



Ethics Review Board for the City of New Orleans

Board Meeting of August 09, 2021, at 3:30 P.M.

Conducted via Zoom Teleconference Due to COVID-19 Emergency

Minutes

1. *Call to Order.*
 - 1.1. The chair called the meeting to order at 3:31p.m.
 - 1.2. Board members present:
 - 1.2.1. Wanda A. Brooks
 - 1.2.2. Elizabeth Livingston de Calderon, Chair.
 - 1.2.3. Holly Callia.
 - 1.2.4. Michael A. Cowan.
 - 1.2.5. Monique G. Doucette.
 - 1.2.6. Tyrone G. Jefferson, Jr.
 - 1.2.7. Torin T. Sanders.
 - 1.3. Board member absent: None.
 - 1.4. Staff member present: Dane S. Ciolino, Executive Administrator and General Counsel.
 - 1.5. The Chair declared that a quorum of the board was present and commenced the meeting via Zoom videoconference and teleconference.
 - 1.6. 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 of the July 2021, Board meeting.
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 also were in attendance, including Erica Smith and Larry Douglass.
 - 4.2. Mr. Michel discussed the monthly report of the OIG. *See* Attached OIG Monthly Report.
 - 4.3. OIG personnel discussed the budgets for the OIG (attached).
 - 4.4. The OIG will commence hiring a new auditor and a new investigator to “ramp up” staffing in the office.
 - 4.5. The OIG will begin improving its IT and computer systems to deliver significant upgrades.
 - 4.6. Audits are underway of the S&WB, BRASS and other departments.
 - 4.7. The OIG prevailed in its litigation relating to the jurisdiction of the OIG over the City’s Communications District.
 - 4.8. The OIG recommended fraud charges involving the Hard Rock inspections and collapse.
 - 4.9. An investigation into the Assessor’s Office continues regarding the award of homestead exemptions to deceased individuals.
 - 4.10. The OIG is updating the appearance and format of its monthly report.
 - 4.11. Ms. Brooks inquired further about the homestead exemption investigation and whether monies will be recovered. Mr. Michel noted that there will be a retroactive assessment imposed to correct any errors.
 - 4.12. Ms. Brooks inquired as to the OIG’s peer review and who would conduct the review. Mr. Michel responded that a group from the National Association of Inspectors General would perform the audit.

- 4.13. Ms. Calderon inquired into when the OIG would begin relying on in-house counsel for legal advice. Mr. Michel responded that outside lawyers at Chaffe McCall were now providing advice but that the new inspector general would hire “permanent” inside counsel.
5. *Report of the Office of the Independent Police Monitor.*
 - 5.1. Interim IPM Stella Cziment appeared for the OIPM. Ms. Boncyle Sokunbi was also in attendance.
 - 5.2. Ms. Cziment discussed her office’s monthly report. *See Attached OIPM Monthly Report.*
 - 5.3. Ms. Cziment reported a “busy month.” Noted that the QARAC provided helpful suggestions and that those suggestions have been included in her office’s 6-Month Action Plan.
 - 5.4. Ms. Cziment noted that she is now monitoring the curriculum at the NOPD Police Academy.
 - 5.5. Ms. Cziment stated that she is including social media summaries to reflect community involvement.
 - 5.6. Ms. Cziment reported that she is adding progress on goals in her action plan for purposes of greater transparency.
 - 5.7. Ms. Calderon congratulated Ms. Cziment on the QARAC report.
 - 5.8. Ms. Calderon asked when the peer review report is due. Ms. Cziment responded that the peer review committee is working but she did not have a recent update. She promised a report next month.
6. *Vote on Motion Regarding Campaign Finance Reform*
 - 6.1. Mr. Sanders moved to take out of order the item on proposal for campaign finance reform (attached to agenda). The vote was unanimous in favor of doing so.
 - 6.2. David Marcello spoke to the board by invitation about the proposal. He reported that it was a good idea. His written comments are attached to the minutes. He did not that there are concerns with the proposal relating to whether the city has authority to regulate in the area when there exist state campaign finance laws. He also noted that potential First Amendment concerns exist.
 - 6.3. Mr. Sanders moved to adopt the following proposal:
 1. No City Councilmember or candidate seeking the office of City Councilmember shall accept or otherwise receive a campaign contribution or any other financial benefit of any value from:

- a. Entergy, Cox Communications or other entity that provides a utility, cable, telecommunications or technology service regulated by the City Council;
 - b. Any political action committee, director or executive staff person of a corporation or entity regulated by the City Council that either can be reimbursed by the regulated company or is otherwise a conduit contribution from the regulated company;
 - c. Any person, firm or entity with a professional services contract awarded by or pertaining to the City Council; or
 - d. Any person, firm or entity with a professional service contract awarded by or pertaining to the New Orleans Sewerage and Water Board.
- 2. No later than 30 days from the deadline of qualifying as a candidate for the office of City Councilmember, the candidate shall submit an affidavit to the New Orleans Ethics Review Board and the City Law Department that affirms or denies the following:
 - a. Acceptance of compensation or financial benefit of any value from an entity regulated by the City Council or contracted to provide a service to the City Council in the last five years; and/or
 - b. Any time served on the board of a corporation or entity that is either regulated by the City Council or contracted to provide a service to the City Council.
- 6.4. The motion was seconded. A discussion and public comment period followed the motion and second.
- 6.5. Public comments
 - 6.5.1. Gregory Manning, the Chair of the Greater N.O. Benefit Coalition spoke in favor of adopting the proposal.
 - 6.5.2. Robert Sullivan submitted in a public comment in favor of the proposal.
 - 6.5.3. Jonathan Leo spoke in favor of the proposal.
 - 6.5.4. Jessee George submitted a slip in favor of the proposal.
 - 6.5.5. Robert Demarais submitted a slip in favor of the proposal.
- 6.6. Mr. Cowan asked Mr. Marcello for his thoughts about the proposal, including whether the city had lawful authority to regulate in the area. Mr. Marcello

responded that he suspected that the city and the state had concurrent authority to regulate in the area. Mr. Marcello reiterated that he supported the proposal in principle.

6.7. Ms. Calderon noted her concern about regulating candidates and not just council members. She presumed that the council would consider the legal issues before adopting any proposal.

6.8. A vote was called on the question. The vote was unanimous in favor of the proposal.

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

7.1. Mr. Ciolino reported that the board had received no new complaints.

7.2. Mr. Ciolino discussed the board's upcoming deadlines and events.

7.3. Mr. Ciolino reported that a peer review committee to evaluate the Ethics Review Board is working on a peer review.

7.4. The board requested advance copies of draft minutes from Mr. Ciolino.

8. *IG Search Committee Report*

8.1. Mr. Cowan reported on the progress of the IG search. The brochure is completed and published. The search firm is recruiting through networks. The firm is expected to recommend candidates for interview by late September or early October. The committee hopes to narrow the number of candidates to bring to the board fewer than 5 candidates.

8.2. Ms. Calderon noted that the committee needs to make sure that the search firm complies with the guidelines for the search previously sent to the search firm.

9. *IPM Search Committee Report*

9.1. Dr. Sanders reported that there was no activity this month.

9.2. Dr. Sanders expected to have a progress report next month.

10. *Vote on Amendment to ERB Rules Regarding the Election of Officers*

10.1. The board moved to adopt a procedure for "appointments at end of term" as follows:

Each year, all officers' terms expire on June 30th. At a meeting in May or June, the chair will accept nominations for each soon-to-be-vacant position. The board will vote on each nominee. Each nominee receiving a

majority of votes will assume the position. Typically, the board will first vote on president, then vice-president, and then secretary.

