

OIPM CONSENT DECREE FAIRNESS HEARING COMMENTS

Problem	Solution	Rationale
COMPLAINT INTAKE INVESTIGATION & ADJUDICATION		
<p>Paragraph 392 makes no provision for OIPM Complaint Intake.</p>	<ul style="list-style-type: none"> • Include the OIPM in the consent decree as a complaint intake site. • Include remote intake sites set up in the community by the OIPM. 	<ul style="list-style-type: none"> • The OIPM is an alternative site for complaint intake. • Additionally, the OIPM trains other organizations to be complaint intake sites. • The OIPM creates “safe space” for both citizen and officer to inform the OIPM of problems. It would be difficult for the NOPD to perform this function, as they have a history of complainant retaliation. • The OIPM’s complaint intake style is less intimidating than the style used by the NOPD. OIPM has anecdotal reports from citizens, uses more open ended questioning, does not give the impression of bias, and probes deeper in its intake interviews. Additionally, OIPM staff works to identify complaint issues and don’t rely on the citizen complainant to point out NOPD administrative rule violations.
<p>Paragraph 392 also makes provisions to track lawsuits and relies on the City Attorney and the NOPD to perform this task. To this point, the City Attorney has often not cooperated with the OIPM and has often not turned over the information necessary for the OIPM to meet its mandate in tracking police misconduct litigation.</p>	<ul style="list-style-type: none"> • Return the duty to track law suits to the OIPM and require City attorney cooperation. • Require PIB to open a complaint investigation anytime a suit alleging misconduct is filed against an officer. 	<ul style="list-style-type: none"> • There is also a dearth of requirements in the consent decree regarding law suit data against the NOPD. The OIPM is legally required to track lawsuits but the Consent Decree locks the OIPM out of that process. • The OIPM suggests the Consent Decree include a provision that any lawsuit against the NOPD trigger the initiation of a complaint investigation.

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<p>Paragraph 384 dictates that PIB should conduct an outreach program on the complaint process.</p> <ul style="list-style-type: none">• The OIPM already performs this function.• The OIPM curriculum is fairly robust and includes advice to complainants on how to properly form a complaint.• PIB's culture has been consistently perceived as unfriendly to citizen complainants. OIPM is concerned about how well received outreach would be if it was conducted by PIB.	<p>Defer a PIB outreach program until the PIB staffing review mandated in paragraph 380 has been conducted and a community-friendly NOPD staff person can be identified; require this outreach staff to coordinate with the OIPM outreach staff to conduct joint public education efforts OR eliminate PIB outreach provision</p>	<p>The OIPM's Public Outreach on Complaint Intake better informs the public about how to prepare a complaint that is amendable to investigation. The OIPM informs people of how the PIB processes complaints and helps complainants to be prepared to gather the necessary information as the incident is occurring, so that the complainant will be able to submit a more informed complaint.</p>
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Critical Incidents		
<p>As recently as April this year, the NOPD was involved in two Officer Involved Shootings that sparked further community distrust.</p>	<p>Proposed new paragraph:</p> <p>“The Office of the Independent Police Monitor shall continue to have access to all Use of Force Incidents and to review Critical Incident/Officer Involved Shooting investigations. The NOPD shall provide the Office of the Independent Monitor with any information or material relevant and necessary to the Office of the Independent Police Monitor’s review of Use of Force Incidents and Critical Incident/Officer Involved Shootings. Both of these types of reviews shall assess the quality, completeness, and findings of the investigations and shall include determinations of whether: the investigations were completed in a timely manner, summarized and transcribed statements accurately match the recorded statements, all available evidence was collected and analyzed, and the investigation was properly adjudicated.”</p>	<p>The OIPM’s officer-involved-shooting review process is built upon the requirements of other consent decrees and is as robust, if not more robust, than the provisions in the current version of the consent decree. The OIPM is already doing what needs to be done. By requiring in the consent decree that the OIPM receive access to integral information relating to the shooting investigation, the Consent Decree can only make the OIPM more effective.</p>
<p>Through the course of the investigations into the two shootings, the OIPM uncovered evidence that NOPD would not have collected without its intervention.</p>	<p>Both of these types of reviews shall assess the quality, completeness, and findings of the investigations and shall include determinations of whether: the investigations were completed in a timely manner, summarized and transcribed statements accurately match the recorded statements, all available evidence was collected and analyzed, and the investigation was properly adjudicated.”</p>	
<p>Prior to the OIPM involvement in Critical Incident scenes:</p> <ul style="list-style-type: none"> • Crime scenes were not taped off or preserved; • Evidence was not collected; • Involved officers were not segregated from each other and were involved in the investigation of their own cases; and • There was no Force Investigation Team in charge of investigations. 	<ul style="list-style-type: none"> • Revise Paragraph 108 to require that the new Use of Force Review Board meetings be defined as hearings under city ordinance that the OIPM has the right to attend. Don’t we also want to be part of some board? 	

