. Manual Chapter 1.3.7). At the meetings, the UFRB reviews NOPD's PIB Force Investigation Team (FIT) report on serious uses of force. The OIPM attends the meetings and is invited during the discussion period to make observations and recommendations.

The UFRB heard 30 UOF cases in 2020 (up from 9 in 2019), and they are described in Appendix A of the Annual Report. Given COVID, these hearings were moved to an on-line format. In the last QARAC report, we recommended adding to the descriptions of the cases what role the OIPM played in terms of observations or recommendations, and we repeat that recommendation here. It would be helpful to us and to the public to know more about the OIPM's role in each case, including any ability to help change and improve policies.

For each UFRB case, the Appendix lists the date of the incident, the incident type, a brief summary, whether the Board found the use of force justified, whether the Board found the use of force within policy, and what action, if any, the Board took. For the QARAC, and any member of the public viewing these cases, questions arise that need to be addressed. Several times, the Board found that the action was not justified and not within policy, but the Board took no action. For example, on February 25, 2020, an officer applied a chokehold, and on February 26, 2020, an officer delivered a knee strike to a handcuffed individual: both uses of force were deemed unjustified and not within policy, but the Board took no action. Why not? This requires explanation. Also, the UFRB decided that the June 3, 2020 use of force on the peaceful protesters during the CCC Incident was both justified and within policy. How can that be? Again here, an explanation of the Board's decisions and the OIPM's input would be helpful. Additionally, when the OIPM is more fully staffed, it would be helpful to aggregate the data on these hearings to identify patterns, trends and recurring issues.

The Annual Report describes what was perhaps the OIPM's most significant contribution to NOPD oversight in 2020: its role in the investigation of the Crescent City

Connection Bridge Incident. On June 3, 2020, the NOPD engaged in an unprecedented use of force on citizens engaged in a first amendment protest. Police used tear gas, Stinger Rounds and Marking Rounds on the protesters. The OIPM's role in the community was key to revealing the extent of the problems: the community informed the OIPM of a head injury caused by the actions leading to a major investigation of the incident, with the OIPM working along with FIT. The OIPM informed NOPD of the various leadership, policy and communication issues and helped propel NOPD to adopt a new policy related to first amendment assemblies.

2. Use of Force Investigations

The QARAC reviewed documents relating to various use of force incidents and/or investigations in 2020. When the QARAC is notified of a Critical Incident by the PIB, a member of the staff goes to the scene and fills out a "Critical Incident Response Form" (CIRF), which is not a public document but contains notes from the scene about everything observed and learned. The OIPM produced nine CIRFs that were filled out in 2020.

These nine CIRF forms were detailed and informative. Despite COVID, a staff member of the OIPM responded in person to the scene of each incident to obtain a briefing and observe the ongoing investigation. The forms reveal that the OIPM responder often spent hours at the scene, attended witness interviews, reviewed video surveillance or body worn camera evidence, watched the gathering of physical evidence and also went to the hospital if a person was transported there. It appears from the forms that PIB is very cooperative with including the OIPM in the investigation. The forms gather facts such as: the time the OIPM was called and how quickly OIPM responded, whether the scene was secured; evidence gathered; the names and addresses of everyone involved including witnesses. Most of the form is box checking and short answer, but there is a summary section at the end that allows the reader to get a fuller picture of what happened. The summary sections vary somewhat in that some are quite lengthy and include questions or concerns and some are shorter and do not. The QARAC found the inclusion of questions and concerns important and would suggest standardizing the inclusion.

In 2019, the OIPM was able to write several memoranda to the NOPD on some of the use of force incidents heard by the UFRB in 2019. The memoranda from the OIPM to the NOPD agreed or disagreed with the PIB findings where appropriate and made detailed recommendations for improvement. These were well-done and memorialized pattern and practice issues. The QARAC is hopeful that when the hardworking staff of the OIPM is more fully staffed it can return to producing these memos as well as its Community Two-Pagers publicizing use of force incidents. The OIPM did produce an excellent Community Two-Pager on the CCC Incident within a month of its occurrence. It was a preliminary analysis that summarized what happened and documented the lack of a policy on the use of riot control munitions, the tactical failures, the communications failures, and the disciplinary issues that should be considered and pursued. Further, at around the same time, the IPM sent to NOPD leadership a very detailed seven-page letter

outlining the various policy, communication and tactical breakdowns related to the CCC Incident. The QARAC understands that the investigation and work surrounding this incident was intense and time-consuming and continues to this day.

