

SECONDARY EMPLOYMENT REPORT

CHANGES & EDUCATION

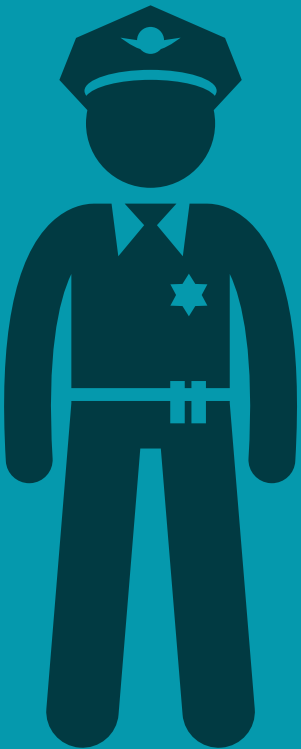


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Why the Changes

11 New Orleans police officers now under federal investigation over details pay



New Orleans Mayor LaToya Cantrell, left, and New Orleans Police Superintendent Sharrif Ragland, right, stand with Capt. Sabrina Richardson during a promotion ceremony at Auditor Hall in New Orleans, La. Wednesday, Nov. 10, 2021.

STAFF PHOTO BY WAVE 800-ORLS

BY JOHN SHERMAN | STAFF WRITER

MAY 6, 2022 - 6:43 PM

Nearly a dozen New Orleans Police Department officers are under federal

Zurik: NOPD suspends 26 officers from secondary employment following 'Attention to the Details' Investigation



By Lee Zurik and Cody Lillich

Published: Nov. 18, 2021 at 4:55 PM CST



NEW ORLEANS (WVUE) - The New Orleans Police Department

2% of New Orleans police off-duty work is flagged as possibly violating the law

Police Department finds gap between separate scheduling systems



BY SUEBY WILKINSON | STAFF WRITER

DEC 21, 2021 - 8:48 PM

The New Orleans Police Department says it has identified a gap between its payroll system and the scheduling system for private, off-duty security work for police officers, a disconnect that might be at fault for letting some officers collect big bucks by supposedly working two places at the same time.

The Office of the Independent Police Monitor (OIPM) is responsible for providing transparency and accountability to the New Orleans Police Department (NOPD). Over the last year, there was extensive media coverage on allegations of misconduct in the secondary employment system - which is the mechanism that allows for reserve and employed officers to work additional shifts for vendors outside of their normal duties. As a result of this misconduct, multiple agencies worked together to address the problematic behavior, create new policy to address confusion and gaps, retrain and inform officers of the requirements around secondary employment, prepare supervisors for how to identify potential abuses within the system, and integrate different timekeeping systems to ensure that officers could not and would not be able to work a secondary employment shift at the same time as their required duty shift.

This report explains the different systemic changes made to ensure these problems do not occur again, the role the OIPM played in this reform process, and the backdrop that led to these reforms.

The OIPM and the Basis for these Recommendations

The OIPM is the police oversight agency for the NOPD and is an independent branch of city government. The OIPM was created by voter referendum and operates under the Memorandum of Understanding with the NOPD entered November 2010. The OIPM is tasked with providing the NOPD with recommendations regarding resource allocation, liability (including civil claims and lawsuits), risk management, training, and NOPD policy including partnership development. The OIPM is tasked with amplifying the concerns and questions of the community about policing and bringing those concerns to the attention of the NOPD for them to be considered and addressed. The OIPM is responsible for providing assessments to the Superintendent of Police to ensure the NOPD remains in compliance with the Federal Consent Decree, NOPD policies, and all city, state, and federal laws.

Oversight Over the Office of Police Secondary Employment under Louisiana Revised Stat. § 33:2339

This statute was created in 2013 and gives legal abilities and subpoena power for the OIPM to investigate allegations of misconduct in the secondary employment system operated by the Office of Police Secondary Employment. The statute is silent as to the ability for the OIPM to refer these investigations to the NOPD or the District Attorney's Office for subsequent criminal or administrative accountability based on the OIPM investigation.

At this time, the OIPM is not conducting investigations regarding the secondary employment system but is monitoring and providing recommendations on the investigations being conducted by other agencies.

What is the OIPM



Misconduct Complaints



Disciplinary Proceedings



Commendations



Data Analysis



Community Outreach



Community-Police Mediation Program



Audits and Policy



Use of Force

The Office of the Independent Police Monitor (OIPM) is an independent, civilian police oversight agency created by voters in a 2008 charter referendum. The mission of OIPM is to improve police service to the community, community trust in the NOPD, and officer safety and working conditions. The OIPM is responsible for facilitating and voicing the concerns of the community, providing accountability and oversight to the NOPD, and assisting in the reforms required under the Federal Consent Decree. We review the policies and practices of the police to ensure it is legal, safe, and responsive to the needs of the community.

The OIPM operates through a Memorandum of Understanding (MOU) with the City of New Orleans and the New Orleans Police Department along with city ordinances and state statutes. 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 and within the New Orleans Police Department in order to improve the way our community is policed. In regards to the secondary employment allegations, the OIPM took on the following tasks:



The OIPM is acting as both a monitor and a reviewer of the investigations, audits, and corrective action measures conducted and implemented by the NOPD.

- Monitoring all negotiated statements including eligibility and outcomes
- Monitoring administrative investigations and subsequent disciplinary proceedings and offering recommendations for disciplinary penalties
- Reviewing criminal investigations and subsequent criminal prosecution and / or disciplinary proceedings



Ordinarily, for these investigations, the OIPM will provide feedback in a final report conducted as a review upon the completion of the investigations. However, for this investigation, the OIPM is providing **real time recommendations and assessments** to be incorporated into the NOPD investigation findings and process.



The OIPM is working as a partner on the **creation of corrective action strategies** including:

- Providing feedback on the system integration between the NOPD and the OPSE
- Participating in policy review and revisions
- Audit strategy
- Department educational strategies



The OIPM is engaging with the NOPD on the communication strategy and community engagement



The OIPM is internally determining the appropriate OPSE oversight role moving forward pursuant to the legal obligations of RS 33:2339.

What is Secondary Employment

What is Secondary Employment

Secondary employment are additional shifts that current and reserve NOPD officers can voluntarily sign up to work. These shifts are not required by an officer's employment with the NOPD - these shifts are optional and different from overtime. A secondary employment shift may include patrolling the downtown district and French Quarter or a particular neighborhood like Mid-City or providing security to businesses or events like Essence Fest, Saints games, or Jazz Fest. Some of these patrols are required by and paid for by taxing district statutes. Other details are paid for by private vendors. These patrols may require officers to be on foot, mounted patrols, or to patrol in squad cars. In order to work these secondary employment details, the officers must be eligible. Eligibility means the officer is in good standing, not on sick leave, or working another shift at the same time. For some secondary employment, there may be additional requirements or expertise required. In the case of taxing districts, there may be additional privileges or responsibilities of the officers working the shifts or they may require a coordinator. These shifts may occur any time of the day or night and have differing levels of responsibilities from being merely present to completing particular tasks.

An example of secondary employment would be officers working traffic at a Saints game. These officers may be working alongside sheriffs and other law enforcement officers and private security assisting the public and coordinating traffic. Another example of secondary employment may be motorcycle officers leading Second Lines or wedding or funeral processions. In these examples, the officers are working outside their normal and official capacity and are paid by a vendor or a taxing district for their work. This work is outside the normal police work expected of the officer.

