

NEW ORLEANS CITY COUNCIL



**Presentation for the
Ethics Review
Board**



**Office of the Independent
Police Monitor**

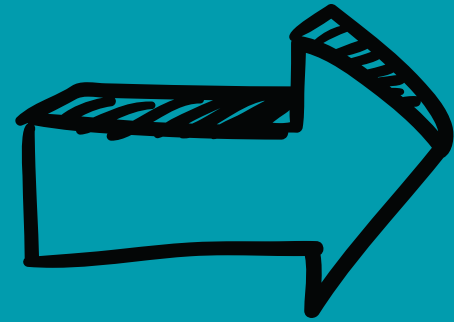
**Ordinance &
Budget**

Cal. No. 33,950

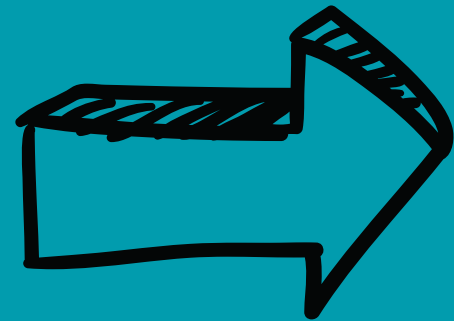
Presentation Goals

OIPM Sustainment Plan: Role of Local Oversight After Active Monitoring Ends

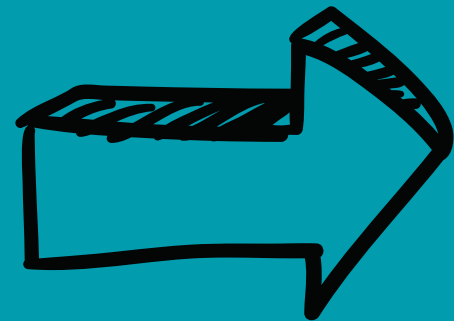
2022
2023



Overview of Ordinance



Budgetary Requests to City Council to Build Investigatory Capacity



Questions

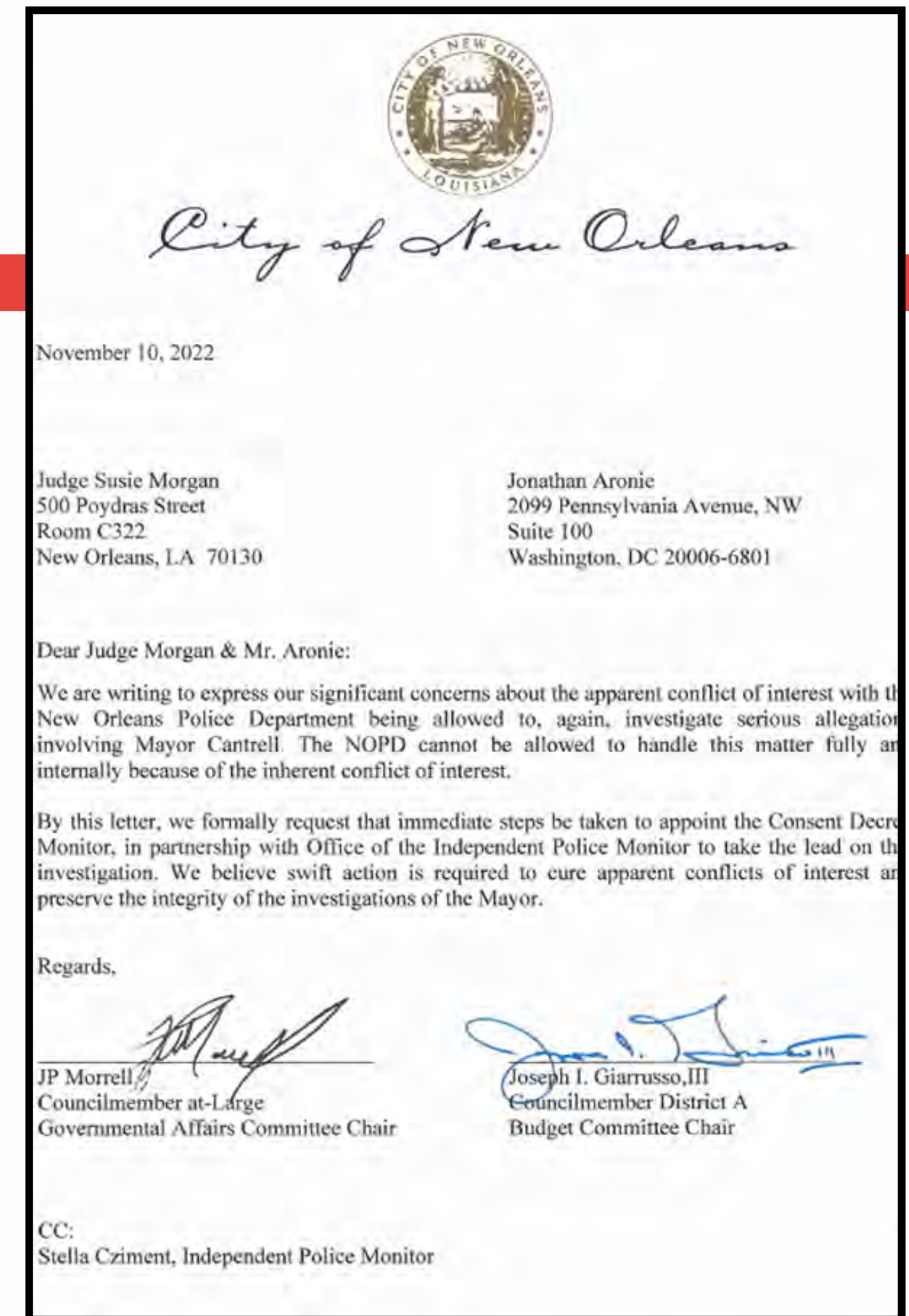
Background of the Ordinance

Since receiving autonomy from the OIG, the OIPM has sought investigatory and subpoena power in order to hold the NOPD accountable without depending on the NOPD for information.

The OIPM currently has investigatory and subpoena power pursuant to Revised Statute 33:2339; however, it is limited to criminal and administrative violations related to the secondary employment system. Unfortunately, we learned in this year, that this was not an actionable power since we did not have the funding or the infrastructure (MOU and referral abilities) in order to build an investigatory team to complete the investigations and have the investigations result in disciplinary action. This year, the OIPM was asked to conduct multiple investigations by NOPD leadership, police associations, community members, and City Council but had to decline these requests.

Simultaneously, it became apparent that in order for the NOPD to reach compliance with the Consent Decree, there needed to be a sustainable and independent mechanism to handle investigations of rank and PIB conflicts. The OIPM was identified by the Federal Monitors as the appropriate agency since the OIPM is responsible for the oversight of the NOPD.

The OIPM included the goal of building our investigatory capacity in the **OIPM 2022 Work Plan that was provided to the ERB, NOPD, the Mayor and City Council.**



Background of the Ordinance

Additionally, at the end of 2021, the OIPM started receiving legal challenges to our ability to receive and protect confidential information. The OIPM received subpoenas and public requests for the names and identities of anonymous complainants.

The OIPM has refused to provide this information, but after conferring with counsel, we have identified the need to have clear legal protection to our confidential information to ensure the safety of those who report officer misconduct.

The OIPM included these goals in the **OIPM 2022 Work Plan:**

- (1) collaborating with the New Orleans City Council to determine the legal protections necessary for the OIPM to continue to receive complaints of officer misconduct, and
- (2) write an ordinance granting necessary legal protection.

OEDB (Rev. 12/13) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT
for the
Eastern District of Louisiana

Rayne Upton
Plaintiff
v.
Rodney Vicknair, et al.
Defendant

Civil Action No. 21-cv-00407

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: New Orleans Office of the Independent Police Monitor
(Name of person to whom this subpoena is directed)

☒ Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material. See attached Exhibit A.