The OIPM also produced nine internal review memos on non-critical, lower level uses of force in 2020. These were well-organized and thorough, including a brief summary of the facts, issues raised by the UOF, the applicable policy or statute, follow-up needed, and evidence reviewed. In each case, the OIPM reviewed any available body worn camera evidence to confirm or deny any problems with the use of force. For the most part, these memos answered questions raised by the incident. A few of the incidents involved using force on persons with mental illnesses and the QARAC understands that one of the OIPM's current projects is to work with the NOPD on developing methods and policies for dealing with mentally ill subjects. The QARAC applauds this effort.

In sum, the QARAC believes the quality of work produced by the OIPM is thorough, detailed, and objective. However, it does seem that the quantity of work monitoring NOPD UOF incidents and the ability to aggregate information for future use could be improved if OIPM were given an increased budget to hire more staff.

B. Complaints and Commendations Review

The OIPM serves as an alternative resource for both civilians and officers who wish to file complaints but choose not to bring their complaints or commendations directly to NOPD's Public Integrity Bureau (PIB).

As stated in its mission statement, the major responsibilities of the OIPM related to complaints and commendations include the following:

- (i) "to ensure that all complaints regarding police misconduct are classified and investigated or mediated at the appropriate level and that those investigations are fairly, timely, and thoroughly handled,"
- (ii) "to review and analyze aggregate data from complaints, investigations, community concerns, and public policy," and,
- (iii) "to collect police commendations, review and monitor police training and supervision issues, and support a healthy and safe working environment for NOPD employees." <https://nolaipm.gov/our-mission/>.

In order for the OIPM to meet these responsibilities, it relies on information provided through the NOPD PIB's complaint management system, IAPro. Complainants may file directly with the PIB, or with the referral assistance of the OIPM. As was the case in the 2019 report, the OIPM's efforts to complete a statistical analysis of misconduct complaints and commendations in 2020 was affected by the December 2019 cyber-attack on the city's databases and internal records. In a May 2021 report, the OIPM stated, "*The impact of the cyber-attack is still an obstacle to our data work today since relevant data from 2019 and 2020 is still being entered into these systems. As a result, the OIPM accessed what data was available to include in this*

report but will note that our ability to provide the full data analysis, critique of our data partnerships with the NOPD, and assessment of NOPD's compliance with data tracking, is more limited than we hope it will be in 2021."

In 2019, the QARAC reported that there was a dramatic increase in complaints referred to the PIB over the previous year (100 compared to 42 in 2018) and believed that the OIPM's outreach and external relations plan helped explain the increase. The continued trend in 2020 suggests that the OIPM's outreach efforts through radio, television, print media, and webinars have been effective (all the more impressive given the need to work remotely and other challenges related to COVID19).

In its 2020 Annual Report, the OIPM reported that it received 97 complaints (compared to 100 in 2019), ranging from the way police handled calls for assistance to policing social protests in the community. While most complaints came in through members of the New Orleans community, some (both named and anonymous) were initiated by officers and civilians within the NOPD. The OIPM also reported that in 2020, it continued its newly instituted tracking mechanism of tagging complaints into various categories to look for trends over time and making this information widely available to the public. The QARAC commends this addition to data collection.

While this part of the QARAC's review of the OIPM's work is limited to the OIPM's documentation of the complaints it referred to the PIB, it is important to note that a great deal of the OIPM's complaint related work isn't reflected in this data alone. In 2020, the OIPM spent a considerable amount of time acting as a "liaison" between complainants and the NOPD, at times requiring meetings with the OPDA's office, NOPD, and other relevant agencies - a time consuming process that improves communication, transparency, and trust in the process.

1. OIPM's 2020 Complaint Referrals

In 2020, the OIPM referred 97 complaints to the PIB. The OIPM's practice is to follow up on a complaint by providing the PIB with a complaint referral letter summarizing the complaint narrative, and any additional relevant information deemed useful for PIB investigations. The OIPM reviews information in NOPD systems regarding the complaint, including any relevant body-worn camera video, electronic police reports, and field interview cards. When available, these referral letters also include five-year disciplinary histories, and when appropriate, recommendations for corrective measures. The OIPM reported significant problems accessing shared data on officer disciplinary histories this year due to considerable technological challenges with the data.

