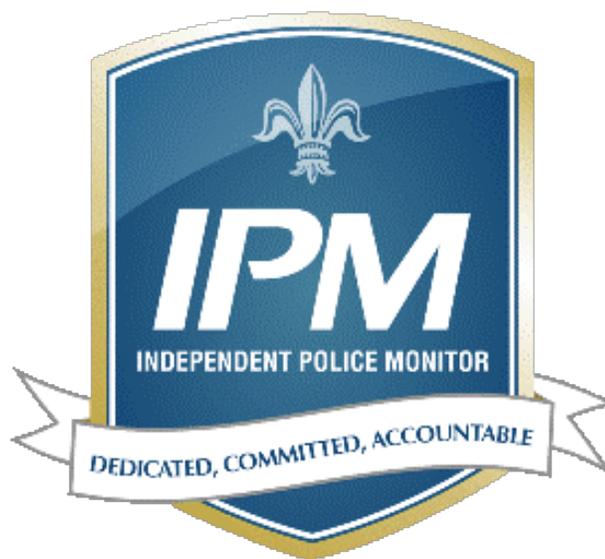


Office of the Independent Police Monitor

City of New Orleans

# 2019 Annual Report: Complaints, Commendations, and Disciplinary Proceedings



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Independent Police Monitor

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## **Note from the Independent Police Monitor**

The Independent Police Monitor is required to issue at least one public report each year, by May 30, to the ethics review board and New Orleans City Council 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 (NOPD). 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.

Ordinarily the Office of the Independent Police Monitor uses this report as an opportunity to provide the community, the NOPD, and the Ethics Review Board with relevant policing data from the year. This data review utilizes data inputted by the NOPD but analyzed by the OIPM. In this data analysis, the OIPM identifies potential patterns and trends within misconduct complaints, disciplinary proceedings, use of force and critical incidents and puts forth recommendations. The OIPM Annual Report is an opportunity for both the OIPM and the NOPD to reflect on the year of policing through this data work and create a plan for the coming year on how to better work together to change problematic trends and continue positive ones. However; due to the Cyber-Attack on the City of New Orleans in December 2019, the NOPD and the OIPM has been unable to access necessary shared databases that stored the data necessary to complete this work. This Cyber-Attack is still an obstacle to our data work today and for that reason, there will not be a data analysis section in our different sections of the 2019 Annual Report. The OIPM is working with the NOPD leadership and the City of New Orleans to restore those necessary databases and once restored, will determine how to proceed with our data analysis for the 2019 year.

Despite this setback, the OIPM still looks forward to presenting this year's Annual Report with a focus on our internal work because 2019 has been a busy year. In 2019, the NOPD neared full compliance with the Federal Consent Decree and took many strides to complete federal monitoring and to transition to oversight conducted entirely by OIPM. In 2019, the OIPM saw an increase in our complaints and we received a record number of complaints from the community. This year there was also an unfortunate increase in critical incidents which resulted in the OIPM monitoring and reviewing critical incident investigations for officer involved shootings every month. In 2019, the OIPM increased the number of outreach events conducted for the community and increased our impact in the community by participating in more television, radio and print media interviews. OIPM also celebrated ten (10) years of existence in New Orleans and marked the occasion with a community event including panels and speakers from the community and NOPD. Now, the OIPM looks forward to sharing our work from 2019 with the community, the NOPD and the Ethics Review Board.

In Accordance with OIPM Ordinance Section 2-1121 (9), OIPM is, through this annual report, addressing the mandate to “review patterns relating to civil claims and lawsuits alleging New Orleans Police Department misconduct, payout amounts over time, units disproportionately represented as subjects of claims and lawsuits, related training, and other issues.”

This section of the Annual Report: Complaints, Commendations, and Disciplinary Proceedings acts as one part of that required report.



Finally, the OIPM would like to acknowledge the invaluable assistance of the Public Integrity Bureau (PIB) of NOPD for helping OIPM to meet its statutory obligations. On behalf of the OIPM, I thank PIB for their efforts in strengthening this report and look forward to achieving these goals together in 2020.

Susan Hutson  
Independent Police Monitor



## **Complaints, Commendations, Discipline and the OIPM**

Complaints of officer misconduct and accounts of exemplary policing from both the community and those within the police district are valuable and can be the catalyst for important progress within the police department. Each complaint and commendation is an opportunity for the NOPD to learn more about themselves and to adapt to the changing needs of the community, and when properly handled brings the NOPD one step closer to being in full compliance with the Federal Consent Decree.

The Office of the Independent Police Monitor receives commendations and complaints, monitors and reviews misconduct complaint investigations and disciplinary proceedings, and keeps data on relevant trends and patterns to communicate back to the NOPD through policy and practice recommendations.

In 2019, the Office of the Independent Police Monitor received one hundred (100) complaints. These complaints ranged from how the police interacted with them and their loved ones during calls for assistance to how the police treated one another internally. The Office of the Independent Police Monitor received named and anonymous complaints from officers and civilians working within the New Orleans Police Department. Some of the complaints were from officers who were speaking up regarding disparities in disciplinary concerns and some anonymous complaints brought the OIPM's attention to possible relationships between supervisors and subordinates and misuse of Department equipment. Each complaint was an opportunity for the Office of the Independent Police Monitor to make these individuals feel heard and to work alongside the NOPD to ensure there was accountability.

This section of the Annual Report will dive into the work the OIPM has completed during 2019 regarding misconduct complaints, police commendations, and disciplinary proceedings. This report will both analyze the OIPM role in the complaint, commendation, and disciplinary process and will explain how this work ensures NOPD compliance with the Federal Consent Decree.

Ordinarily, this section of the Annual Report would analyze NOPD produced data regarding the misconduct complaints and commendations which were received by the NOPD directly. The OIPM would highlight relevant trends and patterns from this data. However, on December 13, 2019, the City of New Orleans experienced a cyber-attack and is still in the process of recovering lost data, restoring shared databases, and updating internal records. As a result, the NOPD is unable to produce accurate data regarding misconduct complaints and disciplinary proceedings. This obstacle will be discussed in more detail below.