10.2. The motion was seconded. The motion was briefly discussed. The board voted unanimously in favor of the proposal.

10.3. The board moved to adopt a procedure for “appointments to fill vacancies” as follows:

If any officer position should become vacant before the officer’s term expires on June 30th, the chair will accept nominations for the vacant or soon-to-be-vacant position. The board will vote on each nominee. The nominee receiving a majority of votes will assume the position. The person elected to the position will serve to the end of the term.

10.4. The motion was seconded. The motion was briefly discussed. The board voted unanimously in favor of the proposal.

11. *Report on Changing Dates of Meetings*

11.1. Mr. Ciolino reported that it was not possible to obtain the Council Chambers for new dates in 2021.

11.2. Therefore, the board meeting dates for 2021 will remain unchanged.

12. *Recommendations for Future Proposed Agenda Items:* None received.

13. *Adjournment.*

13.1. A motion was made to adjourn the board meeting.

13.2. The motion was seconded.

13.3. The board unanimously voted to adjourn. The meeting was adjourned at 5:15 p.m.

* END *



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, August 9, 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 pursuant to [Louisiana Revised Statutes section 42:17.1](#): The board hereby certifies that the Governor of the State of Louisiana has declared a state of emergency or disaster involving the geographic area of the City of New Orleans. A live meeting would be detrimental to the health, safety, or welfare of the public and the members of the Ethics Review Board. The agenda contains matters that are critical to continuation of the business of the Ethics Review Board and are not able to be postponed to a live meeting due to a legal requirement or other deadline that cannot be postponed or delayed by the Ethics Review Board. The public can attend and participate in the videoconference meeting by joining the conference by telephone or videoconference as described above.

AGENDA

1. Regular Business

- a. Ratification of certification of necessity for videoconference/teleconference meeting (Chair).
- b. Approval of minutes of previous board meeting (Chair).
- c. Discussion of monthly report from the Office of Inspector General (Chair).
- d. Discussion of monthly report from the Office of Independent Police Monitor (Chair).
- e. Report of Executive Administrator and General Counsel (Chair).
 - i. Report on status of RFP for executive search firm for new Inspector General.
 - ii. Report on revision to process for approving purchases and contracts.
 - iii. Report on status of hiring of ethics trainer.

- iv. Report on ERB peer review.
 - f. Report of OIG search committee.
 - i. Report on ordinance change to widen pool of candidates.
 - ii. Report from Ralph Anderson & Associates.
 - g. Report of OIPM search committee.
- 2. Continuing Business
 - a. Discussion of and possible vote on proposed amendment to City of New Orleans Ethics Code to prohibit certain campaign contributions and to require related disclosures (Mr. Sanders).
 - b. Discussion of BGR recommendation re ERB obtaining OIG and OIPM employee concerns.
 - c. Vote on ERB rules for voting on officers. (See attached possible language.)
 - d. Report on changing dates of ERB meetings.
- 3. New Business
 - a. Opportunity for suggestions on future agenda topics from board, staff, and public.
- 4. Adjournment (Chair).

Monthly Report of OIG

Report to the Ethics Review Board
July 2021

Administration

Office Manager is currently managing the following tasks:

- OIG Staff credentials and challenge coins completed – coordinating with venue for swear-in ceremony
- Currently working with CAO on a Vehicle/Equipment Replacement Plan Working Group
- Continued coordination and maintenance of the OIG vehicles service records and travel logs
- Communicating with Civil Service on pools of qualified candidates for the vacancies of: Criminal Investigator IV and Inspector & Evaluator Series
- Processing the on-boarding for the newly hired Forensic Auditor position
- Organizing and securing OIG personnel files, and creating the appropriate filing system
- Attended a 2022 Budget Workshop Session, and currently working on the OIG Budget Development for 2022
- Attended City trainings on ADP eTime and ADP Enterprise and Manager Self-Service with regards to Human Resources related matters
- Assisting in Association of Inspectors General (AIG) Annual Training Conference Planning Committee
- Assisted in document preparation for the AIG Peer Review scheduled for October 2021

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. The follow-up project for the Sewerage & Water Board's Internal Audit Performance Audit report originally issued August 2019 is scheduled to be released in mid-August.

Please see the attached project status spreadsheet for details.

Inspections & Evaluations

The I&E division has the following two evaluations underway in the fieldwork phase: Firefighter's Pension Fund and the inspection project of the City's Competitive

Bidding/selection processes for Invitation to Bid (ITB) and Requests for Proposals (RFP). The Job Order Contracts (JOC) project is currently under Legal Review.

Please see the attached project status spreadsheet for details.

Investigations

The Investigations Division received nineteen (19) complaints in July 2021. Thirteen (13) concerned matters outside of the OIG's purview.

OIG Investigations Division activities and cases:

- Criminal Investigations:

Issued a Report of Investigation to the DA office concerning allegations that City Building Inspectors failed to conduct onsite inspections of cement pours as required by the City of New Orleans Safety and Permits Department prior to a partial collapse of the building under construction located at 1031 Canal Street, New Orleans, LA., known as the Hard Rock Hotel

- Administrative Investigations:

Issued another letter to Assessor's Office concerning three residential properties which continued to receive a homestead exemption and senior freeze reduction despite the listed homeowner reportedly being deceased. Assessor's Office acknowledged receipt of the letter.

OIG Information Security Division activities for July 2021:

Recurring Monthly tasks

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

Software updates

Wingswept software update applied.
Copier firmware updated.
Upgraded service desk software to latest version.
iOS updates on cell phones and ipads.

Technical Support provided, hardware related

Configured and reviewed Wireless Priority Service for all OIG office staff.

Configured and reviewed settings with office staff for scan-to-folder function on all office copiers.

Technical Support provided, non-hardware related

31 service desk tickets resolved

BRASS purchasing system account administration and support.

City of New Orleans e-mail connectivity issues resolved.

Printing issues resolved.

Wingswept application support.

Secure Telecommunications account access created for OIG staff.

VPN connection issues resolved.

Document scan to file project kick off.

Communications

Webpage content updates.

Worked with vendor to resolve local printer and copier hardware issues.

Worked with vendor to coordinate certificate renewal and bill payment.

Worked with vendor and office manager to facilitate bill payment for services delivered.

Purchasing

Assisted Audit/Office Manager with purchase renewals for support and licensing expirations

Status Report for OIG Projects - Audit and Evaluations Division

Report Date: Friday, July 30, 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, 2020. We are awaiting the decision from the 4th Circuit Court to confirm or reject the initial ruling by the Civil District Court.

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			X	
IE-21-0001	Competitive Bidding		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.