Anyone can file a complaint, whether it be the person who had the police encounter, a witness, another officer, or an employee of NOPD. The OIPM also accepts complaints anonymously, and complaints from individuals with pending criminal proceedings. Each complaint referral letter is clear, concise, thorough, and objective. The OIPM does not attest to the validity of allegations. It attempts to accurately convey complainants' accounts and summarize the relevant data from NOPD's own information systems.

Referral letters are designed to provide the PIB with pertinent information needed for an investigation into the validity of the allegations. A copy of the referral letter is provided to the complainant.

The OIPM complaint referral letters include the following information:

- Complainant, NOPD employee subject, and witness information
- Incident date and location
- Allegations (e.g. *RULE 2: MORAL CONDUCT: PARAGRAPH 05 – VERBAL INTIMIDATION; RULE 4: PERFORMANCE OF DUTY: PARAGRAPH 02 – INSTRUCTIONS FROM AUTHORITATIVE SOURCE – Policy 41.3.10 Body Worn Camera, Paragraph 10, Required Activation*)
- Narrative summary of complaint
- Five-year disciplinary history of NOPD employee subject
- OIPM recommendation (e.g., *At this point, the OIPM recommends that PIB place this officer under monitoring by her commanding officer through INSIGHT AND that pursuant to New Orleans City Code Section 2-1121 (3) that OIPM conduct a “risk management review” and “pattern analysis” to determine whether risk management issues exist; i.e., whether the subject employee is at risk of engaging in future misconduct or of being a risk to the public*)
- Classification recommendation (e.g., *The OIPM recommends this investigation be classified as Serious Misconduct*)

2. OIPM Complaints Data Analysis

The OIPM’s ability to accurately review and analyze complaints data is limited by its dependence on the accuracy of the NOPD’s data recording practices. The OIPM is unable to independently confirm or verify the data and is often faced with missing data. With these constraints in mind, the OIPM’s complaints analysis is sound and comprehensive.

The OIPM provided a breakdown of complainant types over the 12-month period (civilian, officer, NOPD civilian employee, anonymous), complainant source (OIPM website, phone, email etc.), the allegations tags (first amendment, protest, use of force, deprivation of rights, COVID, etc.) and provided data on allegation outcomes (sustained, not sustained, unfounded, referred to mediation etc.) The analysis usually also disaggregates the outcome data by officer race, and an additional breakdown of complaints from anonymous complainants, and is oriented towards identifying patterns and changes over time. While this review concludes that the OIPM has handled referrals competently and thoroughly, its analysis of NOPD PIB data and ability to independently monitor NOPD conduct is limited by its dependence on NOPD’s data on such conduct, and the continued problems related to the cyber-attack on the City of New Orleans.

3. OIPM Commendations Data Analysis

The OIPM seeks and collects commendation information from the community to identify officers, units and precincts for exceptional work. The OIPM prepares such recognition into a commendation referral letter which includes the following information:

- The officer's information
- The requester's information
- The date, time, and location of the recommended behavior, and
- A summary of the police conduct.

In 2020, the OIPM collected three commendations for 23 officers (compared to six commendations for seven officers in 2019). Commendations included one for the Captain and 15 officers in the 1st District who participated in a cycling awareness event, one for the Captain of the PIB and two Sergeants for their handling of an officer's sexual misconduct, and one for the same PIB Captain and three Sergeants for their response to a shooting in the French Quarter. The QARAC supports the OIPM's continued outreach efforts to encourage citizens to submit commendations when appropriate.

C. Disciplinary Review

According to the 2020 Annual Report, the OIPM is responsible for monitoring whether all NOPD actions taken during disciplinary proceedings are compliant with state and federal law, NOPD policy, the Consent Decree, and the Memorandum of Understanding between the NOPD and the OIPM executed on November 10, 2010. The OIPM monitors and assesses the efforts of NOPD to ensure all disciplinary investigations and proceedings are conducted in a manner that is non-retaliatory, impartial, fair, consistent, and truthful in accordance with NOPD policies. The OIPM reviews the disciplinary investigations and proceedings executed by NOPD to ensure they are executed in a timely manner that is consistent with all requirements under law. 2020 Annual Report: Complaints, Commendations and Disciplinary Proceedings (not yet published on website).