Finally, the OIPM will provide an update on previous and outstanding recommendations made to the PIB regarding misconduct complaints, commendations, and disciplinary proceedings and put forth new recommendations for the coming year.

### **Responsibility of the OIPM: Misconduct Complaints, Disciplinary Proceedings, Commendations**

Since first opening its doors in August 2009, the Office of the Independent Police Monitor has been responsible for representing the community of New Orleans, providing accountability and oversight to the NOPD, and assisting in the reforms required under the Federal Consent Decree. The Office of the Independent Police Monitor is an independent, civilian police oversight agency created by voters in a 2008 charter referendum. The OIPM operates through a Memorandum of Understanding (MOU) with the City of New Orleans and the New Orleans Police Department. It is protected and required by City Charter and



Ordinance. This means this office was created by the people of New Orleans to represent all people interacting with the New Orleans Police Department in order to improve the way our community is policed.

The OIPM is responsible for these core responsibilities regarding misconduct complaints, discipline and commendations:

- **Complaint Intake, Investigation, and Disciplinary Review** – the OIPM ensures complaints of police misconduct are classified and investigated or mediated appropriately. If investigated, the OIPM monitors to ensure the investigations are conducted fairly, timely, and thoroughly handled. If the account of misconduct is considered for disciplinary penalties, the OIPM reviews the disciplinary investigation and proceeding to ensure the discipline is fair, consistent, timely, and appropriate for the allegations. The OIPM makes sure this process is transparent and understandable to those outside of and within the system.
- **Commendation Collection and the Promotion of Effective Policing Techniques** – the OIPM is responsible for receiving and referring requests for officer commendations from civilians, fellow officers, and community partners and organizations. Based on the commendations received, the OIPM is able to provide feedback to the NOPD regarding what the community believes is good and responsive policing.
- **Share Data and Trends to Improve the NOPD** – 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.
- **Community Outreach** – the OIPM conducts community outreach to receive accounts from the community of policing, listen and respond to broader community concerns, and prepare the community for engagement in NOPD policy and practice.

## The OIPM and the Federal Consent Decree

The OIPM plays a unique role with the implementation of the Federal Consent Decree, which both overlaps and is separate from the role of the Office of the Consent Decree Monitors (OCDM) and is relevant to understand the work the OIPM conducts in misconduct complaints and disciplinary oversight.

The OIPM is a locally based staff and office who examines the NOPD in a broad approach. Our approach considers the Federal Consent Decree, along with NOPD policy, city, state, and federal law, national practices put forth by the National Association for Civilian Oversight of Law Enforcement and the needs of the community. As a complaint intake site, the OIPM is able to directly interact with the community and advocacy organizations regarding their concerns, accounts of police progress, and facilitate communication with the NOPD. These accounts from the community, such as complaints of officer misconduct, and the subsequent NOPD response to learning of these incidents, are opportunities for OIPM to ensure the NOPD is complying with the Federal Consent Decree Section XVII: Misconduct Complaint Intake, Investigation, and Adjudication.

Now, as the NOPD nears compliance with the Federal Consent Decree, the OIPM has turned its focus towards the areas where the NOPD is categorized as “Significant Progress” and “Nearing Full and Effective Compliance.”



According to the report released by the OCDM in January of 2019, relevant departments of the NOPD are in the category of “Significant Progress” include: (1) supervision; (2) community engagement; and (3) stops, searches and arrests. Relevant departments of the NOPD in the category of “Nearing Full and Effective Compliance” include: (1) misconduct investigations; and (2) bias free policing. The work that OIPM conducts within misconduct complaint intake, review and monitoring of investigation and disciplinary proceedings falls within those categories of the Federal Consent Decree; specifically, the subsections regarding: the reporting of misconduct (Section XVII, Subsection A), preventing retaliation (Section XVII, Subsection C), conducting intake (Section XVII, Subsection F), collecting and analyzing evidence (Section XVII, Subsection H and I), communicating with the complainants (Section XVII, Subsection K), and the discipline process and transparency (Section XVII, Subsection L).

Now the City of New Orleans is closer than ever before to full compliance with the Federal Consent Decree and the OIPM and the OCDM will continue to assess NOPD progress towards full compliance. As the city transitions from the monitoring required by OCDM under the Federal Consent Decree to being monitored entirely by the OIPM, the OIPM will continue to audit the NOPD and provide feedback to improve practices and policies so the NOPD can stay in compliance. When OCDM departs, the OIPM will continue to engage with the community and the NOPD to ensure the NOPD stays in full compliance of the Federal Consent Decree and that the NOPD continues to progress and change to the needs of the community.

In 2020, the OIPM will continue its efforts to update and implement internal policies and practices, and build tracking mechanisms, to ensure the Consent Decree is captured in all work product related to misconduct complaints and disciplinary proceedings. The OIPM will work with partners such as the Invisible Institute and Thoughtworks, to build data tracking systems to both track and audit the NOPD compliance with the Consent Decree. The OIPM will include relevant data and updates regarding the Consent Decree in public reports to the Ethics Review Board and in other relevant reports and work product available to the public on the OIPM website.

The OIPM will continue to include the community in its assessment of NOPD’s compliance with the Consent Decree so the public can remain engaged in the progress of NOPD. Keeping these goals and principles in mind, the OIPM takes on the following work in complaints of misconduct and oversight of disciplinary proceedings.

### **Summary of OIPM Activities: Misconduct Complaints**

The city of New Orleans, the NOPD, and the OIPM envisioned an additional impartial and independent accountability body for Public Integrity Bureau (PIB) complaints and subsequent investigations. According to the MOU, the OIPM was envisioned as an alternate complaint intake site for those civilians and officers that would prefer not to complain directly to the NOPD regarding police misconduct. 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.

The OIPM strives to provide this through:

- assessing and analyzing the number of and type of complaints, assessing the quality and timeliness of NOPD investigations;
- reviewing PIB policy and practice regarding the investigation and their findings;



- reviewing operations and effectiveness of the early warning system through connecting officers and complaints to determine if those officers should have triggered further supervisory review or response;
- monitoring issues related to supervision, training and discipline of officers.