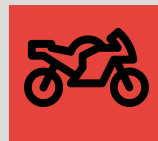
Differently, an example of overtime would be officers working Mardi Gras parades or shelters during hurricanes and evacuations. In those examples, the officers are working in their official capacity and are paid by the city to complete the policing activities.

The Role of the Office of Police Secondary Employment (OPSE)

The Office of Police Secondary Employment (OPSE) is responsible for independently administering and managing secondary employment and operates separately from the NOPD. It is responsible for:

- Receiving requests for police details
- Reviewing the appropriateness of the request
- Advertising the positions to eligible NOPD officers
- Selecting officers to work the detail and coordinating it
- Billing the business or member of the public after the event
- Paying the participating officers
- Tracking hours worked by the officers
- Reporting misconduct or misuse of the secondary employment system

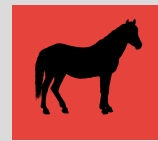
Types of Details



Motorcycle Escorts



Drug or Bomb Dog Sweeps



Mounted Details



Support for Marathons, Mini or Walking Parades, and Second Lines

Secondary Employment and the Consent Decree

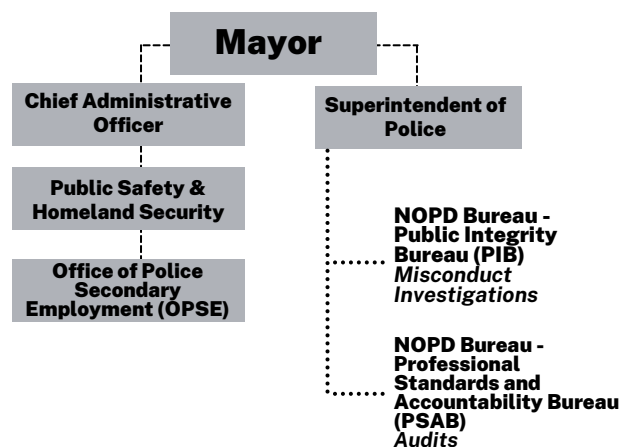
The OPSE was created by the Federal Consent Decree. Within the City government, three main branches are the most influenced by the Consent Decree:

- The NOPD
- Civil Service Commission
- The Office of Police Secondary Employment (OPSE)

This means that the OPSE and the secondary employment system are a part of the Consent Decree and require compliance findings by the federal court and may be monitored and checked by the Federal Monitors.

Organizational Structure of OPSE

OPSE operates outside of the NOPD. The OPSE is run by a civilian classified director and the staff of OPSE are civil service classified employees. The OPSE is funded through the city budget. The OPSE funding is independent and separate from the NOPD's operational budget. The OPSE also receives a small administrative fee from the cost of the secondary employment that the vendor pays.



Accountability of the Secondary Employment System

There are four offices that provide accountability and checks on the secondary employment system and OPSE. Two of these entities are NOPD bureaus that are responsible for misconduct and audits. The other two entities are the monitoring offices - the federal monitors (OCDM) and the OIPM. The two monitoring offices have different responsibilities regarding the secondary employment system. In terms of accountability, the Professional Standards and Accountability Bureau (PSAB) is responsible for conducting audits on OPSE operations and the secondary employment system to ensure it is complying with NOPD and city policy. The OPSE is also responsible for ensuring that all reserve officers are in "good standing" and allowed to work secondary employment shifts. The Public Integrity Bureau (PIB) is responsible for investigating allegations of misconduct. The OIPM is responsible for providing accountability and conducting misconduct investigations regarding OPSE and misconduct in the secondary employment system. OCDM is responsible for ensuring the Consent Decree reforms are implemented and remain in compliance whereas the OIPM is responsible for providing accountability to the secondary employment system and will be increasing our role in that area in the coming year.



Individuals and businesses interact with and pay only OPSE. If there are issues during the detail, they are to reach out to OPSE.

OPSE is responsible for coordinating the appropriate and eligible officers for the detail and handling the payment.

Officers have equal access to detail opportunities and hours are capped. Officers are not able to negotiate pay or hours.

Accountability and Checks

Office of the Independent Police Monitor (OIPM)

Professional Standards and Accountability Bureau (PSAB) Audits

Public Integrity Bureau (PIB) Misconduct Investigations

Office of the Consent Decree Monitors (OCDM)

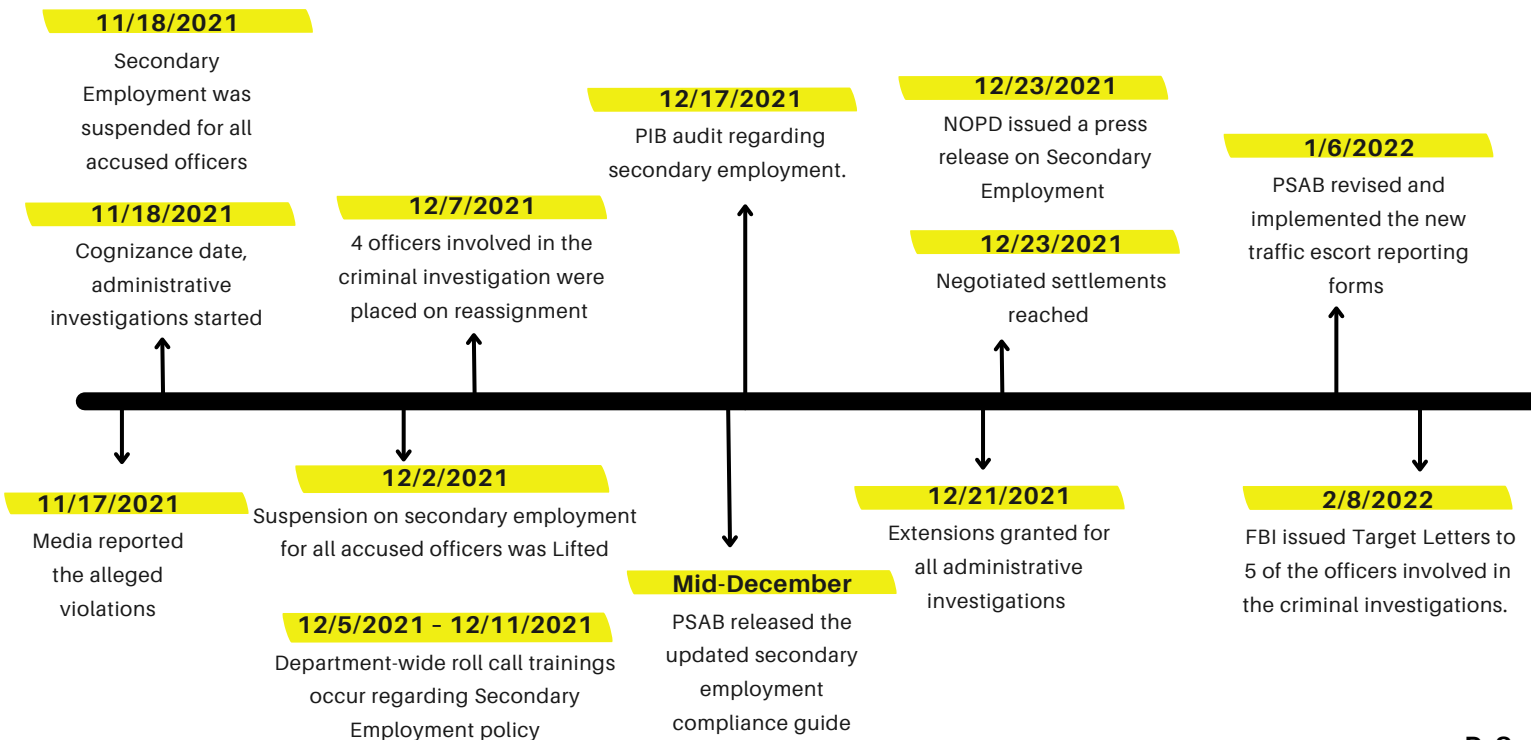
Background



The Office of Police Secondary Employment (OPSE) was created in May, 2012, as an aspect of the federal Consent Decree. Prior to the creation of the OPSE, secondary employment was coordinated by the NOPD or sometimes by individual officers and vendors. This practice was found to be highly problematic and created opportunities for corruption. When later investigated by the US Department of Justice, the secondary employment practice was called the "aorta of corruption" and became a focal point of the Consent Decree.