The Annual Report sets forth the difference in the disciplinary proceeding process based on whether the investigation is initiated by PIB (or external agency) or by the employee or officer's Bureau. The Annual Report includes a flow chart that facilitates understanding this difference. The Annual Report also clearly states the OIPM's role in the disciplinary proceeding process. For example, the OIPM reviews the misconduct investigation from PIB and completes the first half of the OIPM-created matrix and a preliminary memorandum to PIB with initial findings and recommendations. As required in the preliminary memorandum to PIB, the OIPM will, as appropriate, make determinations as to whether departmental rules or policies have been violated, make recommendations regarding appropriate discipline, and review the appropriateness of disciplinary sanctions as authorized by the Ordinance, the MOU, and the Federal Consent Decree Section XVII: Misconduct Complaint Intake, Investigation, and Adjudication. These determinations, recommendations, and findings are to be submitted to NOPD in writing (2020 Annual Report).

The OIPM also explains in its Annual Report its role and involvement at the predisposition conferences and pre-disciplinary hearings. The OIPM also reports that it identifies possible trends and makes recommendations to the NOPD regarding the investigation and disciplinary proceeding. The Annual Report also describes the work the OIPM does in analyzing aggregate data to track trends relating to discipline imposed by type of complaint.

1. *Disciplinary System Monitoring and Review*

With respect to its review of the OIPM's Disciplinary System Monitoring and Review, the QARAC reviewed the following relevant documents:

- 2020 Annual Report: Year in Review
- 2020 Annual Report: Complaints, Commendations, and Disciplinary Proceedings
- 22 memoranda from OIPM to PIB regarding Disciplinary Proceedings
- OIPM Internal Policy regarding Disciplinary Proceedings

In reviewing the documents, the QARAC: (1) considered whether the relevant portions of these documents were well-written, objective, reflective of a sound method/fair process; (2) assessed the breadth and volume of the OIPM's work product; and (3) evaluated whether the work is reflective of, among other things, the OIPM's annual budget and the needs of the public.

2. *Discipline Data*

The 2020 Annual Report states that the OIPM analyzed data obtained from and prepared by NOPD to identify and highlight patterns, trends, and outliers of note. However, the Annual Report does not appear to identify any such patterns, trends, and/or notable outliers. The QARAC presumes that this is in part due to the lack of access to NOPD databases.

3. *OIPM Recommendations to NOPD with respect to 2019 Disciplinary Proceedings*

In its Annual Report, the OIPM identified several recommendations that it made in memoranda to NOPD as well as its ongoing work and collaboration with NOPD. The recommendations related to:

- Clarification of policies relating to nepotism and employment conflicts
- Clarification of the definition of strip searches
- Separation of policies relating to sexual harassment, discrimination, and retaliation
- Broadening the requirements of the retaliation policy
- Clarification of administrative hearings that may be criminal in nature
- Clarification of certain internal policies

In the QARAC's independent review of the 22 memoranda from the OIPM to PIB regarding individual disciplinary hearings, the QARAC identified additional areas where training was recommended by the OIPM after its careful consideration of the relevant facts:

- Substance abuse
- Safe weapon use
- Accurate reporting
- Transporting civilians
- Responding to calls
- Vehicle pursuits
- Processing scene of accident
- Sick calls
- Tactical and use of force

The OIPM's reporting and recommendations were based on well-reasoned and thorough reviews of disciplinary charges and the related issues. The underlying disciplinary hearing memoranda from the OIPM to PIB were uniform with respect to the categories of information presented, *i.e.*, each memorandum included a summary table and the same eight (8) questions with corresponding proceeding-specific answers. The eight questions related to: any additional charges that could have been brought; any concerns with respect to the Bill of Rights, the disciplinary investigation, whistleblower/retaliation issues, and any particular allegation; training; Constitutional and legal issues; and whether any policy/procedure, risk management, and/or liability issue were/was not adequately addressed. The QARAC was impressed with the thoroughness and overall quality of the information included in each memorandum.

4. Internal Policy regarding Disciplinary Proceedings

The internal policy for disciplinary proceedings clearly and comprehensively sets forth the policy and procedure for the OIPM's oversight of NOPD's disciplinary proceedings. The internal policy includes the following sections: Definitions, Responsible Parties, Policy, Procedures, and Scope.