At the OIPM, any individual can file a complaint, whether it be the person who had the police encounter, an individual that witnessed a police encounter, or another officer or employee of NOPD. The OIPM accepts complaints filed by the person affected by the misconduct, a third party not directly involved in the complaint, witnesses of the alleged misconduct, or anonymously. Additionally, the OIPM accepts complaints from individuals with pending criminal proceedings. Complaints may be filed with the OIPM by telephone, in writing, by mail, e-mail, the OIPM website, in person at the OIPM office, at a designated OIPM trained/sponsored organization location, or at a designated OIPM outreach event.

Once the OIPM receives a complaint, the OIPM prepares the complainant’s account into a narrative. The OIPM does not verify the statements made during complaint intake or agree with the statements provided by the complainant. 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.

Within the complaint referral letter, the OIPM assesses what possible NOPD chapters, administrative policy, statute, state ordinance, state or federal law, or constitutional provision the NOPD employee may have violated and provides allegation recommendations. OIPM reviews and includes relevant officer disciplinary history from the last five (5) years within the letter and highlights any potential misconduct patterns in the officer’s history. Finally, the OIPM classifies the complaint, makes recommendations on reassignments, managing retaliation, and any other corrective measures. The OIPM may also comment on the general policies or training if there is a risk that those policies, practices, or training may not provide enough guidance to officers in similar situations and there is an opportunity for a systemic improvement. During complaint intake, the Complaint Intake Specialist may inquire whether the complainant may be interested in OIPM’s Community Police Mediation program provided the complaint is eligible for mediation. The complaints eligible for mediation typically are allegations of professionalism, discourtesy, and neglect of duty. If a complaint is eligible for mediation and the complainant is a willing participant, the Complaint Intake Specialist will recommend that PIB refer the complaint to mediation during its “classification process.”

When the referral letter is complete, the OIPM provides the referral to PIB and provides a copy along with a Complainant Letter to the complainant. The complainant letter includes information about the complaint referral process and lets the complainant know what to expect next.

PIB receives the complaint referral and then PIB includes the complaint in the complaint management system, IAPro, and then determines the classification of the complaint and possible investigator assignment. Though the OIPM does not classify complaints, the OIPM may make recommendations to the PIB regarding complaint classification. In accordance with the Federal Consent Decree Section XVII, Subsection F:

Complaint Intake, Classification, Assignment, and Tracking, PIB conducts three classifications. PIB is to first determine whether the alleged misconduct is:

- a public complaint,
- an internally generated complaint;
- a minor violation/infraction resolved through counseling or training; or
- a complaint that qualifies as an No Formal Investigation Merited (NFIM).

If the complaint is classified as a public complaint or an internally generated complaint, then the PIB classifies whether the complaint is:

- Criminal;
- Administrative; or
- Use of Force (these are types of Administrative or Criminal investigations).

Finally, if administrative, there are subcategories. The third classification occurs within the Administrative subcategories:

- serious misconduct (non-criminal in nature);
- other (non-serious) misconduct;
- allegations eligible for Negotiated Settlement; and
- allegations eligible for Community-Police Mediation.

The complaint process is based on the allegation, not the possible outcome. The classification matters because it determines the Bureau where the complaint will be assigned for investigation. Upon being notified by the NOPD of the complaint, the OIPM may review the classification of internal investigations to ensure it is compliant with the Federal Consent Decree Section XVII and where appropriate, may recommend the NOPD reclassify the internal investigations.

Beyond the intake and classification process, the OIPM acts as a facilitator between the complainant and the NOPD complaint process and the PIB. Often, the OIPM is the first place the complainant goes with questions regarding PIB investigations and findings. The OIPM strives to assist the community as it interacts with the NOPD misconduct complaint process.

## **Misconduct Complaints in 2019**

In 2019, the OIPM received a record number of complaints, created new internal complaint categories, and created new data tracking methods through the use of “tags” within our internal database: Complaint Manager.

Over this last year, the OIPM saw an increase in the amount of complaints received from the community. The OIPM credits the influx in complaints to our increased media and outreach work. In 2019, the OIPM was able to implement an outreach and external relations plan created by the Executive Director of Community Relations, the Independent Police Monitor, and management team. Through this effort, the OIPM participated in more radio, television and print media interviews about our services and the role we play in monitoring NOPD investigations involving misconduct and use of force. The Executive Director of Community Relations also conducted over thirty-five (35) trainings called Learn Your Rights in the Community (LYRIC). We believe these two strategies increased our visibility and helped members of the community not previously aware of our office, learn how we are available to assist them with their concerns



and that we are a site to safely provide feedback about NOPD performance. As a result, the OIPM saw an increase in both our complaint and commendation numbers over the year. The OIPM intends to continue this effort into 2020.

In 2019, the OIPM received over one hundred and fifteen (115) complaints but only ended up submitting one hundred (100) of those complaints to the PIB for investigation. This gap in fifteen (15) complaints is because the complaints received were either:

- Resolved by the OIPM through working with the complainant and NOPD to address the concern through facilitated communication, providing information about the NOPD and their policies which satisfied the complainant, or other OIPM services. Most complaints, six (6) complaints, were resolved through criminal liaison work with the NOPD and other OIPM services.
- Did not involve the NOPD but a different agency such as parking enforcement or the Louisiana State Troopers. Two (2) of the complaints were resolved through determining the complaint included an outside agency.
- The complainant changed their mind about wanting to submit a complaint or wrongfully requested a complaint when seeking other forms of NOPD assistance. Three (3) complaints were archived for this reason.
- The complainant stopped communicating with the OIPM and the OIPM was unable to complete the referral. One (1) complaint was archived for this process.
- OIPM accidentally duplicated the complaint or opened the complaint in error. Three (3) cases were archived for this reason.

The OIPM still tracked this contact and was able to close out those complaints without submitting them to NOPD through a process implemented in 2019 called: “archiving.” This system enables the OIPM to move a case within our internal tracking system, Complaint Manager, so the case is still available if needed but is “closed out.” The benefit of this new process is it enables the OIPM to still document and track these interactions while enabling a complaint to resolve or stop where appropriate without being submitted to the NOPD.