2021 OIG Fund Balance & Expenditures

Funding:	\$3,484,529
Expenditures:	Amount
Personnel	\$2,149,658
Operating	\$671,221
Total Expenditures	\$2,820,879
Fund Balance	\$663,650



2021 OIG Expenditures

Operating Expenditure Description	Encumbered Amount	Paid Amount
Advertising	\$500	\$400
Clothing & Food Supplies	\$864	\$864
Computer & Tech Repairs & Maintenance	\$6,000	\$6,000
Computer Software & Applications	\$61,110	\$38,366
Computer Technology & Equipment	\$106,602	\$49,602
Consulting Professional Services	\$7,600	\$7,600
Convention & Travel	\$6,293	\$821
Dues & Subscriptions	\$4,969	\$3,600
Education	\$15,000	\$5,285
Local Telephone	\$23,066	\$11,178
Misc. Supplies	\$874	\$874
Motor Vehicle Other/Parts & Supplies/Repairs & Maintenance	\$1,665	\$1,665



2021 OIG Expenditures (continued)

Operating Expenditure Description	Encumbered Amount	Paid Amount
Office Supplies	\$5,720	\$3,411
Postage	\$158	\$158
Rents & Leases	\$5,800	\$0
Security Professional Services	\$2,000	\$0
Utilities	\$23,000	\$4,055
Legal Services	\$400,000	\$181,560
Total	\$671,221	\$315,439



Monthly Report of OIPM

THE OFFICE OF THE INDEPENDENT POLICE MONITOR



MONTHLY REPORT

JULY 2021

Community Letter

Dear New Orleans Community,

Earlier this month I attended the Together New Orleans citywide assembly. At this event, community organizations and congregations from across New Orleans gathered to discuss the problems facing this community but also to commit to one another and to the people of New Orleans how they intended to work together to solve these problems. OIPM was inspired to share our commitment to the community. The OIPM commits to being a community resource – accessible to all. The OIPM commits to police oversight as a tool of public safety – because our community is safer when we all feel comfortable reporting crime and heard by the police seeking to serve us. In 2021, we want to act on our commitments with you.

This month, the OIPM collaborated with NOPD on multiple ongoing community concerns and projects, but the OIPM wants to highlight two of these efforts. First, the OIPM met with Public Integrity Bureau leadership to discuss how to expand our Community-Police Mediation Program to receive more referrals for mediation. Our mediation director discussed with leadership how powerful the mediation process can be for both officers and members of the public and the Public Integrity Bureau committed to recommending more complaints to this valuable service.

The management team also met with the Director of Curriculum at the NOPD Academy to discuss training ideas for recruits and new supervisors. The management team was impressed to learn the academy utilizes scenario-based curriculum where a small group is encouraged to solve problems together then teach back the lessons to the larger class of recruits. The management team made recommendations on areas where training could be enhanced or expanded including possible ethical dilemmas, how to plan in escalated situations, and strip search policy confusion. OIPM looks forward to monitoring training at the academy over the next couple months.

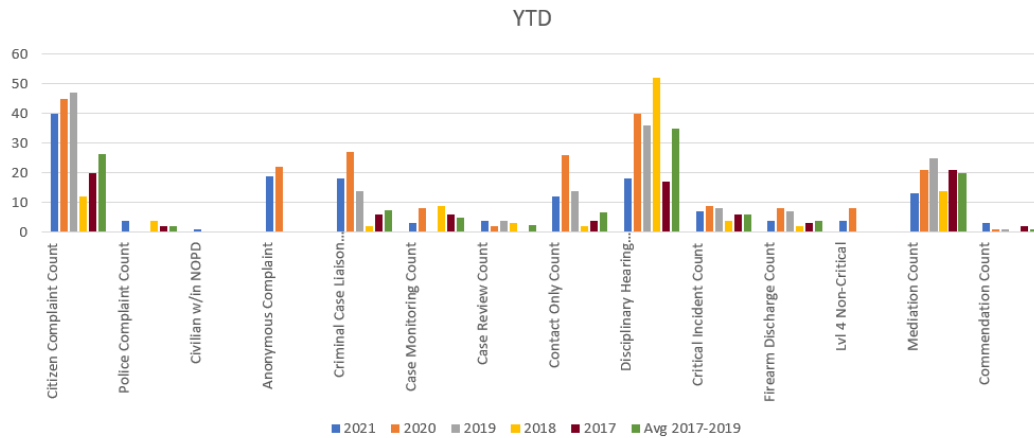
During July, the Quality Assurance Review Advisory Committee (QARAC) formally submitted their assessment of the OIPM to the Ethics Review Board (ERB). The QARAC is made up of appointees from the City Council, the Mayor's Office, and the ERB and their purpose is to assess the thoroughness and quality of our work product, the breath of work completed, and whether the OIPM is achieving the benchmarks set forth in our governing charter and the Memorandum of Understanding that created our office. For the third year, the QARAC stated they were impressed by the quantity and quality of the work completed by our small team. Though complimentary, the QARAC provided recommendations to the OIPM on how to further improve our work and our impact. The OIPM adopted all the recommendations with the intend of achieving these goals in 2021. The adopted recommendations can be found in our Six Month Action Plan online.

Finally, looking into August, the mask mandate is back in Louisiana. In an abundance of caution for staff and the public, the OIPM will be moving our services to a remote work model again. The physical office will be open on an appointment basis only. We are still open and ready to serve you – we just want to ensure it's done safely for all.



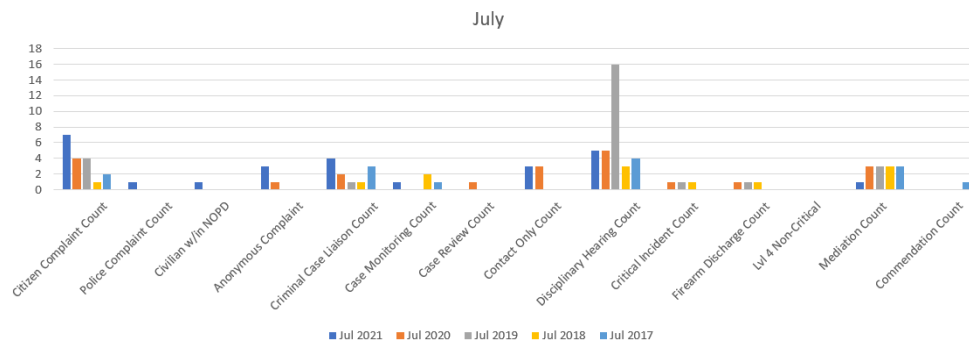
Stella Cziment

Year to Date Overview



	2021	2020	2019	2018	2017	Avg 2017-2019
Citizen Complaint Count	40	45	47	12	20	59.00
Police Complaint Count	4	0	0	4	2	4.00
Civilian w/in NOPD*	1	0	0	0	0	0
Anonymous Complaint*	19	22	0	0	0	0
Criminal Case Liaison Count	18	27	14	2	6	13.33
Case Monitoring Count	3	8	0	9	6	6.00
Case Review Count	4	2	4	3	0	6.00
Contact Only Count	12	26	14	2	4	11.33
Disciplinary Hearing Count	18	40	36	52	17	53.33
Critical Incident Count	7	9	8	4	6	6.67
Firearm Discharge Count	4	8	7	2	3	6.00
Lvl 4 Non-Critical*	4	8	0	0	0	
Mediation Count	13	21	25	14	21	30.33
Commendation Count	3	1	1	0	2	3.33
Grand Total	150	217	156	104	87	199.33

July Overview



	Jul 2021	Jul 2020	Jul 2019	Jul 2018	Jul 2017	Avg 2017-2020
Citizen Complaint Count	7	4	4	1	2	2.75
Police Complaint Count	1	0	0	0	0	0.00
Civilian w/in NOPD*	1	0				0.00
Anonymous Complaint*	3	1				1.00
Criminal Case Liaison Count	4	2	1	1	3	1.75
Case Monitoring Count	1	0	0	2	1	0.75
Case Review Count	0	1	0	0	0	0.25
Contact Only Count	3	3	0	0	0	0.75
Disciplinary Hearing Count	5	5	16	3	4	7.00
Critical Incident Count	0	1	1	1	0	0.75
Firearm Discharge Count	0	1	1	1	0	0.75
Lvl 4 Non-Critical*	0	0				0.00
Mediation Count	1	3	3	3	3	3.00
Commendation Count	0	0	0	0	1	0.25
Grand Total	26	21	26	12	14	18.25

