

Office of the Independent Police Monitor

City of New Orleans

2017 Annual Report: Use of Force Monitoring  
and Review Activities

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June 29, 2018

# The Office of the Independent Police Monitor (OIPM)

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## Mission and Responsibilities

The Office of the Independent Police Monitor (OIPM) is an independent, civilian police oversight agency created by the voters in a 2008 charter referendum and which opened its doors for the first time in August of 2009. Its mission is to improve police service to the community, civilian trust in the NOPD, and officer safety and working conditions. The OIPM has six broad responsibilities:

- 1) To ensure that all complaints regarding police misconduct are classified and investigated or mediated at the appropriate level and that those investigations are fairly, timely and thoroughly handled; to ensure that discipline is fair, timely, appropriate and upheld upon appellate scrutiny. To make information about this review process available to the public.
- 2) To monitor NOPD investigations into use of force to identify violations of civil rights, concerns of officer tactics and safety, risks to life, liberty and property, and adherence to law and policy.
- 3) To review and analyze aggregate data from complaints, investigations, community concerns and public policy in crafting recommendations aimed toward improving the quality of services by the NOPD.
- 4) To reach out to inform the community about the OIPM, to listen and respond to broader community concerns, and prepare the community for engagement in NOPD policy and practice.
- 5) To mend police/community relationships by fostering effective police/community partnerships.
- 6) To collect police commendations, review and monitor police training and supervision issues and support a healthy and safe working environment for NOPD employees.

The OIPM is responsible for monitoring the New Orleans Police Department and only the New Orleans Police Department. Although OIPM works with other criminal justice system actors, it is not responsible for oversight of any other agency. However, OIPM is mindful of the impact of these other criminal justice actors upon the operations of NOPD and will attempt to analyze that impact in future reports. OIPM accomplishes its mission by focusing on three main activities: complaint and disciplinary system monitoring and review; use of force monitoring and review; and subject-specific analyses or audits. Our recommendations to improve NOPD's accountability systems originate from these activities.



## A Note from the Independent Police Monitor

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Pursuant to New Orleans City Code Section 2-1121 (16) (the Police Monitor's Ordinance) The Office of Independent Police Monitor (OIPM) publishes an annual report each year. The Police Monitor's Ordinance provides as follows:

The independent police monitor shall be required to issue at least one public report each year, by June 30, detailing its monitoring and review activities and the appropriate statistical information from the internal investigations office, and other divisions of the New Orleans Police Department. The independent police monitor shall be required to report upon problems it has identified, recommendations made, and recommendations adopted by the New Orleans Police Department. The report shall also identify commendable performance by the New Orleans Police Department and improvements made by the department to enhance the department's professionalism, accountability, and transparency.

This **"2017 OIPM Use of Force Monitoring and Review Activities"** is part of that report.

Herein the OIPM will publish the OIPM's statistics and the outcome of each case.



## 2017 OIPM Use of Force Monitoring and Review Activities

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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.

In 2017, there were five (5) Critical Incidents, down from 8 Critical Incidents in 2016. All five (5) of these Critical Incidents were Officer Involved Shootings (OIS), down from 7 OISs in 2016. OIPM is encouraged that each year the number of critical incidents has decreased and hopes this will continue to be a trend in New Orleans. OIPM would like to acknowledge the hard work of NOPD in helping to reduce these incidents. The following table contains the types of Critical Incidents recorded in 2017 by the OIPM.

**Table 1: 2017 Critical Incidents - 5 Incidents**

<b>NOPD ASI #/FTN#/Item #</b>	<b>Date of Incident</b>	<b>Type of Incident</b>
A-27381-17 / 2017-01	01/24/2017 / 5:12 P.M.	OIS Death of Civilian
B-07837-17 / 2017-02	02/07/2017 / 7:15 P.M.	Accidental Discharge
F-27282-17 / 2017-03	06/22/2017 / 1:55 P.M.	OIS No Hits
I-06855-17 / 2017-04	9/6/2017 / 6:10 A.M.	Accidental Discharge
J-16112-17 / 2017-05	10/13/2017 / 12:10 A.M.	OIS and Hospitalization of Civilian who was Shot and Officer Killed

The OIPM responded to all five (5) of the Critical Incidents in 2017. Being able to review the scene and receive a walkthrough and briefing was essential for the OIPM to determine if the initial part of the investigation was being conducted properly. Reviewing the scene and receiving a walkthrough was also essential for the OIPM to make recommendations to improve the quality of NOPD critical incident investigations, accordingly.