Additionally, in 2019, the OIPM introduced a new data tracking strategy within our Complaint Manager to create more internal data and to track relevant patterns and trends important to the community. This process is called “tagging.” Tagging enables the OIPM to put a “label” on a complaint within Complaint Manager, such as: “interaction with a musician” or “use of force” or “recording the police” or “professionalism.” In time, the OIPM will be able to compare all the complaints with the same labels to assess if there are patterns or trends within those claims of misconduct. This tagging process will also enable the OIPM to externally report these patterns and trends to the community, the NOPD, and the Ethics Review Board. This type of analysis creates new opportunities for the OIPM to provide meaningful feedback to the NOPD on the concerns most pressing to the community.

## **Contact Outside of Complaints: Contact Only, Case Monitoring, Criminal Liaison**

Outside of the complaint intake process, there are other interactions that the OIPM has with potential complainants, officers, and members of the public. This contact can be categorized as:

- Contact Only
- Case Monitoring
- Criminal Liaison



The OIPM uses the classification: “Contact Only” if the individual contacts OIPM to request assistance or to ask questions about the NOPD or some other law enforcement agency or organization, which can include filing a complaint or receiving assistance with the criminal liaison assistance, but then does not complete the process. Some potential complainants decide not to pursue misconduct complaints or request information or ask questions and then decide they are not interested, choose not to follow through, or the situation is resolved.

The classification of “Case Monitoring” is utilized when a complainant requests or when the OIPM determines the situation warrants real time monitoring of a NOPD process. This could include observing witness statements or attending court hearings to observe NOPD testimony. Some case monitoring may result in a case review and some case monitoring is limited to the particular activity observed.

The OIPM utilizes the classification of “Criminal Liaison” for whenever the OIPM assists a civilian with navigating an NOPD interaction about a criminal investigation. Typically, this activity is reserved for when a civilian has an interest in an open criminal matter and would like the OIPM to facilitate communication with the officer assigned to investigate the criminal matter, such as a mother wanting to speak with the homicide detective assigned to her child’s murder investigation. These requests result in meetings coordinated by the OIPM between the NOPD or the District Attorney’s Office and the civilian.

Below is a breakdown of all OIPM contacts for 2019:

**Figure 1: Type of Contact**

Type of Contact	
23	Contact Only
6	Commendations
4	Cases Monitored
99	Civilian Complaints
1	Police Complaints
17	Criminal Case Liaisons

### Commendations

Highlighting noteworthy and excellent policing may improve the performance of police districts, strengthens community trust in police, and provides examples for the NOPD to internally model. Therefore, the OIPM seeks and collects commendation information from the community. It is required that representatives of the OIPM are prepared to receive and refer commendations from the public, organizations, businesses, and fellow officers in accordance with the November 10, 2010 Memorandum of Understanding (MOU).

Pursuant to the MOU, Para. 7, the OIPM will compile data and identify officers, units and precincts that have been commended by the public for completing exceptional work. These reports may note patterns, other relevant data, and related practices and initiatives to recommend republication in the NOPD.

OIPM acts as an alternative site to receive requests for commendations to PIB and the Districts. The OIPM receives the commendation request in any of the following formats: verbal, email, online submission, or



through social media platforms. The OIPM will receive commendations for police behavior that occurred during the officer's secondary employment or during volunteer efforts.

Upon receiving the request, the OIPM prepare the request into a commendation referral letter. The commendation referral letter will include: the officer's information, the requester's information, the date, time, and location of the recommended behavior, and a summary of the police conduct.

In accordance with NOPD Policy Chapter 13.35: Commendations and Awards, the OIPM will accept any additional information or supporting documentation for the commendation including but not limited to: the accompanying police report, pictures, and video.

The OIPM will track requested commendations, note patterns in commendations, and identify practices and initiatives that should be emulated throughout the department. The OIPM will evaluate the commendation trends and annual statistical summary compiled and produced by the PIB and posted annually on the NOPD website. The OIPM will work with the NOPD to ensure compliance with Section XVIII: Transparency and Oversight, Subsection A: Data Collection and Public Reporting.

In 2019, OIPM collected six (6) commendations for seven (7) officers. This was an increase from the two (2) commendations OIPM received in 2018. Details about the commendations OIPM processed are included below:

- The management team of OIPM requested a commendation for members of leadership at the Public Integrity Bureau for their appreciated collaboration and participation in a panel at the annual conference for the National Association for Civilian Oversight of Law Enforcement.
- A member of the public requested a commendation for a sergeant within the Public Integrity Bureau for her professionalism, commitment to the investigation, and thorough and excellent work on the misconduct investigation.
- A member of the public requested a commendation for the officer that responded to a call of service regarding a squatter in her home. The member of the public stated the officer was polite, reassuring, and completed good and prompt police work.
- A manager at OIPM requested the commendation for the then-Commander for participating in an informative and engaging community panel at the OIPM Anniversary event.
- The on-call manager requested a commendation for the Lieutenant and the way he managed the critical incident scene and response.
- OIPM reviewed BWC related to a domestic violence response and observed effective and thorough on-scene police response worthy of a commendation.

In 2020, OIPM is going to continue our renewed effort to ensure the community and other NOPD employees can access our office and know about this valuable opportunity to provide positive feedback so we can continue to receive more commendation requests in the future.

## **Disciplinary Proceedings**

The OIPM is responsible for monitoring whether all 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 monitors and assesses the efforts of NOPD to ensure all disciplinary investigations and proceedings are conducted in a



manner that is non-retaliatory, impartial, fair, consistent, and truthful in accordance with NOPD policies. The OIPM reviews the disciplinary investigations and proceedings executed by NOPD to ensure they are executed in a timely manner that is consistent with all requirements under law.

When the OIPM monitors the NOPD administration of discipline, the OIPM reviews to ensure the discipline is not retaliatory, discriminatory or biased against or towards any NOPD employee on the basis of race, creed, national origin, ancestry, gender, sexual orientation, age, religion, political affiliation, disability, or any other basis protected by federal or state law or city ordinance.

The NOPD is responsible for notifying the OIPM of disciplinary proceedings against NOPD employees. Disciplinary proceedings against NOPD employees will occur when a misconduct investigation results in a preliminary recommendation of sustained. The OIPM will review such proceedings to ensure the NOPD is compliant with Federal Consent Decree Section XVII: Misconduct Complaint Intake, Investigation, and Adjudication.