Place: Via email to williammost@gmail.com, December 1, 2021, 5:00pm. Date and Time:

☐ Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place: Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to your protection as a person subject to a subpoena; and Rule 45(d), relating to your protection as a person subject to a subpoena; and to respond to this subpoena and the potential consequences of not doing so.

Date: 10/27/2021

CLERK OF COURT OR
Signature of Clerk or Deputy Clerk

The name, address, e-mail address, and telephone number of the attorney representing the party who issued this subpoena is: William Most, 201 St. Charles Ave., Ste. 114, # 101, New Orleans, LA 70170.

Notice to the person who issues or requests the subpoena: A copy of this subpoena must be served on each party in this case as directed. Fed. R. Civ. P. 45(a)(4).

Eric J. Hessler
Attorney at Law
320 N. Carrollton Avenue Suite 202
New Orleans, Louisiana 70119
Ph: 504-301-9913
Fax: 504-942-2450
Email: Hessler.law@gmail.com

July 12, 2022

Ms. Stella Cziment
OIPM
Email: scziment@nolaipm.gov

Re: Public Records Request

Dear Ms. Cziment:

This is a Public Records Request for the following information.

All “anonymous” and “known anonymous” complaints received by or initiated by the OIPM against any NOPD employees. By “anonymous” it is meant that OIPM does not know the identity of the complainant. By “known anonymous” it is meant that OIPM knows the identity of the complainant but has not revealed such identity of the complainant. The documents requested include the OIPM documents concerning the intake of the complaint as well as the documents and referral memorandums sent to NOPD PIB. The dates of such documents are from January 2018 to the present date.

Respectfully,
Eric J. Hessler

Proposed Ordinance

ORDINANCE

CITY OF NEW ORLEANS

CITY HALL: October 20, 2022

CALENDAR NO. 33,950

NO. _____ MAYOR COUNCIL SERIES

BY: COUNCILMEMBER MORRELL

AN ORDINANCE to ordain section 2-1122 of the Code of the City of New Orleans to provide for subpoena and investigatory responsibilities of the Orleans Independent Police Monitor; and otherwise to provide with respect thereto.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY ORDAINS, That the Code of the City of New Orleans, Louisiana is hereby amended by adding a section to be numbered as section 2-1122, which said section shall read as follows:

“ARTICLE XIV. - OFFICE OF THE INDEPENDENT POLICE MONITOR

Section 2-1122. - Office of the Independent Police Monitor Subpoena and Investigatory Responsibilities; Confidentiality

(1) *Purpose.*

- (a) The purpose of this section is to establish that the independent police monitor may conduct oversight over the police department through criminal and administrative investigations, inspections and evaluations, audits, and monitoring. This includes joint investigations and projects with other oversight or law enforcement agencies, including but not limited, to the Office of the Orleans Parish District Attorney, the Office of the Inspector General, and the Office of Police Secondary Employment.

(2) *Subpoena and Investigatory Responsibilities*

- (a) For purposes of collecting data or performance of its oversight and investigatory duties, the independent police monitor may administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any records which the independent police monitor deems relevant or material to police

The proposed ordinance has **three parts**:

Investigatory Power

Same investigatory power as the state statute, RS 33:2339, but instead of being limited to just secondary employment, it would be expanded to all alleged criminal and administrative misconduct within the NOPD. Currently discussing:

- Leadership and conflicts
- OIPM right of first refusal
- Duplicative investigations
- Need to amend OIPM creating statute

Would require a MOU between NOPD and OIPM for operational elements and the ability to refer investigations to the District Attorney's Office. *Does not grant disciplinary power.*

Subpoena Power

Similar to RS 33:2339 but without the secondary employment limitation. Only to be used when there is a refusal to provide information or employee statements as required. Still requires judicial approval.

Legal protection to receive and maintain confidential information where complainant safety or retaliation is a concern.