## Trends in Critical Incidents 2011-2017

The following table provides a comparison of Critical Incidents since 2011, which is the first year that the OIPM began fully responding to Critical Incidents. The OIPM will continue to track Critical Incident trends.

**Table 2: Critical Incidents 2011-2017**

Year -	Total CIs	OISs	Hospitali -zations	ICD	Head Trauma	Other	Deaths
2011	19	19	0	0	0	0	2
2012	22	20	1	1	0	0	3
2013	17	12	1	2	0	2	2
2014	17	11	3	2	2	2	4
2015	14	12	1	1	0	0	5
2016	8	7	1	1	0	0	1
2017	5	5	1	0	0	0	1
<b>Totals</b>	<b>102</b>	<b>86</b>	<b>8</b>	<b>7</b>	<b>2</b>	<b>4</b>	<b>17</b>

## NOPD Policy

The NOPD must decide in each critical incident whether the officer's use of deadly force violated NOPD policy. NOPD submits all critical firearm discharge cases to the Orleans Parish District Attorney's office for review. The Orleans Parish District Attorney must decide whether the law has been violated.

The United States Supreme Court ruled that under the Fourth Amendment to the United States Constitution, police officers may only use that force which is reasonable and necessary to accomplish a lawful police objective such as an arrest, entry, or detention.<sup>1</sup> Additionally, under Louisiana law, police officers may be justified in using deadly force when authorized by their duties/law, in defense of a life, in defense of property, or to prevent great bodily harm.<sup>2</sup>

Under NOPD policy, a police officer has the authority to use deadly force under the appropriate Constitutional and state law standards. Additionally, NOPD policy requires officers to use an alternative to force, such as verbal persuasion, if reasonable under the circumstances.

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<sup>1</sup> *Graham v. Connor*, 490 U.S. 386 (1989).

<sup>2</sup> Louisiana Revised Statutes 14:18, et. seq.

## Use of Force Review Board

In the 2012 Consent Decree, NOPD agreed to “develop and implement a Use of Force Review Board (UFRB) to review all serious uses of force and other FIT investigations.”<sup>3</sup> According to the Consent Decree, the UFRB is to review FIT investigations, hear presentations from the lead investigator, determine whether force violated NOPD policies, and refer to PIB for discipline if the policy was violated. Additionally, the UFRB is to “determine whether the incident raises policy, training, equipment, or tactical concerns, and refer such incidents to the appropriate unit within NOPD to ensure they are resolved.”<sup>4</sup>

On December 6, 2015, NOPD implemented a chapter of its Operations Manual which established a “Use of Force Review Board.”<sup>5</sup> According to the Operations Manual,

The Use of Force Review Board (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.<sup>6</sup>

The voting members of the UFRB are the Deputy Superintendents of Field Operations Bureau, Public Integrity Bureau, and Investigations and Support Bureau.<sup>7</sup> Other NOPD chiefs and commanders serve as non-voting members, and outside groups like OIPM and the Office of the Consent Decree Monitor have been invited to observe, listen and participate in discussion.

At each of the approximately monthly UFRB hearings, PIB investigators make presentations regarding critical incidents involving NOPD officers and make a recommendation to the Board about whether the use of force was justified or not justified. The Board and other present representatives then discuss the use of force, and the Board then votes whether the use of force was justified or not. Often the Board makes recommendations about needed training practices or considers whether changes to policy are needed.

### A. OIPM Assessment of the UFRB Process

Based on what it observed in 2017, OIPM believes the UFRB is a positive, healthy, and worthwhile activity which assists NOPD in reforming its use of force actions, investigations, training, policies and adjudications.

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<sup>3</sup> *United States v. City of New Orleans*, E.D. La. 12-cv-1924, R. Doc. 2-1 at 32.

<sup>4</sup> *Id.* at 33.

<sup>5</sup> NOPD Ops. Manual Chapter 1.3.7.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at ¶ 2.