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<p>There are ongoing problems with how the NOPD addresses the concerns of surviving family members of OIS shooting victims.</p> <ul style="list-style-type: none">• Families complain that the NOPD holds press conferences announcing the shooting before they inform the family of the death of their loved ones;• The NOPD refuses to provide information to family members ;• The NOPD is aggressive towards family members and has even arrested them as they have tried to get information; and• The NOPD treats grieving behavior as threatening and does not seem to understand the grief process.	<p>Write language into the consent decree that makes the OIPM the official liaison between families and the NOPD.</p>	<ul style="list-style-type: none">• The OIPM has had to step in several times to assist families through the investigative process.• Several families of civilians killed in OIS cases have written letters of support for the OIPM based on the OIPM's work with them.
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Community Involvement in Oversight

<p>Previous reform efforts, however successful, did not last. Citizen involvement can help make reforms stick.</p>	<p>Revise Community Involvement Provisions to include, at the least, a requirement that the city investigate how they might form a civilian review or oversight body.</p>	<p>Community members played a key role in highlighting our policing problems in New Orleans and they have the greatest stake in reform efforts.</p> <ul style="list-style-type: none"> • The OIPM not only supports community involvement in the reform of our police department, but – as an agency created because of grassroots community efforts- we know that the community is key to making any reforms in the department stick.
<p>Paragraphs 436-438 provide for a Police Community Advisory Board that the OIPM finds inadequate for the following reasons:</p> <ul style="list-style-type: none"> • There is no requirement for racial or economic diversity. The only provision requirement that the board be geographically representative. • There is no requirement that this Board have the power to review policies, access critical information, or make any decisions of their own. • The community specifically asked in their “People’s Consent Decree” and in CUC’s motion to intervene for some form of civilian oversight, be it a complaint review board or a police commission. 		<ul style="list-style-type: none"> • The OIPM formed a citizen stakeholder group to help develop our Police/Community Mediation Project. • The OIPM is developing a citizen advisory board that will advise OIPM on policy and performance issues in their geographic area and work with the OIPM to develop policies to better serve the community. The OIPM board will seek to represent the city’s racial, economic and geographic diversity. The OIPM will also prioritize youth representation on any board. • The OIPM has an ongoing relationship with the surviving family members of notorious OIS incidents through these relationships, we have convened a group of families who have developed policy recommendations specific to the OIS scenes and investigations. • The OIPM community relations staff was part of the community effort to get an

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		<p>OIPM and maintains ties to the advocates, community organizations, victims and complainants who are most directly impacted by NOPD misconduct. These connections allow the OIPM unique intelligence into the issues that occur between the community and the NOPD. They have also allowed the OIPM to get volunteers, donated meeting space and other supportive resources while we wait for the city to adequately fund the OIPM.</p>
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OIPM & Public Access to Records and Information

The Mayor, through the city attorney, has denied the OIPM access to documents required to perform OIPM's statutory functions. The City Attorney has also denied community members, media, and attorneys access to information relating to the NOPD, despite state public records provisions that require compliance

