

ORDINANCE
CITY OF NEW ORLEANS

CITY HALL: June 5, 2008
CALENDAR NO. 27,032

NO. _____ **MAYOR COUNCIL SERIES**

BY: COUNCILMEMBERS CARTER, MIDURA, CLARKSON, FIELKOW AND HEAD

AN ORDINANCE to amend Chapter 2 of the Code of the City of New Orleans to amend Article XIII relative to the Office of Inspector General by adding a new section thereto; establishing an Independent Police Monitoring Division within the Office of Inspector General; to establish the qualifications and duties of the Independent Police Monitor; to set forth the powers and responsibilities of the Independent Police Monitoring Division; and to provide otherwise with respect thereto.

1 **SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY**
2 **ORDAINS** That Article XIII of Chapter 2 of the City code is hereby amended and reordained to
3 add Section 2-1121 to read as follows:

4 Section 2-1121. Office of Independent Police Monitor.

5 **1. Creation of the Office of Independent Police Monitor**

6 There is hereby created within the Office of Inspector General an Independent Police
7 Monitoring Division, headed by an Independent Police Monitor. The Independent Police
8 Monitor shall be assisted by a Deputy Independent Police Monitor, and an Executive
9 Director of Community Relations. The Inspector General shall appoint the Independent
10 Police Monitor and all other staff within the division. The Inspector General shall create a
11 search committee to be composed of the Inspector General, serving as Committee
12 Chairman, the Chairman of the Ethics Review Board, the Chairman of the Criminal
13 Justice Committee of the City Council, the Superintendent of Police or his designee, a

14 designee of the Mayor, and two residents of New Orleans appointed by a vote of the
15 Criminal Justice Committee of the City Council. The search committee shall carry on a
16 nationwide search to identify and interview qualified candidates for the position. The
17 Inspector General shall consider the recommendations of the search committee in making
18 his selection.

1 **2. Qualifications**

2 The Independent Police Monitor shall be an attorney with substantial experience in
3 criminal, civil rights, and/or labor law, or corporate and/or governmental investigations;
4 or an individual with at least five years experience in law enforcement oversight,
5 preferably with a graduate degree. Knowledge of law enforcement, particularly of
6 internal investigations of wrongdoing and uses of force, is essential. The Monitor shall
7 possess impeccable integrity, sound judgment, and an ability to relate effectively with all
8 those who have a stake in law enforcement including, but not limited to, residents of and
9 visitors to New Orleans, the Police Department, other law enforcement agencies, and
10 relevant parts of city government. The monitor shall possess an understanding of the
11 city's ethnic diversity, cultural traditions, and socio-economic situation.

1 **3. Duties and Responsibilities**

2 The Independent Police Monitor shall monitor the New Orleans Police Department,
3 civilian and internally-generated complaints; internal investigations; discipline; use of
4 force; and in-custody deaths. The Independent Police Monitor shall review and analyze
5 the numbers and types of complaints; assess the quality and timeliness of New Orleans
6 Police Department investigations; review the adequacy of data collection and analysis;
7 review the public integrity bureau's policies, procedures, and resource needs; conduct
8 risk management reviews; review the operations and effectiveness of New Orleans Police

9 Department “early warning system”; review specific issues regarding supervision,
10 training, and discipline; conduct relevant pattern analysis; and other tasks to ensure New
11 Orleans Police Department accountability, transparency, and responsiveness to the
12 community it serves.

1 **4. Complaints**

2 The Independent Police Monitor shall receive complaints alleging misconduct by New
3 Orleans Police Department personnel that he will refer to the New Orleans Police
4 Department Office of Internal Investigations for investigation. The Independent Police
5 Monitor shall develop relationships with community and civic groups that may receive
6 civilian and anonymous complaints against New Orleans Police Department personnel as
7 a supplement to existing complaint intake mechanisms.