The UFRB is engaged in high-level discussions about the cases that are coming before them. In several cases in 2017, the UFRB required officers involved in a use of force to be retrained on tactics and policy violations. As a follow-up to several of those cases, the UFRB required training staff from the police academy to attend the hearings and provide reports and updates on the progress the officers were making regarding training.

After reviewing a case that involved an accidental discharge by an officer, the UFRB adopted a policy recommendation by PIB to revise Chapter 1.4, "Authorized Firearms". This revision would outline the parameters for cleaning and field stripping weapons, including where, when and how this activity should occur. This kind of forward thinking recommendation by the UFRB will hopefully ensure more safety for NOPD officers and civilians.

In another case that involved a Lieutenant that had several incidents of uses force, the Board required that Lieutenant to be equipped with a body worn camera (BWC) so that the Commander of the District could review the Lieutenant's activities when in the field. The Board also required the Lieutenant to be retrained regarding some notable tactical issues. There was also a plan put in place for the Command Staff in that District to attend UFRB hearings and report back on the activities of the Lieutenant, so the Board could determine if wearing the BWC would be temporary or permanent.

Two years into the process of the UFRB convening, OIPM continues to watch the UFRB grow in terms of self-reflection and willingness to engage with areas of needed improvement.

#### B. OIPM Involvement and Results From the UFRB Process

OIPM has integrated itself into the UFRB process. This has provided an opportunity for OIPM to engage with various NOPD divisions – PIB, Field Operations, Policy, etc. – regarding issues of significant public concern.

Prior to each UFRB, OIPM investigators review the file of a critical incident and then meet or correspond with members of PIB to discuss identified areas of concern. For example, OIPM reviewers have discussed the OIPM's questions and concerns regarding sequestration of involved officers at critical incident scenes.

PIB has been responsive in discussing these issues with OIPM and then raising many of them during the UFRB hearings. OIPM has also raised its concerns directly at the UFRB hearings, to varying levels of receptivity.

OIPM's participation in the UFRB process has yielded important results by identifying patterns/concerns about use of force. One such pattern involves lack of or untimely sequestration by supervisors of involved officers at critical incident scenes. Another identified concern involves problems with how BWC are being used and/or not being used by officers in violation of NOPD policy. According to PIB, any involved officer that violates the BWC policy when involved in a use of force shall be issued a formal disciplinary investigation. PIB further advised that when there are BWC violations, they are by witness

officers and not involved officers.<sup>8</sup> Additionally, PIB provided that these witness officers receive correction and/or discipline as a result of those violations. The OIPM will continue to monitor this concern and conduct a thorough review for a future report.

### NOPD Determinations for 2017

PIB provided the OIPM with the following criminal and administrative dispositions for the Critical Incidents, and use of force incidents, which occurred in 2017 and were reviewed by the UFRB in 2017. Appendix A contains a narrative for each of the cases included herein.

**Table 3: NOPD Determinations**

NOPD Item#/ASI # or FTN #	Date of UFRB	Incident Type	Justified	Within Policy	OPDA Actions (Officer and Civilian)
A-27381-17 / 2017-01	November 9, 2017	OIS Death of Civilian	YES	YES	Referred by NOPD, but charges rejected by the Orleans Parish District Attorney's Office against any of the officers involved in the use of force.
B-07837-17 / 2017-02	December 14, 2017	Accidental Discharge	N/A <sup>9</sup>	YES	Referred by NOPD, but charges rejected by the Orleans Parish District Attorney's Office against Officer Oquendo.
G-32401-16 / 2016-04	December 14, 2017	OIS No Hits	YES	YES	(1) Referred by NOPD, but charges rejected by the Orleans Parish District Attorney's Office against Lt. Williams. (2) Orleans Parish District Attorney's Office accepted the following charges against Mr. Taylor: aggravated assault upon a peace officer w/a firearm and aggravated assault with dangerous weapon.

<sup>8</sup> NOPD Operations Manual Chapter: 1.3.6 gives the following definitions for involved and witness officers. "An involved officer is an officer who used force, or against whom force was used. A witness officer is any officer at the scene of an event when force was used. Whether or not the officer witnessed the actual application of force is not necessary for the officer to be considered a witness officer".