July Overview

Citizen Complaints	
CC2021-0065	The complainant alleges that an NOPD Officer did not follow proper procedure when issuing him and his wife a citation in addition to not properly booking and logging evidence. The complainant also alleges NOPD's unresponsiveness in assisting the complainant retrieve his confiscated property.
CC2021-0067	The complainant accuses an NOPD Officer of giving a false statement in court during an official legal proceeding.
CC2021-0068	The complainant alleges that member of the 7th District NOPD assisted his neighbor in harassing him and his family. In addition, the complainant alleges he was falsely arrested for violating a Protective Order that was no longer in effect and had been dismissed.
CC2021-0069	The complainant alleges that the NOPD failed to conduct an investigation into the death of her husband. In addition, the complainant alleges that an NOPD Officer gave her false and/or
CC2021-0072	The complainant accused NOPD of harassment via stops, searches, and arrest leading to false charges as well as sexual harassment due to an illegal and unauthorized strip search in public.
CC2021-0073	The complainant stated an NOPD Officer failed to take necessary and appropriate police action during his response to an accident involving the complainant. In addition, the complainant stated the officer's supervisor failed to do the same when she contacted the District and believes it was due to her race because the supervisor asked her race and refuse to help her after she told him.
CC2021-0074	The complainant alleges the responding officer failed to take necessary and appropriate police action during his response to an accident involving the complainant.
Citizen Complaints Count: 7	

Police Complaint	
PO2021-0070	The complainant alleges that a NOPD Lieutenant has sexually and verbally harassed male officers. In addition, the complainant alleges the same NOPD Lieutenant has filed false complaints against officers.
Police Complaint Count: 1	

Citizens within NOPD Complaint	
CN2021-0064	The complainant alleges that the accused NOPD Officer has committed payroll fraud.
Police Complaint Count: 1	

Anonymous Complaints	
AC2021-0063	The complainant accuses an NOPD Motorcycle Officer of driving recklessly, weaving through traffic, and almost hitting the complainant's vehicle.
AC2021-0066	A member of the public had things stolen from hotel room and believes NOPD did not properly respond and failed to take necessary police
AC2021-0071	The complainant alleges that an NOPD Lieutenant lied during an investigation.
Anonymous Complaints: 3	

July Overview

Criminal Liaison	
CL2021-0013	OIPM assisted an individual with determining how to proceed with NOPD after the death of her family member.
CL2021-0014	OIPM facilitated a meeting with Public Integrity Bureau leadership so the individual could learn more about the misconduct investigation that was conducted and what are some next steps.
CL2021-0015	Member of the public asked for assistance with an ongoing issue with a Jefferson Parish law enforcement officer.
CL2021-0016	A complainant contacted the OIPM requesting assistance scheduling a meeting with the Orleans Parish District Attorney's Office. OIPM also attended the meeting with the complainant.
Criminal Liaison Count: 4	

Case Monitoring	
CM2021-0003	OIPM is monitoring the investigation of a former civilian employee of NOPD at the request of the former employee.
Case Monitoring Count: 1	

Contact Only	
CO2021-0012	A fellow at a partner organization reached out for assistance with identifying an officer at the NOPD.
CO2021-0013	A civilian contacted the OIPM about narcotics concerns in the 6th District. The OIPM provided the 6th District with the information.
CO2021-0014	A civilian contacted the OIPM about a noise disturbance in the 4th District. The OIPM provided the civilian with the proper contact information for the 4th District and how to file a non-emergency police
Contact Only Count: 3	

Disciplinary Hearings	
DH2021-0015	A Senior Police Officer is accused of speeding and driving his motorcycle under the influence of alcohol without proof of insurance while his driver's license was suspended in violation of Louisiana law and NOPD
DH2021-0016	A Police Officer is accused of accepting a hundreddollar (\$100) bill from a member of the public and then failing to disclose the incident and not being truthful about accepting the money during the subsequent investigation.
DH2021-0017	A Police Officer is accused of failing to take necessary police action but instead participating in the criminal damage of a civilian's apartment with his girlfriend in violation of NOPD policy and then withholding information during the course of the misconduct investigation.
DH2021-0018	A Captain (now Lieutenant) was accused of violating NOPD policy when he engaged in a personal / sexual relationship with a subordinate he supervised and disciplined a different subordinate for allegedly making a comment about the relationship.
DH2021-0019	A Captain (now Lieutenant) was accused of committing a battery on an employee he was dating.
Disciplinary Hearings Count: 5	

July Overview

Use of Force Review Board Cases Heard	
ASI2021-0001	Officers arrived in the 400 block of Tricou Street to investigate an Aggravated Assault. After a preliminary investigation, including the review of surveillance footage, the officers attempted to arrest an individual at which time the individual ran inside the residence and armed himself with an AR-15 rifle and began shooting at the officers. Officers returned fire with no injuries. The suspect then barricaded himself inside the residence and later surrendered to SWAT members.
ASI2021-0002	While attempting to conduct an investigation on a car parked the wrong direction, an individual attempted to flee from the officer. The officer struck the individual in the head with the his firearm. The officer's weapon discharged, striking the individual in the right leg.
FTN2021-0072	During a search in the 7th district for armed robbery subjects, officers requested assistance from the Canine Apprehension Unit. One individual was located by the canine. The canine made contact with the subject and bit the individual on the right ankle. The individual was apprehended with no additional force.
Use of Force Review Board Cases Heard: 3	

Mediation
Mediation cases are confidential.
Mediations Held: 1

Complaints

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.

Once the OIPM receives a complaint, the OIPM prepares the complainant's account into a narrative. The OIPM strives to accurately capture the words, emotions, goals and narrative shared by the complainant and selects the policy, practice, or rule that each allegation of behavior / incident could have violated if determined to be true. As part of the letter preparation process, OIPM personnel reviews information in NOPD systems regarding the interaction complained of, including body worn camera video, electronic police reports (EPR) and field interview cards (FIC). The OIPM may include information obtained from NOPD information systems in the complaint referral to PIB to ensure that PIB can fully investigate the complainant's concerns.

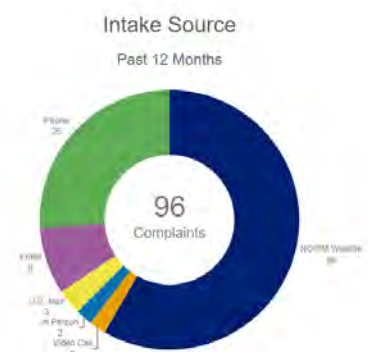
The OIPM provides a complaint process that is independent, impartial, transparent, fact-based, timely, and communicates in an understandable manner to all those involved. The OIPM maintains that misconduct investigation must be comprehensive, and the complaint process must be accessible, fair, thorough, and transparent.