In 2013, the city of New Orleans formally entered into the federal Consent Decree with the Department of Justice. Section XVI of the Consent Decree required the creation of the OPSE and the coordination of the secondary employment system through an independent office. Section XVI: Secondary Employment System was moved into full and effective compliance in 2019.

Years later, in the summer of 2021, City Council, the Mayor, NOPD, and the OIPM were notified of potential misconduct in the secondary employment system. Dr. Skip Gallagher, a professor at the University of New Orleans, conducted audits of officer's time entries through the ADP system (the officer's city time cards) compared with their time sheets from the Office of Police Secondary Employment. Through comparing the two time keeping mechanisms, Dr. Gallagher learned that several officers appeared to have overlapping time - meaning that the officer was being paid for working their NOPD shift at the same time that the officer was being paid for working a secondary employment detail. This could be a form of payroll fraud. Dr. Gallagher also found evidence of possible time cap violations, timecards that appeared to be unfeasible because of the number of hours worked, and work schedules that suggested that employees were sleeping or not present at overnight secondary employment shifts. Dr. Gallagher sent a formal letter informing city officials of his findings and started speaking to the press about this situation.



Simultaneously, an investigative news piece broke about an officer in a specialized unit who allegedly was at home and on the Westbank of New Orleans racing cars when he was scheduled for secondary employment details or NOPD shifts. These incidents resulted in massive audits of the secondary employment and both time keeping mechanisms. Employees involved were suspended from secondary employment details and some were administratively reassigned.

Accountability agencies started responding. Federal partners, OPSE, PIB, the Federal Monitors, and OIPM worked together to determine how to proceed on a series of investigations - both criminal and administrative - to hold those responsible accountable and to identify policy gaps and confusion, areas where training could be improved, and create a strategy to stop incidents like this from occurring again.

Multiple officers were investigated and are still being investigated today. This report is a high level summary of the steps taken after the allegations of misconduct surfaced and how through systemic improvements, this type of misconduct is less likely to occur again and can be identified faster if it does. Even though there have been improvements to the software, monitoring mechanisms, training, and policy, there is lasting fallout from these allegations. These allegations left the public wondering if the celebrated reforms of the Consent Decree are working and if corruption is again a factor in the secondary employment system.

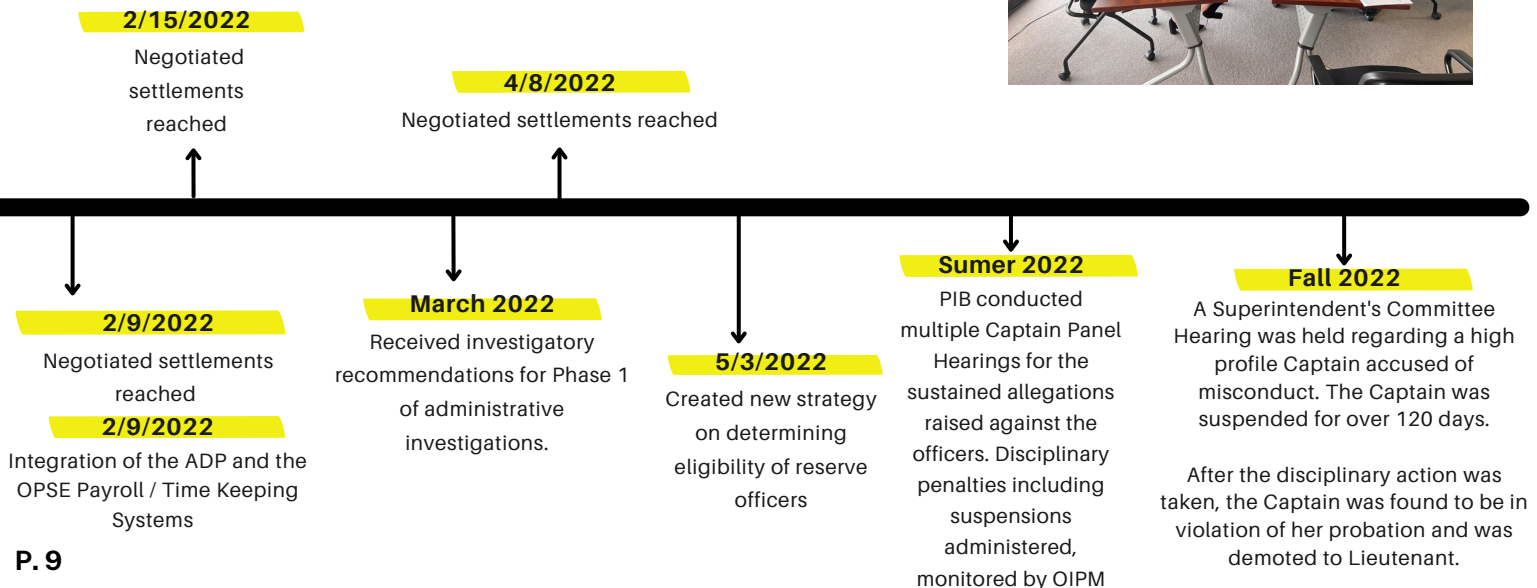
The OIPM cannot assure the public that there will never be bad actors within the NOPD; however, the systemic changes made in the wake of these allegations are significant. The OIPM presents this report with the intent of assuring the public that accountability did occur and changes did happen. Ultimately, these systems and departments will be tested again and again, but with each accusation, another loophole is closed, another way to "game secondary employment" is identified, and those responsible are held accountable. These steps matter and the OIPM presents these efforts with the intent of informing the public and partners of what occurred over the last year and the impact such actions will have moving forward.



The New Orleans Police Department's Public Integrity Bureau continues to investigate allegations of misconduct regarding police secondary employment. Early in the investigation, an initial review identified a gap between the NOPD payroll system and the Office of Police Secondary Employment's (OPSE) scheduling system. After identifying that gap, NOPD is now able to cross-reference information between the ADP Payroll system and separate system used OPSE. Although the NOPD is independent from the OPSE, our agencies are working closely to pinpoint any gaps or human errors. This will allow the NOPD and OPSE to share information that will eliminate schedule overlapping and will ensure that officers cannot be scheduled for regular duty shifts and OPSE detail shifts at the same time. Thus far through the course of this investigation that the flagged incidents comprised approximately 2% of the paid details worked by commissioned police officers. The NOPD and the Office of the Independent Police Monitor takes this 2% seriously and will hold officers accountable for any violations of the secondary employment policy. Each violation is undergoing a systemic review that includes investigating whether any violations were made by their immediate supervisors for failure to provide close and effective supervision. Throughout the course of the investigation, twenty-nine (29) officers were alleged to be in violation of the rules and regulations as it relates to police secondary employment. We are reviewing all cases for potential criminal and administrative violations. Those investigations will be conducted by a team of investigators including the New Orleans Police Department, the Office of Independent Police Monitor, and the Office of Inspector General. "We take the allegations brought to our attention very seriously," said NOPD Superintendent Shaun Ferguson. "We are conducting a thorough and in-depth investigation and we will hold ourselves accountable to the high standards we set for ourselves and our community holds us to."