- Provide the same access to the OIPM as the Consent decree Monitor has in Paragraphs 470-476.
- Write in a requirement that the NOPD and the City Attorney turn over all documents to the OIPM that are required for the OIPM to perform its duties mentioned in this Consent Decree, including the OIPM's MOU with the NOPD and the OIPM statute.
- Write in a requirement that the NOPD and the City Attorney comply with state public records law and provide for a way to track all public records requests regarding the NOPD and their outcomes.
- Require the City Attorney to provide to the Court its legal arguments against public records access, so the Court may determine the legal sufficiency of its arguments.
- Even the DOJ acknowledged, in its response to the OIPM motion for intervention, that local police oversight is essential to lasting change in a police department.
- The people of New Orleans mandated the OIPM be responsible for certain duties and any effort to reform the NOPD should include a requirement that the NOPD comply with the City Ordinance and the local oversight mandate.

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Retaliation Prevention		
<p>Civilians have been killed in retaliation for filing complaints in the past and are currently being retaliated against in other ways.</p>	<p>Strengthen paragraph 377 to include:</p> <ul style="list-style-type: none"> • Requirements that the OIPM has free access to any whistle blower and any documents related to the person or the incident; • Requires specially trained investigators of retaliation claims; • Name the OIPM as the primary place for retaliation complaints to be lodged; • Assign the OIPM the duty of recording and tracking retaliation complaints; • Provide for an OIPM/NOPD partnership to develop and implement retaliation complaint investigation protocols that will protect the confidentiality of the person reporting retaliation; • Require that the city maintain strict timelines and penalties for the grievance process; and • Require that a NOPD employee grievance automatically initiate and trigger the complaint investigation process, if misconduct it's alleged. • Require PIB to admonish the officer accused of retaliation that he or she stays away from the complainant. 	<p>The OIPM is an established safe place for officers and civilians.</p>
<p>Police Officers also fear and experience retaliation.</p>		<p>Turning retaliation over to the NOPD will likely discourage officers from reporting misconduct.</p>
<p>Paragraph 375 specifically provides that officers MUST report observed misconduct internally.</p>		
<p>Many internal retaliation complaints are lodged against departmental leadership. The requirement of paragraph 375 that PIB track and investigate retaliation cases constitutes a conflict of interest as the officers in PIB would have to investigate those of the same rank or even higher ranking officers who are handpicked by the Superintendent of Police as a part of his command team.</p>		
<p>The city's grievance process is not trusted by police officers or civilians.</p>		

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Command Staff Investigations		
<p>There is no provision for OIPM Command Staff administrative investigations.</p>	<p>Include the OIPM in the consent decree as the conflict investigator, so the OIPM will investigate all Command Staff administrative misconduct.</p>	<p>The OIPM is a respected body which the community trusts to conduct objective and thorough investigations.</p>
<p>There is no provision for who will investigate allegations of command staff administrative misconduct.</p>	<ul style="list-style-type: none"> • If the court is not inclined to make the OIPM the sole provider for command staff investigations, include a provision requiring the NOPD to choose from a list of alternative agencies which can conduct command staff administrative investigations. • Require the OIPM to monitor whatever investigation an alternative provider conducts so as to ensure the most effective and thorough investigations. 	<p>The OIPM is the body most familiar with the NOPD administrative regulations.</p>
<p>Where a deputy chief or chief is alleged to have committed administrative misconduct, it is a conflict of interest for PIB to investigate these misconduct cases.</p> <ul style="list-style-type: none"> • Where this has occurred in the past, such as with the Investigation of Deputy Chief Defillo, the NOPD realized the inherent conflict in PIB conducting the investigation, and requested the Louisiana State Police conduct the investigation. The OIPM was allowed into the deliberation process, providing the State Police with many different lines of 	<p>Whomever the court orders to conduct these investigations, there should be clear and consistent requirements set in place.</p>	<p>During the Defillo investigation, the OIPM offered the community a level of consistent objectivity, allowing the community to trust the investigation was properly conducted.</p>