What Does This Mean for OIPM

1. Continue meeting with OCDM, Federal Judge, and City Council to ensure Consent Decree Compliance.
2. Creating investigatory model / plan
 - a. Put into place internal firewalls
 - b. Create legally compliant templates
 - c. Meet with Civil Service regarding timeline obligations under Officer Bill of Rights
3. Enter into a MOU with NOPD
 - a. Possibly MOU with DA
 - b. Create referral and assignment mechanisms with PIB
4. Determine appropriate transparency and public reporting process.
5. Team Building and Preparation
 - a. Hire investigatory and review staff
 - b. Train staff on how to conduct relevant and timely investigations and case review reports
 - c. Buy all necessary equipment to conduct investigations



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OFFICE OF THE INDEPENDENT POLICE MONITOR CASE REVIEW: 2021-0092-P

The Office of the Independent Police Monitor (OIPM) is an independent branch of city government responsible for providing oversight to the New Orleans Police Department (NOPD). The OIPM provides transparent assessments of the NOPD's work, progress, and obstacles. Based on those assessments, the OIPM provides the NOPD with detailed recommendations on policy, practice, and how to become or remain compliant with the Federal Consent Decree. Most importantly, at the center of the OIPM's work is the community. The OIPM is responsible for issuing public reports to the people of New Orleans and the NOPD regarding the state of policing in New Orleans. This case review is one such example and is created in conformity with the Memorandum of Understanding between the NOPD and the OIPM executed on November 10, 2010; as well as being consistent with La. R.S. § 40:2531 Chapter 25 and Municipal Code of Ordinances, Part II, Chapter 2, Article XII Section 2-1121.

POLITICS



NOPD mishandles Jay Banks, Noonie Man dispute

—
“Here's a councilman coming to my house and trying to bully me,” Batiste said.