Above is the press release prepared by NOPD updating the public on the investigatory and audit steps taken in 2021.

Below is Stella Cziment, IPM, working with a Captain of the Public Integrity Bureau to review findings.



Identified Obstacles that Contributed to Secondary Employment Violations

The first question that was asked after the initial story broke about the allegations of misconduct in the secondary employment system was: how did this happen and how did those operating these systems not know it was happening? These secondary employment allegations highlighted obstacles that existed within the structure and the system between NOPD and OPSE that enabled violations to occur or go undiscovered.

- The first obstacle is that the **NOPD tracks time through the ADP system whereas OPSE tracks time through their own system.** As initially conceived, there was a decision to keep these two pillars of work separate and independent, the technology was created independently and does not interact or "speak" to one another. This means that an employee could be scheduled through both systems at the same time without either agency identifying it in advance.
- The second obstacle in tracking these types of violations is that there was a **week delay in reconciling the two tracking systems operating independently.** As a result, whenever there was a public record request submitted, it may not have captured leave slips, corrections, or reconciliations made once the two timesheets were reconciled the week after. Thus, the actual hours worked by officers and what is captured in public record requests may differ.
- Third, **the two systems do not identify the potential conflicts caused by back-to-back shifts.** Potential conflicts were identified when there was no "travel time" between the NOPD shift and the secondary employment detail. While these conflicts exist for some officers, back-to-back shifts are less of an issue for officers who are working administrative jobs on computers and all that is required is the logging out of one system and logging into a new system.
- There is a practice of supervisors releasing employees during their last hour for furlough or "J&T" time. This practice should not be used for officers to go to work somewhere else; however, there appeared to be **confusion within the department** over when furlough or J&T time could be utilized to transition between NOPD shifts and secondary employment details.
- The final major obstacle was **confusion over how the twenty-four (24) hour timeframe started or stopped** when considering time caps and time requirements. The majority of the department thought the twenty-four (24) hour timeframe started and stopped at midnight; however, this was not the correct reading or training of the policy.



What is J&T time?

J&T time is effectively "flex" time that is should be used during one pay period. For example, if an officer, who ordinarily works a day shift, needs to lead a training at night then in order to avoid unnecessary overtime, that officer may come in the next day later than normal. If the training was two hours, the officer would come in two hours later. By having these flexible hours where needed under J&T, the NOPD avoids unnecessary overtime.

What is furlough?

Furlough is effectively "leave." It can be paid or unpaid. For example, if an officer takes annual leave for a vacation or a holiday, they will be carried as "furlough" in the ADP (timekeeping) system.

Types of Violations related to Secondary Employment

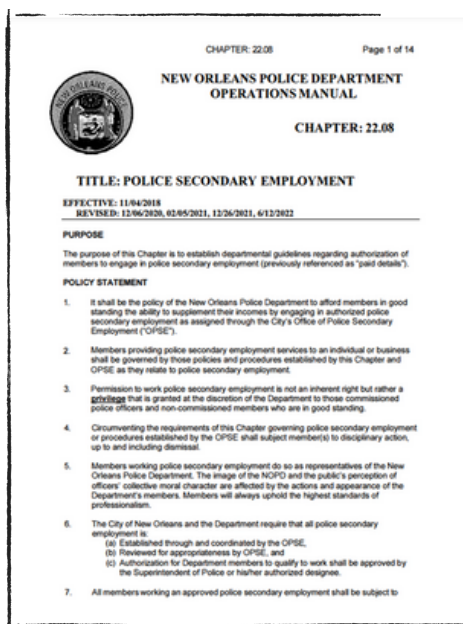
The following types of violations were alleged or identified during the investigations regarding secondary employment details. Some of these alleged violations are administrative violations and some of the alleged violations are criminal violations.

Administrative Allegations

- **Time Cap Violations ("16:35 Violations")**
NOPD Chapter 22.08: Police Secondary Employment, Para. 22, 32
- **Overlapping between Details of Secondary Employment with NOPD Duty**
NOPD Chapter 22.08: Police Secondary Employment, Para. 22, 25
- **Leaving Secondary Employment Details without Giving Notice Before the Scheduled End time**
NOPD Chapter 22.08: Police Secondary Employment, Para. 13(d)
- **Compensation for Transportation to Secondary Employment**
NOPD Chapter 22.08: Police Secondary Employment, Para. 92
- **Exceeding a 24-Hour Weekly Detail Limit**
NOPD Chapter 22.08: Police Secondary Employment, Para. 28

Criminal Allegations

- **Public Payroll Fraud**
La. Revised Statute 14:138
This applies when a public employee is accused of knowingly receiving funds / compensation for work that the employee did not complete.
- **Theft**
La. Revised Statute 14:67
- **Malfeasance in Office**
La. Revised Statute 14:134



To the left is the NOPD policy Chapter 22.08: Police Secondary Employment where the majority of the alleged administrative violations occurred and a picture of the Louisiana Revised Statutes for criminal Law. As a component of assessing the investigations that occurred, the monitors determined if the initial classification of the allegations was appropriate.

Disciplinary Action

In November 2021, after the stories broke regarding the alleged misconduct in the secondary employment system, the Professional Standards and Accountability Bureau (PSAB) conducted an audit of the officers who were identified in public record requests. **As result of the PSAB audit, 26 Formal Disciplinary Investigations (FDI) were initiated by Public Integrity Bureau (PIB).** When first presented with the list of officers who may have violated secondary employment policy, PIB started auditing the officers on that list and additionally ordered a complete audit of all PIB employees. PIB decided to start with their own officers to ensure that the bureau would be in a position to be able to conduct all relevant investigations moving forward. In total, 66 officers were audited. The audits considered three (3) years of payroll and detail records from January 2019 to November 2021.

Some of the audited officers did not require an investigation since there were few if none time cap violations or examples of overlap.

Some received administrative investigations which resulted in disciplinary penalties such as suspensions. Some received negotiated settlements. Some received Supervisory Feedback Log entries. Some were investigated criminally by federal partners or by the NOPD. The table below demonstrates what ultimately happened with those 66 officers. Below are the results, disciplinary and otherwise, that resulted from these audits.

It should be noted that the criminal investigations into secondary employment misconduct are still ongoing.

Outcomes of the First 66 Officers and Employees Audited



**Out of
19,260 OPSE Details
and
28,232 NOPD Shifts**



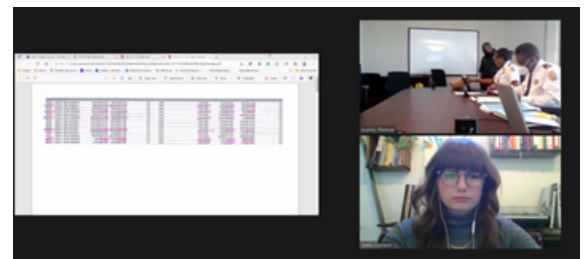
**4,668 Time Cap Violations
(9.8%)**

**5,156 Overlaps
(10.9%)**

What are Negotiated Settlements?