<sup>9</sup> In the case of an accidental discharge of a weapon by an officer the UFRB does not vote regarding justification.



I-06855-17 / 2017-04	January 11, 2018	Accidental Discharge	N/A <sup>10</sup>	YES	Referred by NOPD, but charges rejected by the Orleans Parish District Attorney's Office against Officer Koelling.
J-16112-17 / 2017-05	Pending	OIS and Hospitalization of Civilian – Shot Officer Killed	Pending	Pending	(1) Referred by NOPD, but charges rejected by the Orleans Parish District Attorney's Office against any of the officers involved in the case. (2) Orleans Parish District Attorney's Office accepted the following charges against Mr. Bridges: 1 <sup>st</sup> degree murder of a policeman, Et al.

APPENDIX A – OIPM Critical Incidents for 2017

	Date/Time	2017 Critical Incidents Summaries
1.	01/24/2017 5:12 P.M.	Officer Terrance Hilliard and other members of the TIGER Unit were on surveillance of a known armed robbery suspect which was not Arties Manning. During the surveillance Officer Cedric Davillier attempted to detain Mr. Manning for identification purposes when he fled on foot towards Officer Hilliard who was in plain clothes. Mr. Manning encountered Officer Hilliard as he turned a corner and allegedly raised a handgun at Officer Hilliard. Officer Hilliard fired his service weapon three times, striking Mr. Manning three times. Mr. Manning was pronounced dead on the scene.
2.	02/07/2017 7:15 P.M.	Officer Daniel Oquendo was in the parking garage of the 8th District sub-station performing maintenance on his department-issued patrol rifle prior to going in-service for his tour of duty. Upon conclusion of this maintenance, Officer Oquendo re-inserted the magazine into the rifle prior to performing a function check of its trigger mechanism. Re-inserting the magazine allowed the rifle's bolt to go forward and chamber a round. When Officer Oquendo performed the trigger function check, he discharged a round into his patrol vehicle. No injuries were reported.

<sup>10</sup> In the case of an accidental discharge of a weapon by an officer the UFRB does not vote regarding justification.

3.	06/22/2017 1:55 P.M.	Lt. Kim Williams was on an unrelated medical call for service at an apartment complex and was preparing to leave the location when she was alerted by a firefighter of a man running in the complex with a rifle. Lt. Williams drove towards the subject, where she encountered him and gave verbal commands for him to drop the weapon. The subject allegedly ignored these commands and ran up a flight of stairs. According to Lt. Williams, once at the top of the stairs, the subject took aim at Lt. Williams with the rifle, causing Lt. Williams to fire her department-issued firearm twice at the subject. The rounds missed the subject, who ran into a nearby apartment. The Special Operations Division was notified of the incident and they managed to peacefully negotiate the surrender of the subject, later identified as Mr. George Taylor. Mr. Taylor was positively identified by Lt. Williams as the person who pointed the rifle at her and was taken into custody without incident. The rifle was also recovered and determined to be an BB gun. <i>*Mr. Taylor disputes the facts as recounted by Lt. Williams.</i>
4.	9/6/2017 6:10 A.M.	Officer Theodore Koelling, assigned to the Crime Lab, was test firing an assault rifle used in a crime when the weapon accidentally discharged. The round went through the test firing room's wall into an adjacent, unoccupied storage room. No injuries were reported.
5.	10/13/2017 12:10 A.M.	The 7th District General Assignment Unit observed a suspicious person in the 6800 block of Tara Lane, who then fled from officers. The officers were in the process of establishing a perimeter in the area when the suspect resurfaced in the 6800 block of Cindy Place. Officer Marcus McNeil observed the subject and discharged his CEW. The subject fell to the ground and shot Officer McNeil with a handgun and fled into a nearby apartment. Officer Stephen Stephano was identified as the officer who wounded the suspect with his firearm. The wounded subject fled to an occupied apartment and barricaded himself inside. Officer McNeil was transported to University Medical Center where he was pronounced dead. The suspect (identified as Darren Bridges) later surrendered to members of the Special Operations Division who responded to the scene. During the surrender, Officers Jason Samuel and John McIver pointed their weapons at Mr. Bridges and other occupants in the apartment. Mr. Bridges was transported to UMC for treatment and was placed under arrest at the hospital.