Author: Mike Perlstein / Eyewitness Investigator

Published: 5:39 PM CDT October 7, 2022

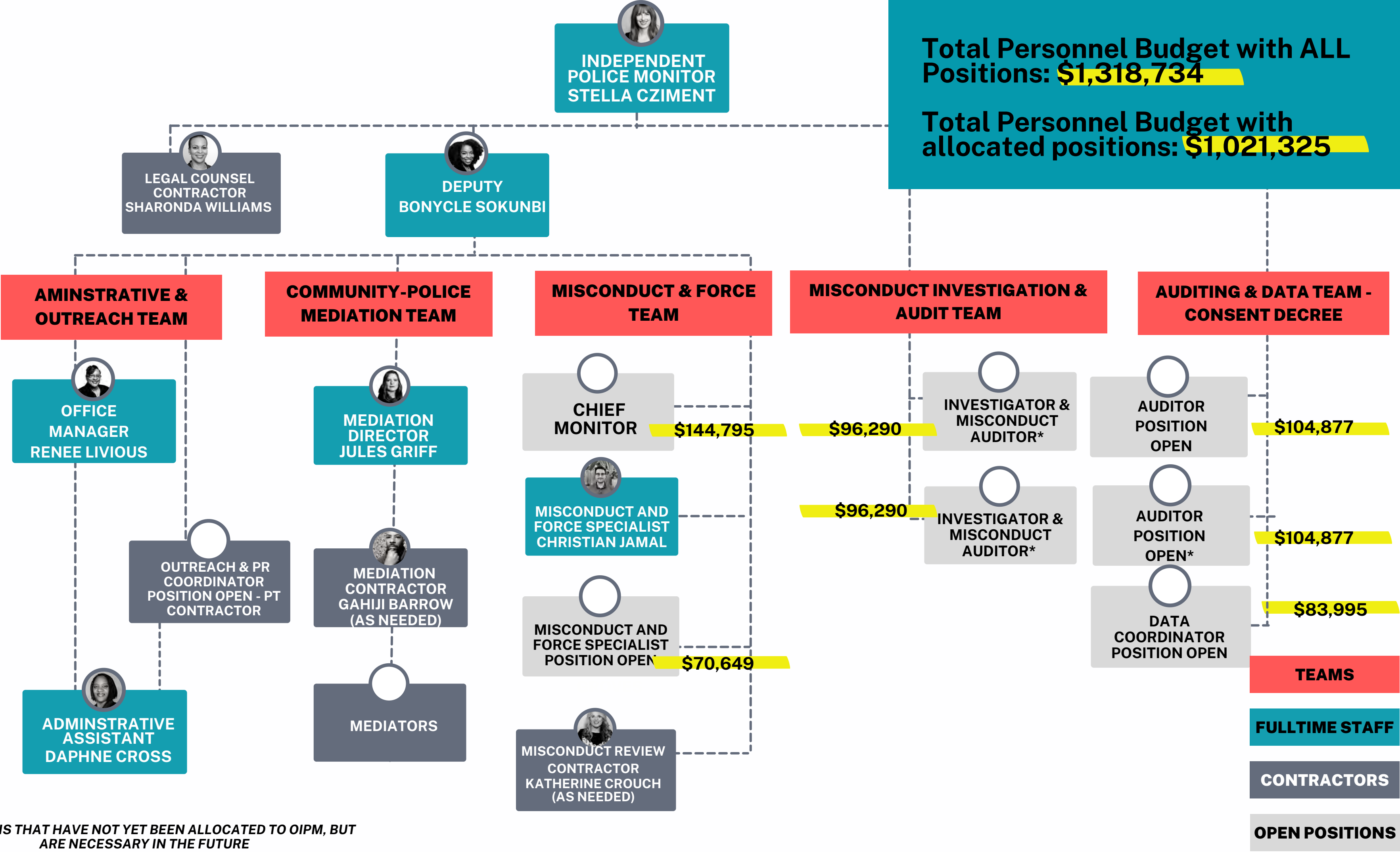


How the OIPM is Preparing

In preparation for this possibility of investigatory power, the OIPM:

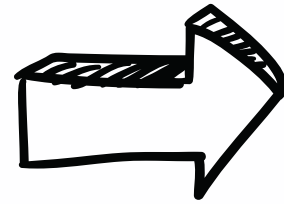
- Met with the Federal Monitors and started determining how to construct this ability to be compliant with the Consent Decree and continue to meet regularly to discuss investigatory structure.
- Met with the CAO to discuss our budgetary needs to build our audit, data, and investigatory teams.
- Met with NOPD leadership regarding investigatory structure and continue to meet with leadership weekly to discuss as this process progresses.
- Met with City Council members and OIPM counsel to discuss the ordinance and provide language.
- Prepared a budget that requests additional money to build the necessary teams.
- Presented the budgetary ask to City Council on November 2, 2022. This budget will be voted on December 1, 2022.
- Starting researching national best practice regarding oversight agencies with investigatory power and their disciplinary referral process to inform our MOU.