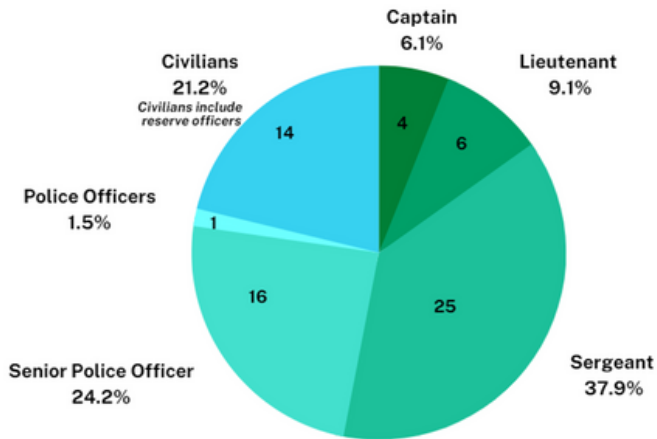
Negotiated settlements are agreements for the employee to accept responsibility and discipline prior to an administrative investigation being conducted. Upon reviewing the timesheets from OPSE and the ADP timesheets from 3 years of payroll and detail records from January 2019 to November 2021, it was determined that the officers with a minimal number of violations would be eligible for negotiated settlements:

- Officers whose total violations were 10% or less of their worked shifts of 16 hour and 35 minute time caps within a 24-hour period; and / or
- Officers with less than six (6) instances of overlap that were two (2) hours or less were also eligible for Negotiated Settlements.



In this photo, IPM, Stella Cziment, monitors the negotiated settlement conferences conducted by a Captain of the Public Integrity Bureau and the Captain of the Professional Standards and Accountability Bureau.

Ranks of the First 66 Employees Audited



Ultimately, the majority of the officers received suspensions for any overlaps and letters of reprimand for the time cap violations. These suspensions ranged from 1 day to 120 days depending on the nature of the misconduct and the frequency at which it occurred. Officers where this was their second offense received increased discipline. Additionally, several officers involved in criminal investigations were reassigned. **All officers with sustained violations following administrative investigations were ordered to repay any money that was gained in overlapping shifts.**

The most severe punishment received by a NOPD employee was a Captain who was suspended for over 120 days. After the disciplinary action was taken, that Captain was found to be in violation of her probationary period and was demoted to Lieutenant.

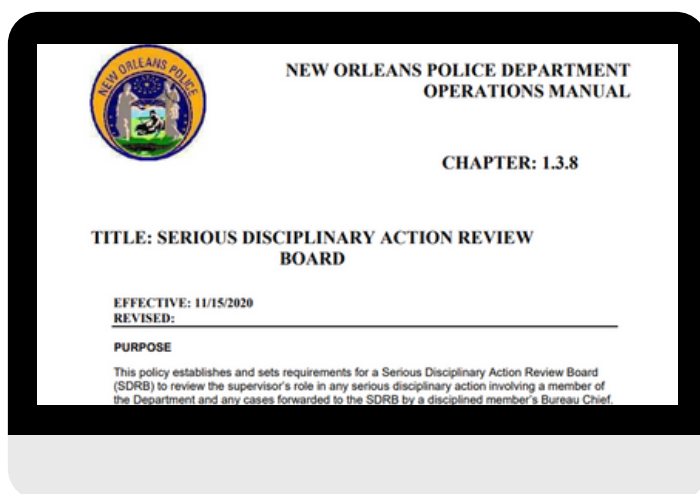
There was criticism of the disciplinary actions pursued on both sides. Some found the penalties to be too lax while others found the penalties to be too severe. In determining appropriate discipline, the NOPD consulted extensively with the federal monitors and OIPM to determine what would be consistent and fair considering misinformation and confusion that existed within the department at the time.

Moving forward, allegations of misconduct within the secondary employment system may receive enhanced penalties in light of the extensive education and training campaigns that occurred within the department.



Serious Disciplinary Action Review Board: Chapter 1.3.8

The Serious Disciplinary Action Review Board is a new board that was created under NOPD policy chapter 1.3.8. This board provides accountability to supervisors when those under their command are accused of violating policy and supervision may have been a factor in the misconduct or their failure to supervise should be considered disciplinarily. This board is also an opportunity to provide feedback to supervisors. When subordinates under supervisors are accused of violating policy, a supervisor will receive feedback from other ranked officers on how this alleged misconduct could have been identified faster, be handled differently, or be avoided in the future through proactive supervision.



This board met during the investigations on secondary employment to determine if supervisors were effective in identifying overlapping shifts and time cap violations for those they supervise.

Moving forward, supervision will be examined when there are allegations of misconduct in the secondary system to determine if there were supervisory responsibilities or opportunities that could have reduced or eliminated the misconduct allegation.

Training

It became quickly apparent after the audits were conducted there was department wide confusion regarding the time cap requirements, with most of the officers believing that the 24-hour period was static: starting and ending at midnight each day. However, the policy was meant to be read in a way where the 24-hour period is to start with the beginning of the shift, or the secondary employment detail worked that day, and continue from 24 hours from that point.

To address that confusion, the NOPD released educational and informational materials to the department and conducted a series of roll call trainings clarifying the secondary employment policy (and the spirit of the policy which was to require officers to receive rest / sleep between shifts). The roll call training was conducted between December 5, 2021, through December 11, 2021. **The NOPD conducted comprehensive retraining for the entire department.** Starting in December 2021, the NOPD started using the Daily Training Bulletins to exclusively focus on Chapter 22.08 Police Secondary Employment. Effective December 26, 2021, NOPD released a policy clarification to address the time cap violations (otherwise known as the 16:35 rule). The release was read at roll call for three consecutive days.

Additionally, the Professional Standards and Accountability Bureau (PSAB) created a secondary employment compliance guide. The compliance guide helps officers better understand the time cap obligations (the 16:35 rule) and reminds officers to thoroughly review dates and times on all OPSE earnings statement. All training material and the companion compliance guide were read at roll call for 3 consecutive days.

Finally, in late January 2022, the Secondary Employment Educational Committee was established and is comprised of members of PIB, PSAB, and OIPM. The Committee is responsible for community outreach, education, and engagement. The Committee is exploring both internal and external partners for the informational strategies. Below is the front page of the secondary employment compliance guide that was disseminated to the department.

NOPD PSAB Last edited 12.17.21

Secondary Employment Compliance Guide

1. As a reminder, ALL paid details must go through OPSE. Any officer who works a paid detail “off the books” (i.e., the detail was not approved, scheduled, assigned, and paid thru OPSE) is in violation and subject to disciplinary action including termination for a 1st offense.
2. PSAB and OPSE assess compliance with the 16-hour rule for every 24-hour period that begins at the start of every shift and detail you work. There is no reset at midnight. There’s no reset when there’s a gap between your shifts or details. If you work a shift starting at 6:25am, a 24-hour period begins at 6:25am and ends at 6:25am the next day. If you work a detail that day starting at 4pm, another 24-hour period will begin at 4pm. Each 24-hour period is assessed separately, even if they overlap. Below is an illustration of how two separate and overlapping 24-hour periods are assessed for compliance with the 16-hour rule:

Timeline diagram showing two 24-hour periods:

- 1. 1/1/21 6:25 am to 1/2/21 6:25 am. Includes NOPD Reg (6:25 am - 8:35 am), OPSE SMG Dome (3:00 pm - 4:00 pm), and NOPD Reg (8:00 am - 12:00 am). Ends at 16:35 with a green checkmark.
- 2. 1/1/21 4:00 pm to 1/2/21 4:00 pm. Includes NOPD Reg (8:35 am - 1:00 pm) and NOPD OT (1:00 pm - 4:00 pm). Ends at 17:35 with a red X.