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<p>questioning which allowed the State Police to conduct a more thorough investigation. However, the OIPM also notes that the State Police works closely with the NOPD on a number of criminal investigations, which may create a conflict for the Louisiana State Police.</p>		
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Local Oversight Staffing and Resources

<p>Despite the City’s verbal commitment to the mission and work of the OIPM, there has been no provision in the consent decree for the OIPM to have a strong review role and no resulting resource allocation to the OIPM. The OIPM has been told that the city posed an objection to a stronger role for the OIPM.</p>	<p>The OIPM should report upon Consent Decree matters to the court, provided the City of New Orleans is required to provide the OIPM with the resources necessary to complete these tasks. It is inappropriate for the NOPD to critique itself and certify to a court that it is investigating itself appropriately.</p>	<p>Community often asks OIPM staff if the OIPM was created to fail. An investment in local oversight will increase public confidence in the overall reform process.</p>
<p>The OIPM cannot be responsible for its current mission and objectives as set out in its ordinance and its MOU with such severe resource anomaly. The OIPM has had to severely cut back its activities in order to effectively accomplish any of its functions and goals.</p>	<p>The following provision should be added to the consent decree:</p> <p>“In the event that full and effective implementation of this agreement requires services of a monitoring body which is permanently situated in the Parish of Orleans, DOJ, NOPD, and/or the Monitor shall inform the City of the need and its relation to the implementation of the Agreement. This need may be raised in the circumstances where for example around-the clock-on-call monitoring is required, including but not limited to the monitoring of: Use of force incidents, NOPD’s emergency management response, complaint interviews, and complaint investigation. The City is responsible for providing necessary financial support and resources for this purpose, and shall allocate additional funds as necessary. If either party disagrees with the need for on-call monitoring</p>	<p>The OIPM is the permanent monitor. It will be the body of government that will have to “continue the care” for the NOPD after the federal monitor leaves town. An agency which is so insufficiently resourced cannot be expected to be able to handle that role any better than it is currently handling its role today.</p>
<p>The consent decree requires the City to fully support the NOPD but has no similar provision for the OIPM, instead the City will rely on the consent decree monitor to conduct duties that the OPIM has under ordinance and could be conducting as a part of this consent decree.</p>	<p>Use of force incidents, NOPD’s emergency management response, complaint interviews, and complaint investigation. The City is responsible for providing necessary financial support and resources for this purpose, and shall allocate additional funds as necessary. If either party disagrees with the need for on-call monitoring</p>	<p>If other consent decrees are any measure, local oversight agencies are usually audited in their functions by a federal monitor.</p>

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	<p>assistance requested the Party shall, within 15 days of being warned in writing of the requested on-call assistance, inform the Court, which shall resolve the dispute.</p>	
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Risk Management System		
<p>Paragraph 326 of the Consent Decree provides that the NOPD will share information about at-risk officers with the DOJ and the Consent Decree Monitor, but does not include the OIPM. This is direct contravention of the NOPD/OIPM MOU (Paragraph 61-62) which requires that “[t]he IPM and the NOPD will work together to jointly establish procedures for the IPM to access the Department’s data/information which is necessary to conduct risk management reviews and pattern analyses pursuant to Paragraph 3 of the Ordinance.”</p>	<ul style="list-style-type: none"> • Require the NOPD to continue to report at-risk officers to the OIPM. • Any new database should be monitored by the OIPM; should include protections against tampering and abuse; and should include full OIPM access and limited NOPD employee access. • Create a risk management committee, with the OIPM as a member, to which at-risk officers are referred, monitored and reported on by supervisors. 	<ul style="list-style-type: none"> • At the request of the OIPM, the early intervention software system currently being used by the NOPD was purchased • The IPM, Susan Hutson, has experience with early intervention systems and risk management systems under the Consent Decree in Los Angeles and recommended NOPD adopt a similar one over a year ago. • It is worthy of note that, even in the middle of the 1990s, Police Chief Richard Pennington built an early warning system that was nationally praised. However, this system fell into disrepair when not monitored by an entity outside of the department. • The OIPM, by law, is responsible for monitoring and for reporting on the Risk Management system. • The NOPD signed a legally binding agreement empowering the OIPM to review their Risk Management System and also agreed to an open flow of information in this system. Further, the agreement specifies that the server for the system will be housed at OIPM offices.
<p>It also contradicts the OIPM Ordinance, which requires the OIPM to monitor the system for effectiveness</p>	<p>Require the NOPD to provide the OIPM with all information necessary to publish a Risk Management section in its Annual Report. This may be done in lieu of PIB publishing a redundant report.</p>	