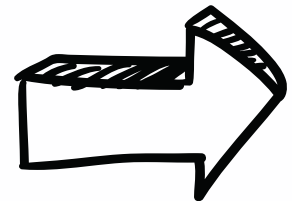
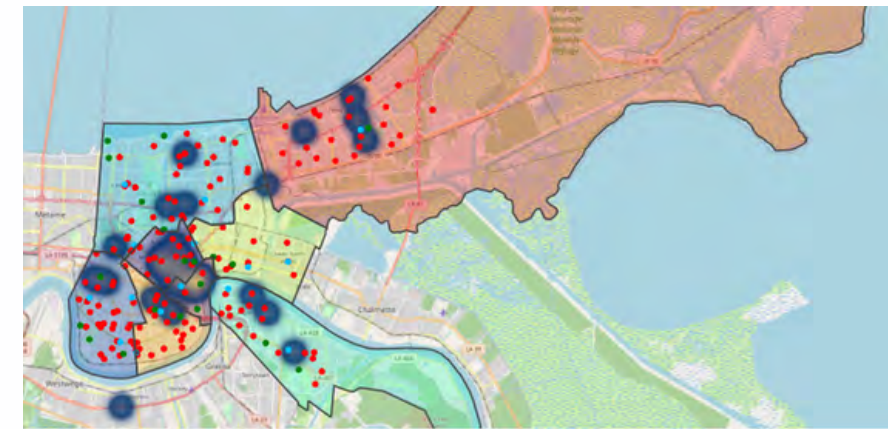
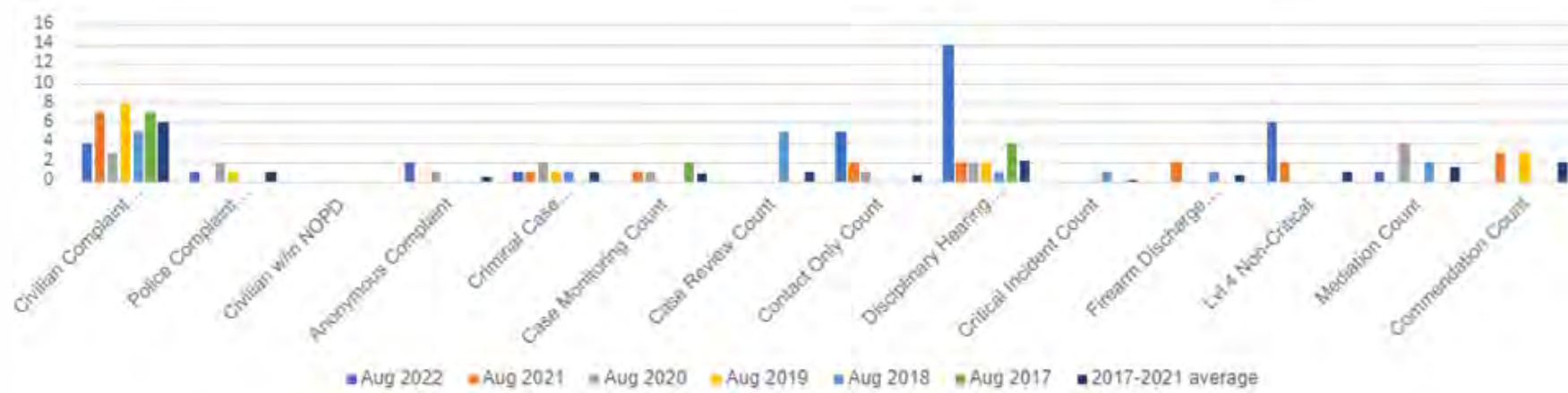
*POSITIONS THAT HAVE NOT YET BEEN ALLOCATED TO OIPM, BUT ARE NECESSARY IN THE FUTURE

Prioritize Investigation, Audit, Review, Data Capacity in 2023 Budget



Data, Auditing, and Technology Implementation

The OIPM reviews and aggregates data from complaints, investigations, and disciplinary proceedings and then provides feedback to the NOPD and information to the public through recommendations for NOPD training, practice and policy. The systems in place are deeply flawed and problematic. Historically, OIPM has not had the technology in place to fulfill its role and responsibilities surrounding data. Based on our research, the OIPM anticipates the RFP will be approximately **\$250,000** for 2023. The data coordinator will **cost \$83,995** (including benefits).



Investigation and Accountability

Increase our role in the investigation and accountability of the Office of Police Secondary Employment (OPSE) as legally required under La. R.S. 33:2339. Under possible city council ordinances, the OIPM may take on more investigatory responsibilities regarding the NOPD as well. The OIPM would need to hire investigators and train those individuals on how to conduct criminal and administrative investigations.

OIPM Budget Recap

Pursuant to the OIPM ordinance, OIPM receives .16% of the general fund. Due to the pressing need to expand, the OIPM requested the additional allocation of money to build our team and meet the needs of NOPD and the community.

2022 Approved Budget		
Personnel Services	Other Operating	Total
\$732,488	\$308,926	1,041,414

2023 Budget Request		
Personnel Services	Other Operating	Total
\$1,318,734	\$441,323	\$1,761,057



Deputy police monitor Bonycle Sokunbi and monitor Stella Cziment, of the Office of Independent Police Monitor, listen to people in the public voice their concerns during the public hearing at the Ashe Power House Theater in New Orleans, Tuesday, Sept. 27, 2022. (Photo by Sophia Germer, NOLA.com, The Times-Picayune | The New Orleans Advocate)

Sophia Germer

Thank you.

The OIPM welcomes questions and comments.