Adjudication of misconduct is handled internally by the PIB or the officer or employee's Bureau. The OIPM may monitor the process conducted by the PIB or by the Bureau; however, under the MOU, there are detailed directions regarding how the OIPM is notified of investigations by the PIB and similar protocol does not currently exist for Bureaus. For that reason, the OIPM tends to be more involved with investigations and disciplinary proceedings conducted by the PIB.

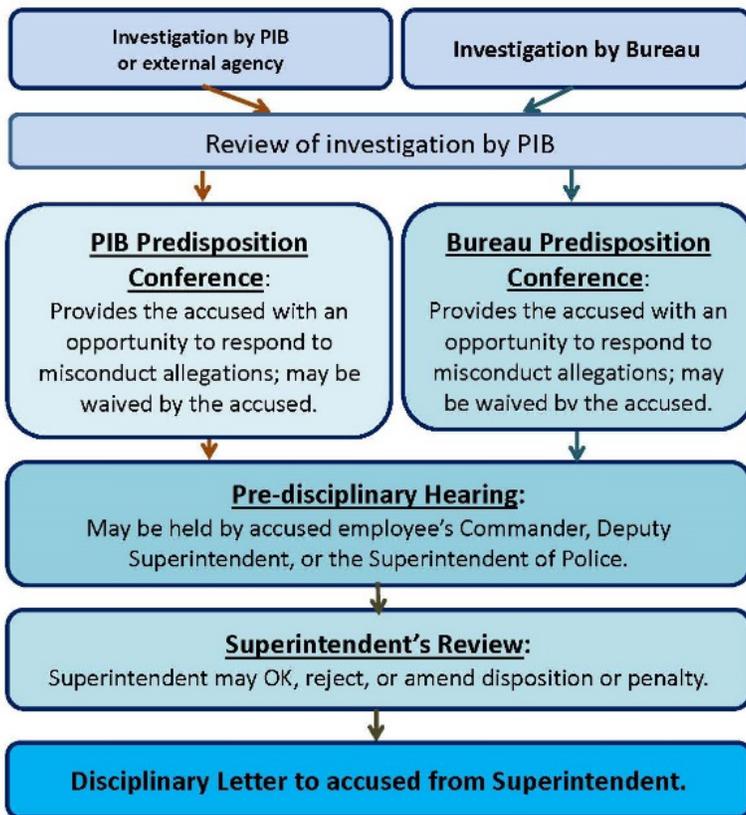
The procedure for adjudication of misconduct has slight deviations when it is executed by the Bureau or the PIB. If an investigation is conducted by the PIB, first, an investigation into the alleged misconduct occurs. Second, the investigation is reviewed by the PIB. In the case of serious misconduct, once the investigation is reviewed by the PIB, then the OIPM is notified if a hearing or predisposition conference is required. Third, if any of the allegations are sustained, PIB conducts a predisposition conference. At the predisposition conference, the hearing officer will render a finding of sustained, not sustained, unfounded, exonerated. Fourth, if any allegation is sustained, then the officer proceeds to a Commander's pre-disciplinary hearing. Only the alleged allegations that the Hearing Officer sustains proceeds to a pre-disciplinary hearing. The Commander will recommend a penalty based upon the Disciplinary Matrix for Superintendent's approval.

If the penalty for alleged violation results in a lengthy suspension penalty or possible dismissal, a Superintendent's Committee Disciplinary Panel hearing will take place. The Committee would then recommend a disposition and penalty for the Superintendent's approval. Ultimately, the Superintendent either rejects, accepts, or amends the disposition and/or the recommended penalty.

Differently, if the investigation is conducted by the Bureau, then the once the investigation is reviewed, the Bureau will conduct the predisposition conference. During the predisposition conference, the hearing officer will render a finding of sustained, not sustained, unfounded, exonerated. If any allegation is sustained, then the hearing officer will immediately consider mitigating and aggravating factors present and will issue a penalty to the officer. The recommended penalty will be based upon the Disciplinary Matrix for Superintendent's approval.

Below is a table with the flow chart of disciplinary proceedings:





Once the Superintendent reviews the disciplinary proceeding, the NOPD employee will receive a disciplinary letter with the final outcome.

Prior to the predisposition conference, the OIPM reviews the misconduct investigation from the PIB and completes: (1) the first half of the OIPM-created matrix; and (2) a preliminary memorandum to the PIB with initial findings and recommendations. The matrix remains within the OIPM electronic file. The preliminary memorandum to the PIB is disseminated to the PIB prior to the predisposition hearing for their review.

As required, in the preliminary memorandum to the PIB, the OIPM will, as appropriate, make determinations as to whether

departmental rules or policies have been violated, make recommendations regarding appropriate discipline, and review the appropriateness of disciplinary sanctions as authorized by the Ordinance, the MOU, and the Federal Consent Decree Section XVII: Misconduct Complaint Intake, Investigation, and Adjudication. These determinations, recommendations, and findings shall be submitted to the NOPD in writing.

At the predisposition conference or the pre-disciplinary hearing, the OIPM representative does not speak on the record but does speak prior to the start of the hearing, during deliberation on the allegations and the determination of penalties, where appropriate, and upon the conclusion of the hearing. During this time, the OIPM representative may provide training, practice, and policy recommendations for the individual officer or employee and / or the district along with feedback on the thoroughness of the investigation.

In accordance with the MOU, the OIPM identifies possible trends and makes recommendations to the NOPD regarding the investigation and disciplinary proceeding. The OIPM shall: (1) access the quality and timeliness of the PIB complaint processing, including investigation and determinations stemming from complaints, whether civilian or internally generated; (2) review the adequacy of the PIB's data collection and analysis; (3) review the PIB's policies and procedures; (4) review the PIB's resource needs; and (5) review how relevant disciplinary policies and practices conform with the Federal Consent Decree Section XVII: Misconduct Complaint Intake, Investigation, and Adjudication. Based on those assessments, the OIPM will make recommendations to the Superintendent to improve the PIB data collection and analysis, and resources. The OIPM analyzes aggregate data to track trends in relation to types and sources of civilian and internally generated complaints, processing and investigation, and determinations stemming from complaints, discipline imposed by type of complaint, use of any early warning system to intervene with a department

member in need of additional training, supervision or other issues of concern that arise during a review by the OIPM.