7 CIVILIAN COMPLAINTS

3 ANONYMOUS COMPLAINTS

1 POLICE INITIATED COMPLAINTS

1 CIVILIANS WITHIN NOPD INITIATED COMPLAINTS



Discipline

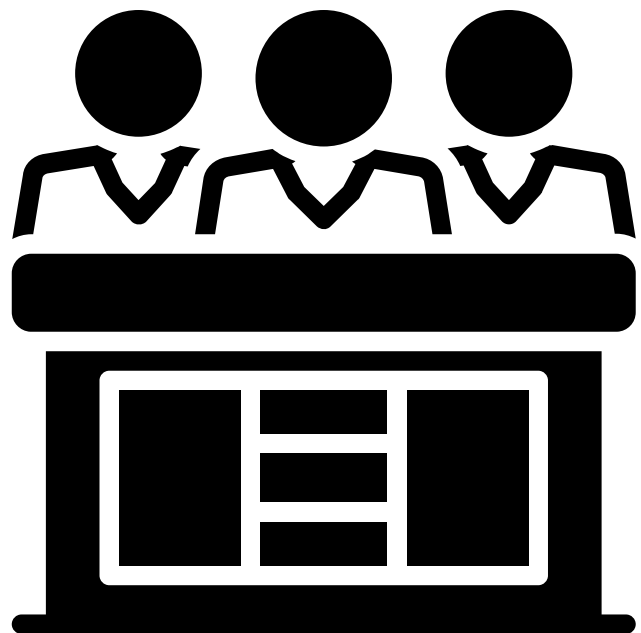
The OIPM is responsible for monitoring whether NOPD action taken during disciplinary proceedings are compliant with state and federal law, NOPD policy, the Consent Decree, and the Memorandum of Understanding between the NOPD and the OIPM executed on November 10, 2010. The OIPM will review such proceedings to ensure the NOPD is compliant with Federal Consent Decree Section XVII: Misconduct Complaint Intake, Investigation, and Adjudication.

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.

5 DISCIPLINARY
PROCEEDINGS

5 SUPERINTENDENT
COMMITTEE
HEARINGS

0 CAPTAIN PANEL
PREDISPOSITION
AND PENALTY
HEARINGS



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.

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

6 **MEDIATIONS
REFERRED**

1 **MEDIATIONS
HELD**

2 **MEDIATIONS
PENDING**



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

-Civilian Participant

Use of Force

The OIPM is required by City Code 2-1121 to monitor the quality and timeliness of NOPD's investigations into use of force and in-custody deaths. If a critical 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 (UFRB) hearings.

The UFRB serves as a quality control mechanism to ensure timely reviews of all serious use 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 improvement perspective. The voting members of the UFRB are the Deputy Superintendents of Field Operations Bureau, Public Integrity Bureau, and Investigations and Support Bureau. Other NOPD deputy chiefs serve as non-voting members, and outside groups like OIPM and the Office of the Consent Decree Monitor are present to observe, listen, and participate in discussion.

0

**CRITICAL
INCIDENTS**

0

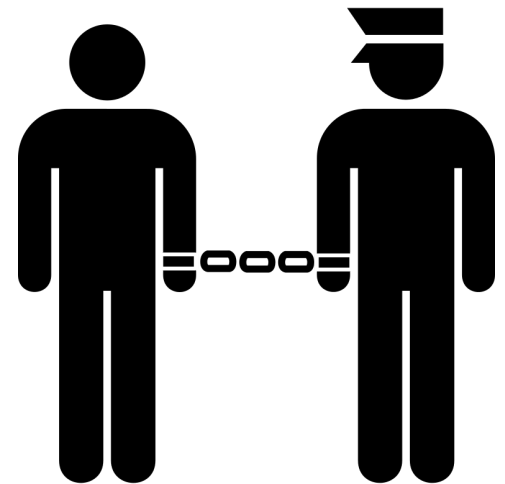
**FIREARM
DISCHARGE**

0

**LEVEL 4 NON-
CRITICAL
INCIDENT**

3

**CASES HEARD
AT USE OF
FORCE REVIEW
BOARD**



Community Outreach

5

COMMUNITY OUTREACH EVENTS

OIPM leads and participates in community outreach to inform the public of our services, to increase public engagement with policing, raise awareness of local or relevant police practice, and monitor how the NOPD interacts with our community.

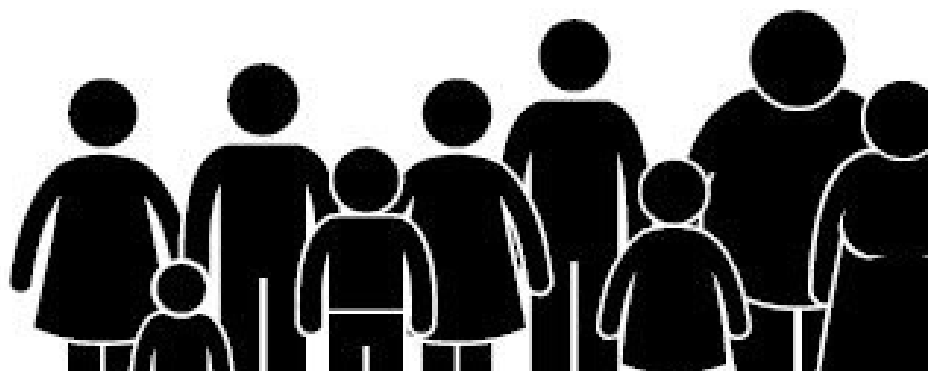
OIPM ATTENDED A MEET AND GREET AND COMMUNITY FORUM IN THE 8TH DISTRICT WITH CAPTAIN WALLS

OIPM ATTENDED THE TOGETHER NEW ORLEANS CITYWIDE ASSEMBLY

OIPM ATTENDED THE NOPD CLASS OF #192 COMMENCEMENT CEREMONY

OIPM HELD A MEDIATOR MEET AND GREET

OIPM FACILITATED WITH NEW NOPD LEADERSHIP AND STREET PERFORMERS



Budget

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

2021 Total OIPM Budget	\$1,013,681.00
Amounts Spent to Date:	(\$661,205.00)
Projected Amounts to be Spent the Rest of the Year:	(\$849,333.34)
Projected Unexpended Funds	\$164,347.66

2021 Goal Progress

To ensure accountability and transparency with the ERB and the community, the OIPM will report out highlights and what progress was made each month to complete the goals listed in the Six Month Action Plan and the recommendations adopted from the QARAC.

These benchmarks and goals were achieved in July, 2021:

The OIPM create the "OIPM 2021 Hurricane and Declared Emergency Plan" and the "Required Criteria Audit Sheet" which the OIPM will utilize to assess the NOPD's compliance with their 2021 Hurricane Plan.

- Both the plan and the audit sheet were submitted to NOPD for review and comment in July and OIPM will work with NOPD leadership over the next thirty (30) days to complete this project.

Complete the 2020 Quality Assurance Review

- In July the OIPM completed the 2020 Quality Assurance Review and formally adopted the recommendations made by the QARAC.

Create more social media presence, information, and outreach

- The OIPM created a new social media platform - the OIPM Instagram account at: nolaoipm. In July, the management team created a social media calendar and started producing regular content for the account with relevant information for the community, how-to tips, and showcasing the work being completed by the office.

Design new OIPM Website that is easier for the public to navigate.

- In July, the OIPM released the website bid for the second time in 2021. The OIPM is currently speaking with contractors to clarify their proposals before selecting a contractor.


Train Contractors on Use of Force Review

- The Acting Deputy, Bonycle Sokunbi, trained the OIPM contractors and summer interns on how to complete use of force reviews and started assigning use of force work to the contractors.

Create a 2022 Budget Proposal and official request to NOPD for supplemental funding for: (1) audit support; (2) policing consultant; (3) the Community-Policing Mediation Program; and (4) data support.

- This month the OIPM submitted the 2022 Budget Proposal to Chief Ferguson and his leadership team. The OIPM requested the NOPD respond to the request by August 15, 2021.

Social Media Highlights





Office of the Independent Police Monitor
www.nolaipm.gov | 504.309.9799

Do you need your property back from the NOPD?