1 **5. Investigatory Power**

2 The New Orleans Police Department will advise the Independent Police Monitor within
3 four days of receipt by the New Orleans Police Department of any complaint of
4 misconduct, classified as a formal disciplinary investigation, disciplinary citation,
5 informal disciplinary investigation, or information documentation. The Independent
6 Police Monitor shall have the power to review the classification of all internal
7 investigations and, in circumstances where the Independent Police Monitor believes an
8 investigation was misclassified, to recommend to the New Orleans Police Department
9 that it be reclassified. The Independent Police Monitor shall also review and monitor such
10 investigations by the office of municipal investigations.

1 **6. Public Reporting Requirements**

2 The Independent Police Monitor shall have the power to recommend that an internal
3 investigation be re-opened if he determines that the investigation was not thorough or

4 fair. The reopening of case recommendation provision only applies to the very limited
5 instance where the statutory time limit permits. If the New Orleans Police Department
6 declines to accept the recommendations of the Independent Police Monitor relative to the
7 classification of an investigation, a line of questioning, re-opening an investigation not
8 deemed to have been appropriately completed, or any other recommendation, the
9 Independent Police Monitor shall issue a public report relative to the refusal. All
10 completed investigations reviewed by the Independent Police Monitor shall be
11 accompanied by a report in writing to the New Orleans Police Department stating
12 whether the investigation was considered fair, thorough, timely or insufficient.

1 **7. Police Commendations**

2 The Independent Police Monitor shall also compile data regarding commendations and
3 shall identify officers, units, and precincts that have been commended by the public for
4 doing exceptional work. Such information shall be presented in public reports. The
5 Independent Police Monitor will note patterns in commendations and urge the New
6 Orleans Police Department to share commendation information widely within the
7 department and identify practices and initiatives that should be emulated broadly
8 throughout the department. No provision of this ordinance shall violate the Officer Bill
9 of Rights.

1 **8. Civilian Complainants**

2 Civilian complainants, who have tried unsuccessfully to obtain a meaningful status report
3 on a complaint they initiated, may, upon request, receive such a status report from the
4 Independent Police Monitor. Civilian complainants, who are dissatisfied with the
5 outcome of an investigation they initiated, may request a review by the Independent
6 Police Monitor of the completed New Orleans Police Department investigation. When he

7 deems it appropriate, the Independent Police Monitor may recommend that such an
8 investigation be re-opened and report to the complainant whether he has recommended
9 any further investigation. The reopening of case recommendation provision only applies
10 to the very limited instance where the statutory time limit permits.

1 **9. Civil Claims and Lawsuits**

2 The Independent Police Monitor shall review patterns relating to civil claims and lawsuits
3 alleging New Orleans Police Department misconduct, payout amounts over time, units
4 disproportionately represented as subjects of claims and lawsuits, related training, and
5 other issues. The Independent Police Monitor shall review the investigation of the
6 underlying incidents described in such claims and lawsuits, whether those investigations
7 pre-dated the filing of a claim or lawsuit or the investigations were initiated following
8 such filings.

1 **10. Recommendations to Police Superintendent**

2 The Independent Police Monitor shall evaluate complaint trends and other information
3 and investigation practices. The Independent Police Monitor shall make
4 recommendations to the Superintendent to improve upon policies and practices based on
5 national best practices.

1 **11. Training Review**

2 The Independent Police Monitor shall periodically review training sessions and schedules
3 to identify best practices and any need for improvements to training curriculum or
4 frequency.

1 **12. Public Accountability**

2 The Independent Police Monitor shall distribute information about its office, duties and
3 functions. The Independent Police Monitor shall issue complaint and commendation

4 forms in languages and formats accessible to residents. The Independent Police Monitor
5 shall be required to hold at least one public outreach meeting in each council district of
6 the city at least once every four months. The Independent Police Monitor shall be
7 required to meet with each police association a minimum of three (3) times each year.