5. Conclusion & Additional Comments

In conclusion, with respect to the OIPM's disciplinary system monitoring and review, the QARAC concludes that: (1) the relevant documents were well-written, objective, and reflective of a sound method/fair process (2) OIPM's work product was thorough and reasoned; and (3) the work of OIPM is reflective of, among other things, OIPM's annual budget and the needs of the public.

The disciplinary proceeding process, the OIPM's role with respect to same, and the collaboration between NOPD and the OIPM to continue to improve the process is described thoroughly in the 2020 Annual Report. It would be beneficial if the OIPM

could provide an analysis, if appropriate, of data to identify and highlight patterns, trends, and outliers of note, if any. The QARAC acknowledges that this omission from the Annual Report is due to a lack of access to the necessary data.

D. Mediation Review

The QARAC reviewed the 2020 Annual Report: Community-Police Mediation Program as well as monthly written updates given to NOPD leadership on mediations. As with the prior Annual Reports, the 2020 Report is a very comprehensive document, setting out the program's procedures, goals, and results in great detail. The QARAC remains impressed with the design, thoughtfulness, and quality of the program and is aware that the OIPM's program is a national model.

The New Orleans Community-Police Mediation Program is mandated by City Ordinance, the Memorandum of Understanding between NOPD and OIPM, and the Consent Decree. In 2020, the Program held 36 mediations (slightly down from 42 in 2019), out of a total of 98 cases referred from PIB (down from 128 referrals in 2019). Only certain categories of cases are eligible for mediation, and the most common involve complaints as to "professionalism." The program maintained a high quality of services to a broad representation of the community despite the pandemic as the mediation program shifted to entirely online in March 2020.

The Program engages in a self-assessment of its effectiveness, gained through a survey instrument completed by participants. The surveys, as summarized in the Annual Report, show overall satisfaction with the Program by police and civilians:

Anonymous post-mediation surveys revealed that 91% of civilians and 95% of officers who participated in mediations thought that the mediation meetings were unbiased; 74% of civilians and 73% of officers felt they had the opportunity to explain their point of view; 86% of officers said they would recommend mediation to other officers; 91% of officers and 91% of civilians said the mediation staff was helpful and professional.

OIPM 2020 Annual Report.

However, in some other categories, civilians surveyed were less enthusiastic in 2020: 77% of officers and only 52% of civilians said that mediation is a good way of resolving disputes between civilians and police officers; 82% of officers and only 52% of civilians were satisfied with the mediation process according to surveys (OIPM 2020 Annual Report).

The lower satisfaction may be in part due to the fact that the mediations were over Zoom and in part due to the low number of surveys returned whereas they are normally completed by everyone in person and collected after the mediation. The QARAC notes that the most common civilian reason for opting out of mediation to resolve a complaint is that they do not want to give up the right to a traditional investigation, which they must

do under current protocol. The OIPM has said in the past it wants to consider allowing mediation to occur alongside traditional investigation.

The QARAC reviewed monthly reports on mediations that were given to NOPD leadership. The reports gave the numbers each month of the number of cases referred for mediation, the number returned for investigation, the number pending approval and the number mediated. The QARAC has not seen such reports in past years and appreciates the new form of communication with the NOPD.

Lastly, the QARAC reviewed a letter from the OIPM to the NOPD requesting that the NOPD contribute funding to the mediation program. This was an issue in the 2018 and the 2019 QARAC review as well. A funding request was made in October 2019 and was rejected by the NOPD. This request was made on September 1, 2020. It is notable and unfortunate that the NOPD has not provided the financial support it is supposed to give for this invaluable program that undoubtedly saves them money.

E. Claims for Damages Review

Municipal Ordinance Sec. 2-1121 (22) sets out as one of the duties of the OIPM to monitor civil suits involving NOPD. In 2019, for the first time in many years, the OIPM collected information on lawsuits and claims for damages involving the NOPD. The OIPM released its first Annual Report on Claims for Damages in 2020.