NOPD Property Room: 658-5550
Ask for the Property Release Division.

You can contact the NOPD Property Room to see about the release of your property. Please note that there are certain circumstances when property will not be released to an owner until the conclusion of the case.

nolaipm
New Orleans, Louisiana

nolaipm Contact the NOPD to see if your property can be released back to you. Message us or comment below about your experiences with property release in New Orleans. #nopd #policeoversight #property #neworleans #feedback

2w

[View Insights](#)

♥ Comment Reply

Liked by aloyius_jones_vii and 10 others

JULY 14


Add a comment...



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www.nolaipm.gov | 504.309.9799

Did you know the OIPM was recently evaluated by a Quality Assurance Review Advisory Committee?

Scroll to learn more....



nolaipm
New Orleans, Louisiana

nolaipm Every year, the OIPM is evaluated by a Quality Assurance Review Advisory Committee (QARAC). This thorough, independent, and comprehensive assessment enables the OIPM work product to be reviewed and for the OIPM to receive feedback on ways to improve. The findings of the QARAC are public, but please scroll to read some highlights. #policeoversight #nolaipm #qualityassurance #evaluation

5d


[View Insights](#)

♥ Comment Reply

Liked by aloyius_jones_vii and 13 others

3 DAYS AGO




Add a comment...



Office of the Independent Police Monitor
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Know your police unions and their role in New Orleans.

Representation. Labor concerns. Legislation. Resource and Support.

Police Association of New Orleans (PANO) **Fraternal Order of Police (FOP)** **Black Organization of Police (BOP)**



nolaipm
New Orleans, Louisiana

nolaipm Police unions in every jurisdiction are different. In New Orleans, the police unions represent officers during disciplinary proceedings and misconduct investigation as legal defense, bring up labor and safety concerns to NOPD leadership, participate in the legislative process on a state or federal level, and act as a resource or support center. These organizations do not decide appropriate discipline, oversee misconduct, or make investigatory or labor decisions. The OIPM interacts with these organizations regarding their concerns for NOPD employees, systemic

[View Insights](#)

♥ Comment Reply

Liked by aloyius_jones_vii and 12 others

JULY 15

Add a comment...

The Quality Assurance Review Advisory Committee (QARAC) report stated the following about the OIPM:

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.**



nolaipm
New Orleans, Louisiana

nolaipm Every year, the OIPM is evaluated by a Quality Assurance Review Advisory Committee (QARAC). This thorough, independent, and comprehensive assessment enables the OIPM work product to be reviewed and for the OIPM to receive feedback on ways to improve. The findings of the QARAC are public, but please scroll to read some highlights. #policeoversight #nolaipm #qualityassurance #evaluation

5d

[View Insights](#)

♥ Comment Reply

Liked by aloyius_jones_vii and 13 others

3 DAYS AGO

Add a comment...




nolaipm
New Orleans, Louisiana

nolaipm Today, the OIPM met with Public Integrity Bureau leadership about how to resolve complaints of officer misconduct through our Community-Police Mediation Program and how to keep building on this important initiative together. #mediation #community #nolaipm #policeoversight #activelisting #leadership

2w

[View Insights](#)

♥ Comment Reply

Liked by aloyius_jones_vii and 10 others

JULY 15

Add a comment...



Office of the Independent Police Monitor
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Did you know you can file complaints based on what you observe?



File a complaint of misconduct or a commendation for positive policing regarding any event you witness.

Online: <https://nolaipm.gov/file-a-complaint/>
Phone: 504.309.9799

Provide any photos or videos
Email: policemonitor@nolaipm.gov



nolaipm
New Orleans, Louisiana

nolaipm You do not need to be involved in a police encounter to report it. If you see something that may be misconduct - let us know. You can do this anonymously or with your name. Similarly, if you see an officer going above and beyond and doing a great job, request a commendation. We're here to serve you. Reach out and let us know how the NOPD is doing. #community #policeoversight #nolaipm #neworleans #nopd #misconduct #commendation

2w

[View Insights](#)

♥ Comment Reply

Liked by opprcnola and 9 others

JULY 16

Add a comment...

Item 1

Dear City of New Orleans Ethics Review Board:

Thank you for considering at your last meeting of July 12, 2021 the ethics standards for campaign contributions proposed by the Greater New Orleans Interfaith Climate Coalition. This letter is in furtherance of the Ethics Review Board's consideration of this proposal and provides responses to questions raised by members and general counsel.

Ms. Calderon asked whether there are examples of other governmental prohibitions on campaign contributions. We have provided a summary list of those prohibitions by city and state governments.

Please see Attachment A.

Mr. Ciolino noted the potential First Amendment issues with the proposal. We have added language to clarify that the purpose of section 1b is not to prohibit free speech, but to prevent conduit contributions either originating from or reimbursed by the regulated company. We have deleted section 1c because the existing language of section 1b already covers the category of persons identified in section 1c.

Please see Attachment B.

Mr. Cowan noted that the Board needed to be mindful of making a recommendation regarding campaign contributions during the election cycle. We are sensitive to this concern. We respectfully request guidance from the Ethics Review Board members as to their view of a better time to make a recommendation on campaign contributions to the City Council. In the meantime, we would appreciate knowing the Board members' views on the merits of the proposal itself.

I have a conflict beginning at 4:45 so I would deeply appreciate it if this item could be taken up before 4:15 or so. My thanks for your consideration.

Sincerely,

Gregory Manning

Pastor Gregory Manning, Chair

For the Greater New Orleans Interfaith Climate Coalition

Cc: Attorney Monique Harden

Attachment A – Summary of Prohibitions on Campaign Contributions by State and Local Governments

Los Angeles City Council enacted a ban on campaign contributions from city lobbyists and certain city contractors and developers. Specifically, the ban affects contributions from any applicant for a “Significant Planning Entitlement” under the city’s ordinances- basically certain land uses that require discretionary city action that “are not solely ministerial.” The ban applies not only to applicants, but also to any property owner identified on the application and any of the applicant’s “principals.” Developers and individuals covered by the ban are prohibited from making such contributions beginning from the time an application for a “Significant Planning Entitlement” is first submitted until 12 months after the date a letter of determination is issued by the city or the date when a final decision is made on the application.

The San Francisco Ethics Commission provides that “[n]o person who contracts with the City, the Unified School District, or the Community College District may make any contribution to an officer who must approve the contract, or to a candidate for the board on which the officer serves, at any time from the submission of the proposal for such contract until either the termination of negotiations for such contract or twelve months have elapsed from the date the contract is approved by the officer or board on which he or she serves.”

The City of Chicago Governmental Ethics Ordinance provides that “No person who has done business with the city, or with the Chicago Transit Authority, Board of Education, Chicago Park District, Chicago City Colleges, or Metropolitan Pier and Exposition Authority within the preceding four reporting years or is seeking to do business with the city, or with any of the other aforementioned entities, and no lobbyist registered with the board of ethics shall make contributions in an aggregate amount exceeding \$1,500.00: (i) to any candidate for city office during a single candidacy; or (ii) to an elected official of the government of the city during any reporting year of his term; or (iii) to any official or employee of the city who is seeking election to any other office.”

Campaign donations from developers to elected officials in Cincinnati have been under scrutiny, and a panel has been tasked with suggesting reforms. A public forum took place, where reform similar in nature to those mentioned above were viewed favorably.

Georgia prohibits contributions to candidates for state Executive branch offices from entities (and any persons or PACs acting on their behalf) that are licensed or regulated by an elected Executive branch official or a board under the jurisdiction of such an official.