1 **13. Civil Service Commission to Establish Rules and Regulations**

2 The New Orleans Police Department and the Civil Service Commission shall work
3 cooperatively to establish rules and regulations that require both to cooperate with the
4 Independent Police Monitor as he actively monitors disciplinary and non-disciplinary
5 proceedings. Those policies shall provide for, among other things: timely notification
6 prior to disciplinary proceedings; complete access to the proceedings of departmental
7 boards and civil service hearings involving the disciplining of officers; and complete
8 access to all materials to which those boards and the civil service commission have
9 access. The policies shall also provide for the ability of the Independent Police Monitor
10 to attend disciplinary and non-disciplinary proceedings, to review disciplinary and non-
11 disciplinary documents, to make determinations as to whether departmental rules or
12 policies have been violated, to make recommendations regarding appropriate discipline,
13 and to review the appropriateness of disciplinary sanctions. The Independent Police
14 Monitor in conjunction with the New Orleans Police Department internal investigations
15 office shall make recommendations to the civil service commission relative to improving
16 police disciplinary procedures.

1 **14. Review of Data Collection and Analysis**

2 The Independent Police Monitor shall review New Orleans Police Department data
3 collection and analysis to enable it to track trends in relation to types and sources of
4 civilian and internally-generated complaints, processing and investigation, and

5 determinations stemming from complaints, discipline imposed by type of complaint, use
6 of the early warning system to intervene with an officer in need of additional training,
7 supervision, or other issues of concern that arise during a review by the Independent
8 Police Monitor. The New Orleans Police Department shall provide the appropriate
9 database and personnel to facilitate this section.

1 **15. Mediation of Civilian Complaints**

2 The Independent Police Monitor shall establish and administer a mediation program for
3 civilian complaints, guided by best practices identified in other jurisdictions with such
4 mediation programs. Consent of the civilian complainant, the police officer involved,
5 and the New Orleans Police Department shall be required before a case can be scheduled
6 for mediation by a trained neutral mediator from outside the New Orleans Police
7 Department.

1 **16. Public Reporting Requirement**

2 The Independent Police Monitor shall be required to issue at least one public report each
3 year, by March 31st, detailing its monitoring and review activities and the appropriate
4 statistical information from the internal investigations office, and other divisions of the
5 New Orleans Police Department. The Independent Police Monitor shall be required to
6 report upon problems it has identified, recommendations made and recommendations
7 adopted by the New Orleans Police Department. The report shall also identify
8 commendable performance by the New Orleans Police Department and improvements
9 made by the department to enhance the department's professionalism, accountability, and
10 transparency. The criminal justice committee of the New Orleans City Council shall
11 conduct a hearing on each annual report within 30 days of submission. Additional reports
12 relating to policy and training recommendations, matters of significant public interest, or

13 other concerns may be issued throughout the year. Such reports will be submitted to the
14 Criminal Justice Committee of the City Council of New Orleans and simultaneously
15 released to the public. The Committee will have discretion as to whether to conduct a
16 public hearing relating to such reports.

1 **17. Penalties for Violating this Section**

2 It shall be the duty of all city employees, classified or unclassified to cooperate with the
3 Independent Police Monitor in his work pursuant to this ordinance. Any city employee
4 who violates any provision of this Chapter shall be subject to investigation, and if
5 warranted, to discharge or such other discipline consistent with civil service rules and
6 procedures, in addition to any other penalty provided in the City Charter or ordinances.

1 **18. Negotiation of Protocols**

2 The Independent Police Monitor and the New Orleans Police Department shall be
3 required to negotiate protocols within 90 days of the appointment of the Independent
4 Police Monitor.

1 **19. Retention of Powers by Inspector General**

2 Nothing in this ordinance shall be construed to limit the existing powers of the Office of
3 Inspector General granted by statute, ordinance, rule or regulation. The Office of
4 Inspector General shall retain all the powers and duties granted by federal and state
5 statute, court ruling, ordinance, executive order, rule and regulation, contract or other
6 means.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS_____

PRESIDENT OF COUNCIL

DELIVERED TO THE MAYOR ON: _____

APPROVED:
DISAPPROVED: _____

MAYOR

RETURNED BY THE MAYOR ON: _____ **AT** _____

CLERK OF COUNCIL

ROLL CALL VOTE

YEAS:

NAYS:

ABSENT:

RECUSED:

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