The ability of the Report to detail facts about the civil claims was hampered by the December 2019 Cyber Attack and lack of access to data. There were 123 civil claims filed in 2019 and 55 in 2020. These appear to be almost entirely based on damage done by police vehicles. The OIPM stated that it requires the City to collect and provide more information on NOPD employee traffic infractions and vehicle collision claims. In its effort to improve reporting in this area, the OIPM researched best practices of how other police departments handle these claims. For the first time, the OIPM attended a Crash Review Board hearing in November 2020. The QARAC believes that the OIPM gathered as much information as it could and will continue to expand its role in this new effort.

F. Review of Monthly Ethics Review Board Reports

The QARAC reviewed the OIPM's monthly reports to the Ethics Review Board. Each one starts with a letter to the community about everything the OIPM was involved with during that month. It gives the public a very good sense of the high quality and quantity of work the OIPM is engaged with, as much of this work does not necessarily produce a written report. Then each monthly report gives an overview of the numbers of various types of actions, comparing the data to prior years in table and graph form. For each action item for the month, the report then gives a short description. The action items include: Citizen Complaints; Police Complaints; Anonymous Complaints; Criminal Case Liaison; Case Monitoring; Case Reviews; Contact Only; Disciplinary Hearings; Critical Incidents; Firearm Discharges; Level 4-non-critical Incidents, Mediations, and Commendations.

These monthly reports are clearly presented and are both comprehensive and descriptive. The QARAC finds these reports to be one of the best vehicles for accounting for and assessing the OIPM's work and see that the volume kept pace with prior years despite the pandemic.

G. Other Observations of OIPM's Work Product

1. *Internal Policy Manual*

The QARAC reviewed a draft of an internal policy manual written to cover all aspects of the work of the OIPM. The manual is well-organized, clear and comprehensive, and the completed sections are very detailed and thorough. This manual is an important and critical step institutionalizing the OIPM and ensuring its success during staff turnover and as the Consent Decree winds down. The manual is a model of best practices for other police oversight organizations.

2. *Publicity/Website*

The QARAC reviewed the OIPM's website with the understanding that the OIPM had to put its contract to overhaul the website on hold given the pandemic and budget freeze. The OIPM is aware that the website has problems both in terms of navigation and content. An updated website is critical to the OIPM's mission in communicating with the public. The QARAC appreciates that the OIPM was able to conduct 35 outreach events to the community and gained local and national media attention despite the limitations of the pandemic.

The QARAC understands that the OIPM has received approval to budget and build a public-facing database on police misconduct. Having a searchable database by police officer to show complaints, disciplinary hearings, commendations and civil suits would be an enormous boon to the public. Above all other recommendations the QARAC makes, this major step toward NOPD transparency is perhaps the most important.

VI. RECOMMENDATIONS

Understanding that the OIPM is understaffed and underfunded, the QARAC nonetheless puts forth the following recommendations:

Independent Access to NOPD Data. Municipal Ordinance Sec. 2-1121(14) sets forth OIPM's data-gathering duties and states, "The New Orleans Police Department shall provide the appropriate database and personnel to facilitate this section." The OIPM cannot fulfill its function as an independent monitor of NOPD without access to NOPD's raw data. The QARAC understands this access continues to be problematic at the time of the writing of this report but encourages the OIPM to continue to press for complete access. As a result of the lack of access, the OIPM was unable to determine trends and patterns.

Use of Force Investigations

Include in Annual Report: In UFRB appendix, include observations or recommendations by the OIPM in the particular case. Consider providing an explanation of UFRB's decisions as to whether the use of force was justified, whether the use of force was within policy, and whether the OIPM agreed with Board's decisions.

Critical Incident Forms: Consider standardizing the inclusion of questions or concerns in the summary sections to memorialize outstanding issues.

Memoranda to NOPD: Staff and resources permitting, revive written memoranda to the NOPD on use of force incidents heard by the UFRB, including whether the OIPM agreed or disagreed with the PIB findings and making detailed recommendations for improvement.

Community Two-Pagers: Staff and resources permitting, publish on website two-pagers on use of force incidents.

Continue to Publicize Opportunities for Commendation.

Elaborate on Recommendations as to Disciplinary Proceedings in Annual Report. Provide an analysis of data to identify and highlight patterns, trends, and outliers of note.

Police-Community Mediation Program.

- (1) Continue to pursue the option of allowing mediation to occur alongside traditional investigation;
- (2) Continue efforts to gain the financial support of the NOPD for this invaluable program that undoubtedly saves them money.

Update & Reformat Website. Continue pursuit of updated website.