When planning your overtime and details, ensure you have at least 7 hours and 25 minutes of unbroken, unpaid time each day. The spirit of the policy is to allow for 8 hours of rest. If you are going to work overtime and a regular shift, the longest detail you can work is 4 hours. If you work a regular shift and no overtime, you can work 8 hours of details without violating the 16-hour rule, which is actually 16 hours and 35 minutes. Below is an example of a 16-hour violation. This officer

System Integration

In response to the misconduct that occurred in the secondary employment system, the OPSE worked with both the NOPD and the OIPM to complete system improvements to make it more difficult for officers to work overlapping shifts and to better identify potential scheduling conflicts before they arise.

System Enhancements:

To prevent future detail work hour discrepancies, NOPD's ADP schedules are now fed into OPSE's Power Details system weekly. This will prevent officers from scheduling details that conflict with his / her regular scheduled NOPD shifts. The system became active as of Wednesday, February 9, 2022.

- If an officer requests an OPSE shift, the system will immediately reject the officer if a scheduling conflict exists between the NOPD work schedule and the requested OPSE shift.
- If an administrator is trying to schedule an officer for a secondary employment detail at the time that the officer is scheduled to work a NOPD shift, then the administrator will receive a notification that there is a conflict. If the administrator still intends to schedule the officer, then the administrator must "override" the external schedule and explain in the comments why this scheduling is occurring.

This means, for officers, when using the app program or on the computer, when they try to apply for a job that conflicts with the ON-DUTY schedule, they will see the screenshot below. If an officer requests an OPSE shift, the system will immediately reject the officer if a scheduling conflict exists between their NOPD work schedule and the requested OPSE shift. If an officer is presented with a message that reads "Job conflicts with a shift from an external system", an email from his/her supervisor is required before an administrator (coordinator) processes an override.

In this example, the officer has requested an OPSE shift and the system rejected the officer for a scheduling conflict. This means the officer was scheduled to work a NOPD shift and wanted to also work a secondary employment detail. In real time, upon being requested, the system rejected the request as being a scheduling conflict.



FIRST NAME	LAST NAME	SHIFT START	SHIFT END	SHIFT TYPE	PAY CODE		
Tony	Stark	4/22/2022 8:00:00 PM	4/23/2022 4:30:00 AM	Work Shift		Delete	Override
George	Clooney	4/23/2022 2:00:00 PM	4/23/2022 8:00:00 PM	Work Shift		Delete	Override
Elle	Goulding	4/23/2022 6:00:00 PM	4/23/2022 11:30:00 PM	Work Shift		Delete	Override

New Monitoring Measures

The OIPM, NOPD, and OPSE will be monitoring the secondary employment system to prevent potential overlaps before they occur. These new monitoring measures will enable these agencies to monitor for and identify:

- Overlaps between NOPD shifts and secondary employment details.
- Over time limit violations both daily and weekly
- If the employee is eligible to work details, e.g., not on administrative leave
- Instances of no-call no shows
- Registration status

OPSE will input NOPD's weekly ADP schedules to prevent overlaps before they occur. Additionally, PSAB and OPSE will conduct monthly analysis to address overlaps and time cap violations. Any issues or potential violations will be sent to the officer's supervisor for review of policy and training. If patterns are uncovered PIB is immediately notified.

PIB Special Investigations Section is working with PSAB to conduct proactive compliance audits. PSAB is also proactively ensuring the eligibility of reserve officers and determining good standing for all officers to participate in secondary employment.

Additional Monitoring of Reserve Officers

After discussions with the OIPM, PSAB agreed to assign the Captain of PSAB to be responsible for working with the Captain of the reserve officers to ensure that all reserve officers are in good standing. What this means under NOPD policy Chapter 16.3: Reserve Officer Program is that the reserve officers have required and current certification and are providing the requisite number of volunteer hours of work to the department in order to qualify for secondary employment details. By ensuring this, the NOPD will both be able to maintain compliance with their policy and possibly increase the workforce through ensuring reserve officers are completing the hours required of them.

Together, these bureaus along with OPSE and OIPM are working to ensure there are manageable and realistic ways to identify potential misconduct in the secondary employment system.

New Orleans Black Organization of Police (BOP)



Fraternal Order of Police (FOP)



Police Association of New Orleans (PANO)



In these photos, IPM, Stella Cziment, and investigating Sergeant Jones of the Public Integrity Bureau, meets with representatives from the different police associations to discuss policy changes and training clarifications on secondary employment and time cap violations. The representatives had opportunities to ask questions and present concerns.

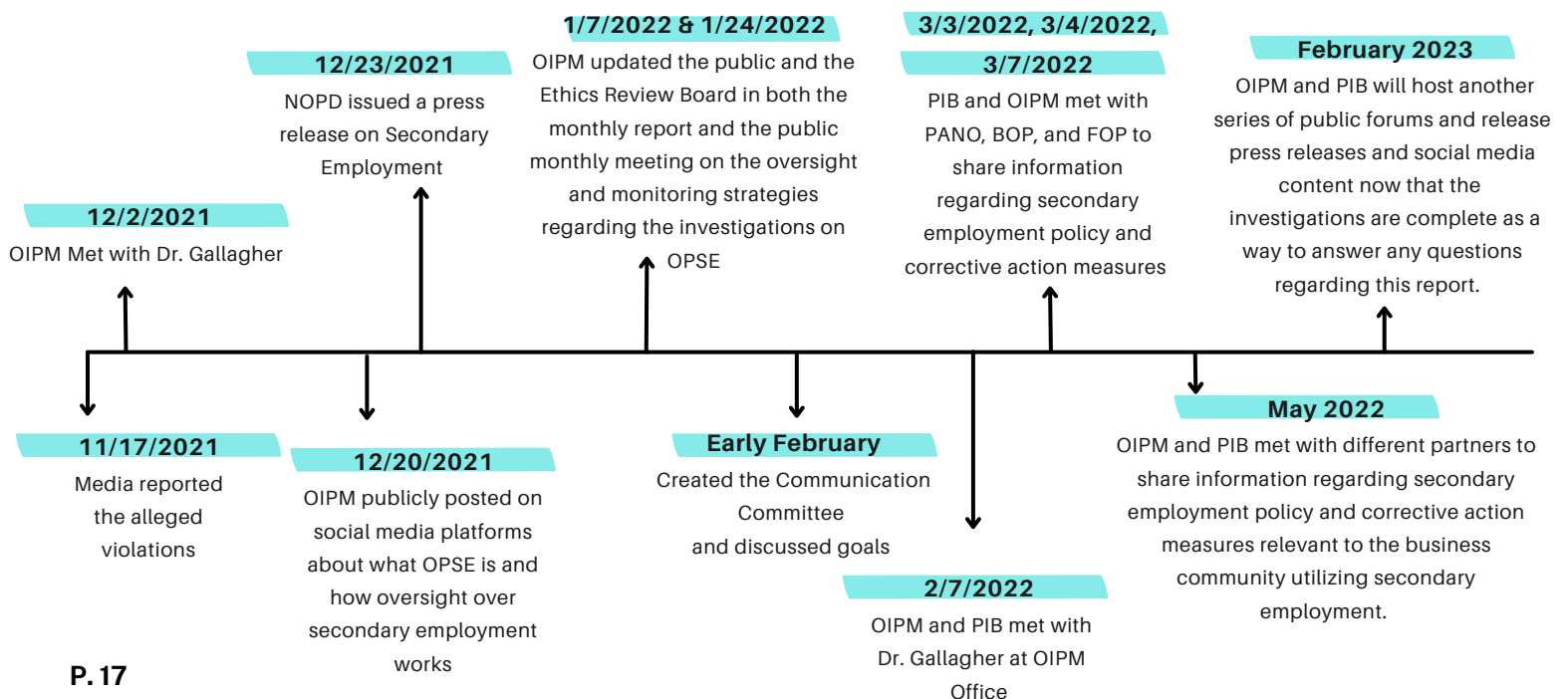
Policy Changes

Working with PSAB, the following policy and practice changes were made:

- **Chapter 22.08: Police Secondary Employment, Paragraph 32 was revised to better explain the 24 hour timeframe and to specify the requirement for a break in every 24 hour period.**
 - Chapter 22.08, Paragraph 32 revisions state: "Members must have 7 hours and 25 minutes of unpaid, off-duty time within every 24-hour period."
 - In addition, Chapter 22.08, Paragraph 32 states: "No member, including Reserve Officers, shall work more than 16 hours and 35 minutes (16.58 hours) within a 24-hour period. These hours are cumulative and include normal scheduled work hours, overtime, court time, off-duty police secondary employment, or outside employment."
- **Chapter 22.08: Police Secondary Employment, Paragraph 93 was added on June 6, 2022, to require officers to have a minimum of 15 minutes of travel time between NOPD duty and secondary employment shifts.**
 - Chapter 22.08, Paragraph 93 states: "Officers shall allow a minimum of 15 minutes between shifts for travel to and from secondary employment assignments to ensure regular/overtime and detail shift pay differential."
 - Revisions to this policy are under review to allow for a reasonableness rule based on the location and type of shift worked, such as secondary employment details that do not require transportation.
- **PSAB created a new TRIP sheet specifically for Police Traffic Escorts on January 6, 2022.**

Importance of Communication of Policy Changes

These secondary employment misconduct investigations and audits underscored the importance of ensuring open communication with stakeholders, vendors, the public, and NOPD employees regarding policy around the secondary employment system. Below is a summary of some of the communication steps taken by the OIPM and partners to ensure there was transparency and open communication regarding the changes that occurred to policy and the investigatory process.







OIPM

Recommendations

The OIPM observed areas where the NOPD can refine its policy and practice around conflicts and perceived conflicts in misconduct investigations, administrative suspensions, and how counts and allegations are selected. During these investigations, the OIPM observed a lack of consistency in how investigations were conducted across bureaus, confusion regarding how to receive advice or guidance from PIB, and the term "conflict" and who a conflict applied to appeared to be undefined.

The majority of the below recommendations are about the structure of misconduct investigations and issues that were identified in the investigatory policy. This is because the OIPM worked directly with the OPSE, the federal monitors and the NOPD to provide recommendations and input regarding the secondary employment system that were immediately adopted and implemented. These recommendations are captured in the previous sections of the report. The policy changes made and the system integrations that occurred are examples of some of those recommendations and the collaborative work that occurred between the different monitoring teams, OPSE and NOPD. The recommendations below are from formal recommendation letters submitted to PIB and PSAB by the OIPM in 2022 that have not yet been adopted by the NOPD.

-  **Lack of consistency regarding the number of allegations within the disciplinary investigations.**
The majority of the investigations used one count of an allegation for multiple instances of wrongdoing, however, in one investigation, the instances were separated into individual counts. This means the officer was disciplined on each instance separately, instead of what occurred with all the other officers where the number of instances was an aggravating or mitigating factor in the discipline but the officer was only disciplined on one count.
-  **Confusion regarding the use of "Instructions from Authoritative Source" vs. "Neglect of Duty" allegations.**
The OIPM reviewed NOPD policy and NOPD Standard Operating Procedures including the Standard Operating Procedure for the Public Integrity Bureau from 2016 and 2021 and the Misconduct Complaint Intake Investigation Standard Operating Procedure, and both were silent as to when to classify an allegation as Neglect and when to classify an allegation as Instructions. The OIPM recommended these classifications be clearly defined and consistently used to eliminate any perception of bias from investigations.
-  **Create a policy to identify potential conflicts in misconduct investigations.**
The OIPM recommends this policy adopt the language in Chapter 13.38: Nepotism and Employment Conflicts and the language typically used in the Memorandum of Understanding with the Office of the Inspector General that identifies ranked officers and employees that may trigger difficulties in investigating, including Commanders (now Captains) assigned to PIB, all Deputy-Chiefs, and the Superintendent. The OIPM proposes that Chapter 52.1.1. be expanded to include the identification of potential conflicts in Chapter 13.38 or that Chapter 13.38 have an additional section on the identification of conflicts in misconduct investigations and how they will be addressed in Formal Disciplinary Investigations.
-  **When a conflict is identified, the OIPM recommends there be a clear recusal protocol.**
The OIPM recommended the drafting and implementation of a formal conflict and recusal procedure and / or policy that states: (1) when recusals are appropriate; (2) how recusals will be decided; (3) the scope of recusals; (4) the appointing of proxies or designees in recusals; (5) how information will be shared or not shared when there is a recusal (cleaning of documentation, providing of files, identification of contact individuals for the assigned investigator) and (5) how notification will occur when there is a recusal. By notification, the OIPM means both the notification of those recused and the notification of others, so they do not intentionally or unintentionally share information with those who are recused.



Develop the "PIB Liaison" role.

Under NOPD policy, Chapter 52.1.1. Para. 114, there is to be a "PIB Liaison" whenever a different bureau receives notification from PIB that a disciplinary investigation is assigned to that bureau. The OIPM recommends this PIB liaison role should be more developed to ensure this individual is empowered to answer questions regarding policy, process, timelines, and provide additional resources to the assigned investigating officer (and rank) of that bureau. In the case of a conflict requiring the recusal of the entire PIB, then a new liaison needs to be identified, or a PIB liaison must be "firewalled" from the rest of the PIB to continue to act in their capacity as the PIB liaison for the investigation.



Initiation of criminal investigations while an administrative investigation is open.

There was confusion under Chapter 52.1.1 Para. 45 and Para. 62 regarding the process around the initiation of criminal investigations while an administrative investigation is open. When Para. 45 and Para. 48 are read together, the language communicates that only the PIB can decide classifications and the classifications include whether an investigation is to be categorized as criminal or administrative. This creates challenges when PIB is recused from investigations or when an investigation is assigned to a different bureau for investigation. There is nothing in this language to allow for a proxy or for this jurisdiction to be transferred to another bureau. The OIPM recommends that the PIB and PSAB revisit this language and create the ability for this jurisdiction to be transferred or for a proxy to make such decisions when PIB leadership or the bureau is recused from an investigation.



Cleaning of compelled information from file when criminal investigations are initiated from administrative investigations.

The OIPM recommends a formal standard operating procedure and / or policy addressing how information will be "cleaned" when an administrative investigation results in a criminal investigation / referral.



Reserve officers accused of misconduct.

It is the understanding of the OIPM that there is not currently a policy in place to investigate reserve officers when that reserve officer is accused of misconduct. This is because under NOPD policy Chapter 16.3, reserve officers are considered "at will" employees that are normally terminated upon the accusation of misconduct. However, the OIPM recommends that the NOPD review this policy and determine if it would be appropriate to change policy and practice to investigate reserve officers for allegations of misconduct.



Audit of "good standing."