The OIPM shall make recommendations to the Superintendent to improve NOPD policies and practices based on national best practices. The OIPM shall review specific issues regarding supervision, training, discipline, and other issues to identify problems, mitigate risk, and make recommendations for improvement.

The annual report is one such opportunity for the OIPM to provide feedback to the Superintendent, the NOPD, and the community regarding the OIPM's findings from the disciplinary adjudication process. For the most part, the following data is from the NOPD and was prepared by the NOPD but analyzed by the OIPM in order to identify and highlight patterns, trends, and outliers of note.

In 2019, the OIPM received and reviewed fifty-nine (59) disciplinary proceedings. The OIPM reviewed forty-five (45) investigations set for predisposition conferences and fourteen (14) investigations set for Superintendent Committee Hearings.

During every disciplinary proceeding, the OIPM remains in the room for deliberation with the NOPD leadership and is asked by the hearing officers to provide our feedback. This process is how the OIPM provides and highlights our recommendations and feedback regarding the strength of the investigation, liability and risk management concerns, and areas where the policy required clarification or was being applied inconsistently. Though OIPM provides this feedback in memorandums to the NOPD prior to the hearing, these discussions during the deliberation process enable the NOPD to discuss and digest our points before any final decision was made on the matter. These discussions are an opportunity for the OIPM to provide and receive insight into the NOPD investigation and often these comments lead to meaningful discussion with not just the hearing officers, but the assigned investigator on the case, since it was an opportunity for that investigator to explain investigatory decisions and to answer questions. These deliberations between NOPD leadership and the OIPM are lively collaborative discussions – during which the OIPM may shift perspectives to voice concerns of the community to input the OIPM has received from other NOPD officers and employees. The NOPD leadership and hearing officers are extremely receptive and responsive to the OIPM feedback. The NOPD and PIB leadership has worked to create a non-defensive space where NOPD and OIPM can both candidly discuss misconduct investigations or how policies and practices can improve. The OIPM seeks to continue our work disciplinary proceedings and moving forward, look for more opportunities to appropriately share the collaboration and discussion that results from these deliberations with the community.

In 2019, the OIPM also introduced the “Community Facing Two Pager” document to inform the community of the work the OIPM is completing around disciplinary proceedings. The Community Facing Two Pager is a concise document, located on the OIPM's website, that clearly explains the role of the OIPM in disciplinary proceedings, summarizes the alleged misconduct and explains the disciplinary response the NOPD took and the recommendations made by the OIPM. Moving forward, the OIPM looks forward to continuing this community engagement in disciplinary proceeding work.

## **Internal Goals for 2019 and OIPM Progress into 2020**

In 2019, the OIPM set the following two priorities as internal goals. These identified goals were intended to improve the internal operation of the OIPM and increase the impact of our preexisting work. Below are



those goals and the progress the OIPM made towards achieving them in the last year. Due to the Cyber-Attack of 2019 and some other obstacles that influenced our ability to finalize these goals, OIPM will adopt these goals for 2020 with the intent of completing them in the coming year.

## **Development and Implementation of Updated Policies**

In 2018, OIPM began the process of updating the internal policies and this process and progress continued into 2019. These policies improve the consistency and thoroughness of our work, creating better synergy between the OIPM departments and, eventually, the NOPD.

Examples of such policy changes include that the OIPM's Use of Force Section, headed by the Chief Monitor, will take on more leadership in monitoring in the NOPD adjudication of Use of Force allegations. Formally including the Chief Monitor will enable a holistic and consistent review since the Chief Monitor will follow the use of force incident through the Use of Force Review Board meeting into any resulting disciplinary proceeding.

Another example of policy change is the increase of Consent Decree related language in internal policy and practice. The OIPM believes grounding policies and practice in the language of the Consent Decree will ensure that the Consent Decree stays in the forefront of our work and NOPD interactions, ideally guiding the NOPD to full compliance and tracking continued compliance in the coming years.

In 2019, we continued to expand the development of updated policy including case monitoring, criminal liaison, case review, contact only complainant interactions, building security, complaint intake, and disciplinary proceedings. The goal with creating such documents was to update our internal process and procedures to ensure the office was running as effectively as possible and to ensure the Federal Consent Decree and NOPD policy expectations were incorporated into our internal operations and reviews. The OIPM will continue to codify these internal policies and practices and will share relevant finished policies with NOPD as these practices intersect with their operations.

In 2020, all proposed changes to the updated policies will be finalized and implemented for all departments and streams of work within complaints, disciplinary proceedings, case monitoring, case review, and use of force.

## **Data Tracking and Sharing**

In 2019, the OIPM continued to take positive steps in internal and external data work. Internally, the OIPM worked with partners, Invisible Institute and Thoughtworks, to populate a complaint tracking database called: Complaint Manager. Complaint Manager captures relevant complaint data, including involved officers and units / districts, allegations, and locations of alleged misconduct. In 2019, the OIPM continued to build out Complaint Manager to incorporate more internal data including creating "tags" on internal complaints. As previously mentioned, tags created a new data opportunity for the OIPM to track potential patterns and trends around topics and the concerns the community reported to OIPM, including police interactions with musicians or domestic violence investigations.

In 2020, the OIPM is continuing this data tracking work with our partners to build a database for Use of Force, Complaint, and Disciplinary Investigation reviews. This database will enable the OIPM to both track the compliance of the NOPD with policy and the Consent Decree in their investigations and generate public



facing work product. OIPM hopes to roll out this database in 2021 – using this year to start the process and build a beta version of the program.

In 2018 and 2019, the OIPM began working with the NOPD to finalize a proposed data sharing agreement between the NOPD and OIPM. This data agreement would expand the OIPM's ability to receive updated data from the NOPD. In 2019, the OIPM sought to execute and implement the data sharing agreement with the NOPD. There were real setbacks to this goal in 2019 because of the Cyber-Attack on the City of New Orleans – setbacks that are still present in 2020. The Cyber-Attack rendered many of the shared databases with the NOPD inaccessible and this influenced the progress OIPM made with implementing the data sharing agreement with the NOPD. In 2020, OIPM intends to ensure all relevant and necessary data is shared by the NOPD.