Mississippi prohibits campaign contributions to state Public Service Commission candidates and employees from businesses regulated by the agency and from certain affiliated individuals.

New Jersey broadly prohibits political contributions from companies involved in banking, railroad, telephone, gas, electric, canal, aqueduct, and casino businesses, among others, as well as from certain affiliated entities and individuals.

New York prohibits public utilities from using “revenues received from the rendition of public service within the state” to make political contributions.

Attachment B – Revised Amendment on Campaign Contributions

(Revisions are shown in strikethrough deletions and underscore additions.)

- I. No City Councilmember or candidate seeking the office of City Councilmember shall accept or otherwise receive a campaign contribution or any other financial benefit of any value from:
 - a. Entergy, Cox Communications or other entity that provides a utility, cable, telecommunications or technology service regulated by the City Council;
 - b. Any political action committee, director or executive staff person of a corporation or entity regulated by the City Council that either can be reimbursed by the regulated company or is otherwise a conduit contribution from the regulated company;
 - ~~c.~~ ~~Any person employed in the executive management of the New Orleans Sewerage and Water Board;~~
 - ~~d.~~ Any person, firm or entity with a professional services contract awarded by or pertaining to the City Council; or
 - e d. Any person, firm or entity with a professional service contract awarded by or pertaining to the New Orleans Sewerage and Water Board.
- II. No later than 30 days from the deadline of qualifying as a candidate for the office of City Councilmember, the candidate shall submit an affidavit to the New Orleans Ethics Review Board and the City Law Department that affirms or denies the following:
 - a. Acceptance of compensation or financial benefit of any value from an entity regulated by the City Council or contracted to provide a service to the City Council in the last five years; and/or
 - b. Any time served on the board of a corporation or entity that is either regulated by the City Council or contracted to provide a service to the City Council.

Dear City of New Orleans Ethics Review Board:

The Greater New Orleans Interfaith Climate Coalition stands with the poor and the afflicted in pursuing climate justice. Perhaps nowhere is climate justice more important than in how utilities are managed. It is the poor in fence line communities that suffer disproportionately from the pollution of fossil fuel electrical production, and it is the poor that pay a disproportionately large part of their income to keep cool in the summer and warm in the winter. Further, the poor have been disproportionately impacted by COVID-19 which especially victimizes those whose lungs have been weakened by pollution from fossil fuel power plants. (Source: Harvard study linking particulate matter and COVID-19 deaths). However, the current Ethics Code does not prohibit campaign contributions and other financial benefits from rich and powerful utilities to City Councilmembers who regulate them. Therefore, it is essential that the City Council is not subject to this influence that is to the detriment of the poor and all our citizens. As the Psalmist of the Judeo-Christian tradition says, "For the oppression of the poor, for the sighing of the needy, now I will arise, saith the Lord".

For these reasons, we recommend that the Ethics Review Board recommend to the City Council the following language as an amendment to the Ethics Code of the City of New Orleans:

- I. No City Councilmember or candidate seeking the office of City Councilmember shall accept or otherwise receive a campaign contribution or any other financial benefit of any value from:
 - a. Entergy, Cox Communications or other entity that provides a utility, cable, telecommunications or technology service regulated by the City Council;
 - b. Any political action committee, director or executive staff person of a corporation or entity regulated by the City Council;
 - c. Any person employed in the executive management of the New Orleans Sewerage and Water Board;
 - d. Any person, firm or entity with a professional services contract awarded by or pertaining to the City Council; or
 - e. Any person, firm or entity with a professional service contract awarded by or pertaining to the New Orleans Sewerage and Water Board.
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 - a. Acceptance of compensation or financial benefit of any value from an entity regulated by the City Council or contracted to provide a service to the City Council in the last five years; and/or
 - b. Any time served on the board of a corporation or entity that is either regulated by the City Council or contracted to provide a service to the City Council.

We further request that the Ethics Review Board consider our recommended amendment to the Ethics Code during the next meeting that is scheduled on July 12, 2021. We would appreciate the opportunity to make a presentation at this meeting.

Thank you for your consideration.

Pastor Gregory Manning, Chair and Founder

Greater New Orleans Interfaith Climate Coalition

cc. City Council

cc. GNOICC Steering Committee

Item 2

MEMORANDUM

TO: Ethics Review Board

FROM: Dane S. Ciolino

DATE: August 6, 2021

RE: *Possible Methods for Electing Officers*

I. APPOINTMENTS AT END OF TERM

A. *Annual Nomination and Election*

Each year, all officers' terms expire on June 30th. At a meeting in May or June, the chair will accept nominations for each soon-to-be-vacant position. The board will vote on each nominee. Each nominee receiving a majority of votes will assume the position. Typically, the board will first vote on president, then vice-president, and then secretary.

B. *Automatic Elevation*

Each year, all officers' terms expire on June 30th. On July 1st, the vice-president will automatically become president and the secretary will automatically become vice-president. The chair will accept nominations for secretary. The board will vote on each nominee. The nominee receiving a majority of votes will become secretary.

II. APPOINTMENTS TO FILL VACANCIES

If any officer position should become vacant before the officer's term expires on June 30th, the chair will accept nominations for the vacant or soon-to-be-vacant position. The board will vote on each nominee. The nominee receiving a majority of

MEMORANDUM

votes will assume the position. The person elected to the position will serve to the end of the term.

Item 3

Campaign Finance and Other Ethics Reform Initiatives

David Marcello: The Public Law Center

I appreciate this opportunity to comment on amending the City Ethics Code to restrict campaign contributions for City Council members and candidates. Thank you to the Greater New Orleans Interfaith Climate Coalition for precipitating this discussion and thanks to the ERB for entertaining it.

I don't have "an answer" to the legal and policy questions posed by this proposed amendment, but I do have some thoughts about legal issues that will need to be addressed and the policy perspective that I think should frame this discussion.

First, the policy framework: This proposed amendment is a very good idea; we should be looking for ways to implement it. It's already been embraced by an important political constituency—incumbent members of the City Council, who adopted a resolution of support in June.

It's very appropriate that the ERB host this discussion, since "The home rule charter and city code both expressly invited the ERB to recommend revisions to the city ethics code."¹ Implementing this proposed revision could require an ordinance by the City Council, a bill at the state legislature, or approval by New Orleans voters if a Charter proposition proves necessary. It's a good commentary on our local ethics administration that the Climate Coalition felt comfortable in bringing its initiative to this forum and that the ERB is nurturing it.

Regarding pertinent legal issues: The Climate Coalition has gotten us off to a good start by citing similar ethics provisions in Los Angeles, San Francisco, and Chicago plus another initiative pending in Cincinnati. We'll want to know more about what authority those cities enjoyed in their respective states to launch campaign finance restrictions at the local level of government. It's a threshold question for New Orleans: What legal authority does the city have or what would

¹ David A. Marcello, "Ethics Reform in New Orleans: Progress—and Problems Ten Years Post-Katrina," 62 Loyola L. Rev. 435, 456 (2016), citing New Orleans Home Rule Charter Section 9-402(1) ("The City Council shall authorize the Ethics Review Board to establish *additional recommendations* for the Code of Ethics" [emphasis added]) and New Orleans Code of Ordinances Section 2-719(1) ("Pursuant to section 9-402 of the Home Rule Charter, the ethics review Board may *establish additional recommendations* for the code of ethics" [emphasis added]).

be needed to restrict campaign contributions for (i) incumbent members of the City Council or (ii) candidates campaigning for a seat on the City Council?