The OIPM recommends that: (1) an audit is completed of all reserve officers to determine good standing eligibility; (2) the NOPD determine if being under investigation (or potentially under investigation for allegations of abuse of the secondary employment system) should influence standing eligibility; (3) there be a standard operating procedure / policy requiring audits to be conducted at a determined interval to ensure good standing of all reserve officers.



Clarity around secondary employment suspensions.

The OIPM requested clarity as to why some employees were suspended from secondary details while others were not and vice versa. Particularly for officers who were under administrative investigation for allegations of violating the rules of secondary employment.

In the coming year, the OIPM will renew these recommendations with the goal of seeing these changes adopted and implemented by the NOPD to improve the way that misconduct investigations are conducted and conflicts are identified and addressed in misconduct investigations.

Closing

Throughout the course of the investigations into secondary employment misconduct, the OIPM worked alongside various bureaus of the NOPD, as well as with the Office of Police Secondary Employment (OPSE), and the Office of the Consent Decree Monitors (OCDM) to create substantive changes regarding police secondary employment and to address the violations that occurred.

From the outset, several key obstacles were identified that led to secondary employment violations. Correcting these obstacles was a priority of NOPD, OPSE, and the monitoring teams so as to prevent future secondary employment violations before they can occur. Significant changes to the officer payroll system were enacted as a result, potential scheduling conflicts will now be immediately rejected before a secondary employment shift can be assigned. New monitoring measures are now in place, OPSE is working with NOPD's PSAB to monitor potential payroll violations and notify NOPD's PIB as soon as they are found. Proactive compliance audits will continue to occur, and the OIPM and its partners will continue to monitor all instances of secondary employment misconduct. In addition, NOPD underwent a department-wide comprehensive re-training regarding secondary employment policies to eliminate any confusion that may have previously existed.

Significant policy changes also occurred as a result of these instances of misconduct. Previous gaps in policy that led to officer confusion were revised and clarified, a requirement for travel time between shifts is now required to prevent overlap, and secondary employment trip sheets for police traffic escorts were updated. The OIPM will continue to advise and recommend appropriate policy revisions to ensure similar misconduct is less likely to occur. The OIPM identified several areas in NOPD policy, particularly in the area of administrative misconduct investigations, where there is room for continued improvement or policy changes. The OIPM will continue to work throughout 2023 and beyond to ensure these concerns are addressed and any gaps within policy or other systemic issues are addressed and corrected, working alongside the NOPD and our other partners.

66 audits occurred as a result of the allegations of misconduct. These audits led to various outcomes, including negotiated settlements for less significant offenders, supervisory feedback log entries, administrative investigations which in turn led to disciplinary penalties such as suspensions for the accused officers, and criminal investigations which are still ongoing. The OIPM will continue to monitor these investigations until their conclusion and offer real-time recommendations to the investigators.

OIPM hopes this report could offer answers to the public's questions regarding secondary employment, explain what secondary employment is, what misconduct exactly occurred, how NOPD, OIPM, OPSE and other partners responded to such misconduct, and what actions are being taken and will be taken to continue to address payroll related misconduct and prevent future secondary employment violations from occurring. Going forward, OIPM will continue to serve the public and looks forward to hosting a series of public forums to answer any questions or concerns regarding police secondary employment changes and the actions that occurred as a result of secondary employment misconduct.



In these photos, IPM, Stella Cziment, meets with different stakeholders in the secondary employment process including the Director of Homeland Security, John Thomas, leadership at the Office of Secondary Employment, Fabian Barbarin, Deputy Director of OPSE, Brian Boyle, Director of OPSE, Sergeant Jones of the Public Integrity Bureau and the former Deputy-Chief of the Public Integrity Bureau, Arlinda Westbrook. These types of meetings to discuss the cases and the types of changes that needed to be made to policy and the system were common occurrences in 2022.

Thank You



LaToya Cantrell
MAYOR

CITY OF NEW ORLEANS

DEPARTMENT OF POLICE

*715 South Broad Street
New Orleans, LA 70119*

"to protect and to serve"



Michelle M. Woodfork
SUPERINTENDENT

January 31, 2023

Ms. Stella Cziment, Independent Police Monitor
Office of the Independent Police Monitor
2714 Canal Street, Suite 201
New Orleans, LA 70119

RE: Secondary Employment Report

Greetings Independent Police Monitor Stella Cziment,

Thank you for the opportunity to provide a response to your recent Secondary Employment Report which was received by the Police Department on December 29, 2022. We, like you, are committed to ensuring we put systems in place to prevent misconduct on the part of bad actors while also allowing for the fact that employees will occasionally make mistakes. The systems discussed in your review were created to ensure these mistakes are corrected swiftly and those who act with malice are investigated and disciplined accordingly. Just as we hold our employees accountable, we must also hold our organization accountable. To that end, shortly after receiving your report, the NOPD conducted a data analysis of the preventative measures put in place regarding the integration of the ADP and the OPSE Payroll / Time Keeping Systems, as referenced on page nine of your report. The goal of this analysis was to determine if these preventative measures were robust enough to ensure overlapping shifts were no longer possible. Unfortunately, our analysis found, of the 256,037 shifts examined from March 1, 2022, to December 3, 2022, there were 815 overlaps identified (0.3 %). As you are aware, our department immediately notified both you and the Consent Decree Monitors of our findings. We have also begun to notify the supervisors of the officers of these discrepancies and are requiring a written explanation of said overlaps. Should these explanations not be reasonable, a disciplinary process will be initiated. As in any disciplinary process we welcome your oversight of the process and a public vetting of the findings.

However, we are not satisfied with our auditing, which has only discovered these deficiencies after the fact. We continue to work with the Office of Police Secondary Employment, the Consent Decree Monitoring team, and your office, to proactively identify the type of loopholes referenced on page nine of your report and close them wherever possible. Given the time constraints of providing your office feedback, we have not yet identified every viable solution to these issues;

"an equal opportunity employer"

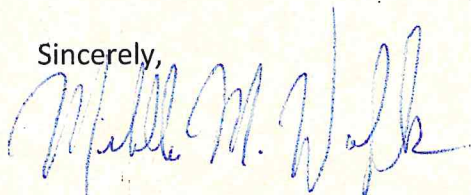
however, we commit to finding solutions in the same way we demonstrated our commitment to identify our deficiencies and resolve them regarding the previously mentioned data analysis.

Regarding your concern of reserve officers being in "good standing" prior to working a detail, we are taking steps to ensure this is done on a regular basis. The Captain of PSAB has been tasked with this assignment and will ensure compliance as a part of his regular duties. This information will also be shared with the Department's command staff during the Reserve section's future Max presentations. Finally, during the January 2023 Reserve Officer monthly meeting, the reserve officers in attendance were reminded of their good standing requirements and of increased monitoring for compliance within this area.

Concerning the issue, you brought up regarding a lack of consistency in allegations involving multiple counts, we are aware of your recommendations, and have been working with your office to draft a policy revision to address these concerns. We will continue to work with your organization as we identify areas of improvement within the NOPD. In the same vein, we acknowledge the other areas of policy you also discussed and will work with your team to determine the best course of action moving forward, be they policy changes, increased training, or simply a further review of alternative practices.

Finally, as I'm sure you recognize, this is an ongoing and complex issue spanning several city agencies. As this letter demonstrates, we stand ready to work with your office to identify areas we can improve our department's response to misconduct and solidify our policies to give our officers clear directions. As we move forward in this process, it is my hope our organizations continue to proactively address any issues which may arise and work towards a resolution as effectively as possible.

Sincerely,



Michelle M. Woodfork, Superintendent
New Orleans Police Department

MMW/NLG/nlg