## External Goals for 2019: Recommendations to NOPD

### OIPM Recommendations from 2019

In 2019, OIPM made the following recommendations in memos to the NOPD. The OIPM looks forward to working with the appropriate leadership and units to address these recommendations in 2020:

- **The OIPM recommends the NOPD train or refresh officers (through increased roll call and daily bulletin training) on alcohol use on and off duty and how to implement a plan for off duty alcohol consumption prior to reporting to duty.** *Recommendation put forth in OIPM Memo regarding PIB # 2018-0500-R; 2018-0501-R*
  - *NOPD Response:*
    - NOPD is committed to providing all employees with resources for full support of their mental and physical well-being that is highly confidential. NOPD is committed to reinforcing the importance of employees utilizing the Officer Assistance Program (Chp. 22.2.6).
  
- **The OIPM recommends focused training on policing strategies including: (1) crowd control; and (2) how to safely restrain and transport combative arrested individuals.** *Recommendation put forth in OIPM Memo regarding PIB #2018-0351-R*
  - *NOPD Response:*
    - NOPD concurs with Sgt. John Helou's investigatory recommendations and the recommendation of the OIPM.
  
- **The OIPM recommends the following BWC: (1) BWC with improved mount to avoid deactivation and separation during struggle; (2) BWC that can be easily identified when multiple BWCs are on ground; and (3) safe means to transport arrested individuals.** *Recommendation put forth in OIPM Memo regarding PIB #2018-0351-R*
  - *NOPD Response:*
    - NOPD concurs with Sgt. John Helou's investigatory recommendations and the recommendation of the OIPM.

- **OIPM recommends the following policy clarifications: (1) clarity regarding the use of BWC within hospital and medical settings; and (2) reexamining the disciplinary matrix regarding Rule 4, Para. 4: Neglect of Duty (c)6: failing to comply with instruction NOPD chapter 1.3.1.1: Handcuffing and Restraints (hogtying) in order to treat violations as Use of Force.**  
*Recommendation put forth in OIPM Memo regarding PIB #2018-0351-R*
  - *NOPD Response:*
    - As a result of Sgt. John Helou’s investigatory recommendation, this policy is among a number of policies that is under PSAB’s review for potential revision.
  
- **The OIPM recommends the NOPD clarify policy around dual arrests for domestic violence investigations and retrain responding officers and supervisors with approval ability regarding dual arrests. The OIPM also recommended Supervisors be reminded to not deactivate BWC when discussing dual arrests and other investigatory decision-making during domestic violence investigations.** *Recommendation put forth in OIPM Memo regarding PIB # 2017-0556-R*
  - *NOPD Response*
    - NOPD no longer has a regular practice of Dual Arrest. Under very limited circumstances, a Dual Arrest can only happen with supervisor’s permission.
  
- **The OIPM recommends strengthening its training on cultural competency and diversity. This recommendation is stressed for NOPD personnel in supervisory positions and the OIPM recommends that supervisors undergo supplemental training on their responsibility to report potential policy violations immediately upon becoming aware of them.** *Recommendation put forth in OIPM Memo regarding PIB #2018-0182-R*
  - *NOPD Response:*
    - NOPD concurs with this recommendation. NOPD is committed to fostering a safe non-hostile work environment for all employees regardless of race, color, nationality, sexual orientation, religious preferences, and gender. NOPD concurs with this recommendation. This policy is among a number of policies that is under PSAB’s review for potential revision.
  
- **The OIPM recommends the NOPD establish a formal procedure for administrating and documenting verbal counseling, including any follow up training or recommendations made during that counseling.** *Recommendation put forth in OIPM Memo regarding PIB #2019-0047-R*
  - *NOPD Response:*
    - For non-disciplinary actions, NOPD utilizes the Supervisor Feedback Log (SFL) to track and monitor all verbal counseling.
  
- **The OIPM made the following recommendations to the NOPD: (1) the NOPD consider investing in vehicles that automatically activate BWC and ICC systems when the vehicle’s lights / siren are activated; (2) the NOPD consider retraining supervisors (and drafting guidelines) for what information needs to be collected by supervisors responding to**

violations of NOPD Policy involving chapters 41.5(2) and 41.5(21) pertaining to vehicle pursuits; (3) the NOPD clarify the classification of “18-GOA,” specifically: what constitutes a “18-GOA,” what action can be classified as “18-GOA,” and what makes this classification different from pursuit particularly on BWC and ICC expectations; (4) the NOPD clarify the responsibility of drivers and passengers in NOPD vehicles, specifically, who is responsible for what decision making and when both officers should be held responsible for the actions of the unit (similarly, the OIPM recommends clarifying the responsibility of multiple NOPD vehicles when there are more than vehicles engaging in pursuits); and (5) the NOPD consider adopting a policy that any unauthorized vehicle pursuit should be investigated as a potential violation of the Department’s use of force policy. *Recommendations put forth in OIPM Memo regarding PIB #2018-0181-R; 2019-0216-R*

○ *NOPD Response:*

- (1) NOPD has begun to use vehicles in the District that have automatic activation for BWC and ICC systems.
- (2) and (3) Both recommendations were identified as an issue and NOPD responded by issuing General Order #1126 effective on August 11, 2019. The Order discusses changes to NOPD Chapter 41.5: Vehicle Pursuits.
- (4) NOPD concurs with this recommendation.
- (5) NOPD is open to engaging OIPM in discussions concerning this issue.

- **The OIPM recommends the NOPD clarify the policy on strip and cavity searches under NOPD Policy Ch. 1.2.4 and Fourth Amendment search and seizures.** *Recommendation put forth in OIPM Memo regarding PIB # 2017-0630-R*

○ *NOPD Response:*

- NOPD is committed to having the best trained employees in the nation. PSAB has made it a priority to review all 1<sup>st</sup> Amendment policies for clarity and compliance with Federal and State laws. Chp. 1.2.4 is certainly one of those policies.