One favorable factor supporting this proposal is New Orleans' status as a home rule jurisdiction. Charter revision in 1994-95 very deliberately preserved the broadest possible scope of municipal home rule power under the 1974 Louisiana Constitution.²

An additional favorable factor are strongly supportive home rule provisions³ in Louisiana's 1974 Constitution, which specifically preserves broad powers for pre-1974 home rule jurisdictions like New Orleans.⁴ We should exploit to their fullest potential these powerful constitutional protections for home rule jurisdiction.

In pushing the proposed campaign-finance initiative, we will face the following constitutional questions:

(1) Does Louisiana's Campaign Finance Act preempt and therefore preclude regulation of campaign contributions by local ordinance? Note that the

² See New Orleans Home Rule Charter Section 2-101. Powers, and specifically language in subsections 1 ("The City shall retain, to the same extent as if herein repeated, all rights, powers, privileges and authority that it has or could claim under the law of this State at the time of the adoption hereof"), 2 ("the City shall have all rights, powers, privileges and authority herein conferred or herein enlarged and all rights, powers, privileges and authority whether expressed or implied that may hereafter be granted to a similar corporation by any general law of the State or that may be necessary or useful"), 4 ("The City, in addition to the rights, powers, privileges and authority expressly conferred upon it by this Charter, shall have the right, power, privilege and authority to adopt and enforce local police, sanitary and similar regulations and to do and perform all of the acts pertaining to its local affairs, property and government which are necessary or proper"), and 6 ("The rights, powers, privileges and authority of the City of New Orleans under this Charter shall be construed liberally in order to establish the broadest measure of local self-government in any and all matters not prohibited or reserved to the state by the Louisiana Constitution").

³ See Louisiana Constitution Article 6, Section 6 re Home Rule Charter or Plan of Government; Action by Legislature Prohibited: "The legislature shall enact no law the effect of which changes or affects the structure and organization or the particular distribution and redistribution of the powers and functions of any local governmental subdivision which operates under a home rule charter."

⁴ See Louisiana Constitution Article 6, Section 4 re Existing Home Rule Charters and Plans of Government: "Every home rule charter or plan of government existing or adopted when this constitution is adopted shall remain in effect and may be amended, modified, or repealed as provided therein. Except as inconsistent with this constitution, each local governmental subdivision which has adopted such a home rule charter or plan of government shall retain the powers, functions, and duties in effect when this constitution is adopted. If its charter permits, each of them also shall have the right to powers and functions granted to other local governmental subdivisions."

State Ethics Code is *not* preemptive; it allows for dual jurisdiction over ethics matters by local ordinance, as long as the local measures are more restrictive than state ethics laws.⁵ We should advocate for similar dual state-and-local jurisdiction over campaign finance restrictions.

(2) *Are restrictions on the size and source of campaign contributions compatible with First Amendment freedoms?* Note that state campaign finance laws already impose such restrictions; similar restrictions at the local level of government should be no more vulnerable to challenge under the First Amendment than existing state laws.

(3) *Does New Orleans have sufficient legal authority to regulate (either by local ordinance or by a Home Rule Charter amendment) contributions given (i) to incumbent members of the City Council or (ii) to candidates for a seat on the City Council?* Note that the answer may differ depending upon whether the regulation applies only to current elected officials or whether it extends to candidates seeking elective office.

I've reached out to Adam Swensek, Executive Counsel for the New Orleans City Council; the ERB would benefit from his thoughts and research developed in connection with the Council's Resolution. The Council and the ERB can enhance their chances of success by working together in support of this worthy campaign finance initiative.

Additional Reforms for ERB Consideration

I couldn't have prepared for today's discussion without knowing what was said at last month's ERB meeting: Dane Ciolino mentioned the First Amendment, for example, and Mike Cowan expressed caution about advancing this proposal in an election year. On this latter concern, I would not think it likely we'll see a proposal implemented in time to affect the current election cycle; we might more realistically set our sights on getting it done in 2022.

But my larger point is that I couldn't review last month's "*Draft Minutes of Previous Board Meeting*" until they were posted last Friday. When I appeared at

⁵ See Marcello, note 1 at 451: "Louisiana law has long recognized the dual jurisdiction between state and local ethics boards."

the ERB meeting in February, I asked whether “*Draft Minutes*” couldn’t be posted sooner after the meeting they describe instead of being posted a month later, on the brink of a new meeting. Either way, early or late, they would still be “*Draft Minutes*” *as they are clearly labeled*. Not until after today’s meeting will they become “official” minutes. Best practice would be to draft and post the minutes within days (not weeks) after the meeting, while they’re still fresh in mind. The ERB could and should be a model of transparency for other municipal boards and commissions; promptly posting minutes would be a good place to start. I’m renewing my request that the ERB **serve the public’s interest by posting draft minutes promptly** after each meeting.

I’ve read “Possible Methods for Electing Officers,” and let me suggest that the ERB has a structural problem extending beyond a smooth transition annually among its elected leadership. The ERB faces a fundamental challenge each year in assuring a smooth transition for its *members*, not just its *officers*, because each year, one among seven members of the ERB faces the expiration of a seven-year term on June 30, precipitating a vacancy on July 1 that can only be filled after a university chancellor or president nominates three possible new members, the Mayor designates one among those three names to serve a new seven-year term, and the Council confirms the new appointee.

This process routinely eats up 45-60 days or more and usually results in new members not being seated until September. That “disconnect” makes it very easy for terms to fall out of staggered rotation, since a new member seated in September might instinctively assume the new term will not expire until seven years later. That’s led the ERB astray in the past when members’ terms fell woefully out of sync with the legally mandated staggered terms.

This inconvenient hiatus in the appointment process could be solved by an amendment **requiring that notice of an impending vacancy be sent to the university presidents or chancellors by May 1**, requesting from them the names of three people to be considered for appointment by the Mayor, who must then send one name for confirmation by the City Council—all to be accomplished before July 1, when new members should be smoothly seated each year. Even without an ordinance, the ERB could implement its own procedure by giving anticipatory notice to the university presidents or chancellors of an impending

vacancy by May 1 each year, asking for three names from which the Mayor can select an appointee to send for City Council confirmation in June, not August or September.

These observations illuminate another hiatus in the law: The current appointment procedure calls for three nominees from each of six university presidents or chancellors, which would result in as many as 18 names for consideration by a Mayor. That may have been an appropriate procedure when all seven ERB members were first appointed in 2007, but the appointment process has worked quite differently in practice since then. Each one of you (except for the mayoral appointee) was nominated by a single university president or chancellor. When your term expires, the ERB will look to a single university president or chancellor to nominate three possible successors for a new seven-year term. That's not how the current law is written; we should rewrite it to reflect the operational reality.

This defect in the law is not some inconsequential legal "nicety." It would be extremely bad public policy for a Mayor to receive 18 names each time a seat becomes vacant on the ERB. The system would be susceptible to manipulation, ultimately resulting in a politicized membership clearly at odds with the goal of a politically independent ERB. This important legal change should be accomplished by a City Council ordinance at the urging of the ERB: **Change the law to require that a university president or chancellor present three names during May when the term associated with that educational institution is expiring in June.**

Reforms Redux

In my comments at the February ERB meeting, I recommended legal changes to enhance the ERB's enforcement capability, calling for ordinances to create a **schedule of fines** and to establish **procedures for removing** employees and board or commission members who have been found in violation of the City Ethics Code. I'm not going to revisit those recommendations today, but I would ask that the ERB place on the record my written submission with today's comments as well as my summary of the February recommendations. I hope they'll provide support for ERB ethics reforms going forward. Thank you.