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Constitutional Policing Review (Stop and Frisk)		
<p>Paragraph 150 of the Consent Decree requires supervisors to review investigatory stops, detentions and searches within 12 hours of receiving a report.</p>	<ul style="list-style-type: none"> • Empower the OIPM with the duty of conducting a detailed pattern analysis for at-risk employees and conducting a profile of each employee. • When conducted properly, such an analysis will reveal any pattern and potential issues with respect to the subject employee and suggest the proper approach to correct the situation. 	<ul style="list-style-type: none"> • The OIPM is already reviewing NOPD stops and frisks. • Stop and Frisk, by DOJ's own admission, is a practice that can be abused by officers. • Independent review is necessary to ensure that this practice isn't being abused by officers.
<p>The public cannot wait for the annual reviews contemplated in Paragraph 152, because this type of action affects them every day.</p>	<p>Either the OIPM or the Consent Decree Monitor needs to conduct regular monthly reviews of supervisory actions to verify that officers are being held accountable.</p>	<p>Constitutional Policing is a great concern of the general public.</p>
Search & Arrest Warrants Review		
<p>Paragraphs 136 and 146 provide very little guidance to the NOPD and its supervisors about the review measures they need to put in place prior to approving warrants.</p>	<p>Revise paragraphs 136 and 146 to provide for a more robust warrants review by supervisors and allow the OIPM to annually audit NOPD supervisors' documentation. Consider requiring the City to fund additional District Attorney positions to review affidavits.</p>	<p>There is a problem with warrant applications in New Orleans. The OIPM has found materially untrue statements in warrant applications as recently as this year. The OIPM is qualified and is already doing an appropriate review of such practices.</p>

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Community Based Restorative Justice Project

<ul style="list-style-type: none"> • Paragraph 439 expressly provides that the NOPD must fund and participate in a community-based restorative justice project. • The aim of this project must be to remedy mistrust between the NOPD and the broader New Orleans community and create an environment for successful problem-solving partnerships. 	<p>Paragraph 439 should include language that requires the NOPD to adopt the Community/Police Mediation Program as its community-based restorative justice project.</p>	<p>Require the NOPD to make the Community/Police Mediation Program its community-based restorative justice project and to fully cooperate with the OIPM in the administration of the mediation program will save both time and money. More specifically, this amendment to the consent decree would mean that:</p> <ul style="list-style-type: none"> • The NOPD’s community-based restorative justice program would be fully operational in months, rather than years, which it would take if the NOPD were allowed to create an entirely new program; and • The NOPD would only be required to fund a single community-based restorative justice program, i.e., the Community/Police Mediation Program, instead of two such programs, i.e., the mediation program, which is required by the OIPM’s statute and a second such program, required by the consent decree.
<p>The OIPM statute also includes a provision that specifically requires the OIPM and the NOPD to create a community-based restorative justice project.</p>	<p>Furthermore, the NOPD should be required to completely fund and cooperate with the OIPM in its administration of the newly established mediation program.</p>	
<p>Accordingly, over the past year, the OIPM and the NOPD have been working together to create such a community-based restorative justice project. The result of this collaboration between the OIPM and the NOPD has been the creation of the Community/Police Mediation Program.</p>		
<p>The NOPD has been involved in the creation of this community-based restorative justice program, i.e., the Community/Police Mediation Program, which is consistent with the OIPM statute, however, the NOPD has not yet agreed to fund this mediation program.</p>		