- **The OIPM recommends the NOPD tighten up procedures and verification methods around take-home vehicles when there is suspicion of an officer residing outside of the parish. This includes identifying and reconciling discrepancies in residential addresses provided by officers at different points in their employment in order to lessen the reliance on time-consuming and costly surveillance operations.** *Recommendation put forth in OIPM Memo regarding PIB # 2018-0732-R*

○ *NOPD Response:*

- NOPD accepts this recommendation. As a result of this issue, NOPD requires all NOPD employee personal forms to be updated annually on an employee’s birth month. These types of forms include but are not limited to Vehicle Take-Home forms, Life Insurance Beneficiary forms, and Domiciliary forms. As well, these forms are required to be updated immediately upon any employee departmental transfer.

- **The OIPM recommends that all NOPD officers receive training on the importance of safe transportation tactics for arrested individuals including seatbelts and cuffs and avoiding**

**positions that would allow asphyxiation and suggests that, though all officers are trained of their duty to intercede when witnessing a use of force violation by a fellow officer, that the NOPD build on this training by ensuring all officers are periodically refreshed of this obligation during roll call.** *Recommendation put forth in OIPM Memo regarding PIB #2019-0030-R*

○ *NOPD Response:*

- NOPD has implemented a program specifically for addressing these types of issues. The nationally recognized program, Ethical Policing Is Courageous (EPIC), is a training program for officers that emphasized active bystandership and peer intervention. EPIC plays a major role in policing one another. NOPD has been invited to provide EPIC training to several law enforcement agencies across the country in cities such as Honolulu; Albuquerque; Baltimore; Baton Rouge; and St. Paul. EPIC has become widely accepted throughout NOPD.

## **Moving Forward: Additional Recommendations the OIPM made to NOPD in 2019 and the Progress into 2020**

### **Recommendation: Meaningful Complainant Interactions**

In 2019, OIPM sought to recommend the PIB expand their policy and practice in misconduct investigation to include more guidance regarding language barriers, mental health challenges, and complainant convenience.

The OIPM noted it is becoming established national best practice among other cities under Consent Decrees to require that the police force contact complainants at times and places that are convenient for the complainant to ensure the process is welcoming and does not discourage engagement. Currently, the NOPD does not have a policy, nor does the Consent Decree Para. 420, require that investigating officers of misconduct check in with complainants at times / places that are convenient to the complainant. In practice, this means a complainant may receive a phone call from an investigating officer after 11pm when the officer starts his / her shift. This type of contact may be intimidating or anxiety provoking for a civilian who has just filed a misconduct claim against the NOPD. While the NOPD is nearing compliance in Section XVII of the Consent Decree regarding Misconduct Complaint Intake, Investigation, and Adjudication, this is an area where the NOPD may be seen in compliance with the Consent Decree but can continue to improve practice and policy by becoming more responsive to the needs of the community in how the NOPD conducts misconduct investigations.

In the 2018 Annual report, the NOPD stated in response to this recommendation: “PIB is committed to continue to work with OIPM to develop possible policy and procedures to address any and all citizens’ concerns regarding the compliant process in general. PIB is open to suggestions on improving efficiency and transparency.”

During 2019, the OIPM started this process of researching national best practices regarding communication with complainants and started the dialog with NOPD to change their policy regarding complainant interactions. In 2020, the OIPM seeks to continue this work with PIB to complete this policy change.



### **Recommendation: Improved efforts to Track Disciplinary Proceedings in IAPro**

In the 2018 Annual Report, the OIPM requested the NOPD improve their efforts in tracking disciplinary proceedings in IAPro and keeping IAPro updated on all disciplinary outcomes, including civil service determinations. The NOPD responded to this recommendation: “PIB is committed to continue to work with OIPM relative to the data tracking and to clarify data already being collected within misconduct complaints and disciplinary proceedings. PIB is open to suggestions on improving efficiency and transparency.”

In 2019, the OIPM and the NOPD made significant progress in the tracking of relevant disciplinary data in IAPro; however, due to the Cyber-Attack in 2019, this progress has stagnated and IAPro is no longer accessible. At this time, the OIPM cannot effectively report whether all relevant 2019 disciplinary data has been included in the IAPro system. Once the IAPro system is restored and NOPD has adequate time to conduct the necessary investigatory entries, the OIPM will be able to provide an update on that progress and continue our work with the NOPD to ensure the implementation of this goal.

### **Recommendation: Improved credibility assessments in investigations**

In 2019, the OIPM recommended the NOPD prepare all investigating officers to complete thorough, thoughtful, and informed credibility assessments. The Consent Decree Paragraphs 382 and 413 requires that the NOPD be trained and prepared to conduct thorough credibility assessments of officers and civilians involved in the misconduct investigation. In years prior, the OIPM lead a training for the NOPD on how to conduct credibility assessments during misconduct investigations. In 2019, the OIPM would like to return to this recommendation and work with PIB leadership to discuss how to train all relevant officers to make these determinations with finality.

During 2019, PIB worked with monitors to update and improve their Credibility Assessment training and resource material. This updated material is being implemented within PIB and OIPM looks forward to continuing to support this process and assess any improvements seen in future credibility assessments.

## **Conclusion**

In this section of the annual report, the OIPM reviewed the vital role it plays in the intake and monitoring of misconduct complaints, the collection and referral of commendations, oversight of the NOPD disciplinary process, and the implementation and compliance of the Consent Decree.

The OIPM explained the process by which the OIPM receives and monitors complaints of misconduct and how and when the OIPM reviews disciplinary adjudication of allegations of misconduct. The OIPM explained how that role differs from the OCDM in both scope and content, and that the OIPM is responsible for engaging with and answering to the needs of the community.

In this report, the OIPM provided a collection of recommendations made to the NOPD in over the previous year through OIPM Disciplinary Memos and reviewed the new recommendations that the OIPM made in 2019 that we will continue to work with the NOPD to achieve in the coming year. These recommendations ranged from how the NOPD disciplinary matrix responds to certain offenses to how the NOPD interacts with and shares data with the community.

In the coming year, through the work conducted in complaints, commendations, and disciplinary proceedings, the OIPM looks forward to widening its impact, producing more data and reports, enforcing the Consent Decree, and working with the community and the NOPD to build public trust and engagement.

