

OFFICE OF INDEPENDENT POLICE MONITOR CITY OF NEW ORLEANS



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INDEPENDENT POLICE MONITOR

March 1, 2019

VIA EMAIL

The Honorable Mayor LaToya Cantrell
1300 Perdido Street, Second Floor
New Orleans, LA 70112

RE: Follow Up to Citywide Public Safety Improvements Plan Letter Dated November 28, 2017

Dear Mayor Cantrell,

The Office of the Independent Police Monitor (OIPM) is an independent branch of city government responsible for providing oversight, accountability, and transparency to the New Orleans Police Department (NOPD).¹ The OIPM is responsible for reviewing police action, particularly police interaction with the public, to ensure adherence to NOPD policy, protocol, and the needs of the community that the NOPD seeks to serve. One component of the OIPM is to provide recommendations to the NOPD and its partners based on the OIPM assessments of NOPD's resources, training, policy, tactics, and culture. The recommendations are based on pre-existing NOPD policy, the consent decree, national best practices, and the feedback from the community.

The Real-Time Crime Center (RTCC), though independent from the NOPD, acts as a partner to the NOPD and a tool to be utilized by the NOPD. The RTCC has a real impact on NOPD resource deployment, tactics, and accountability systems. In order to ensure NOPD compliance with the consent decree and NOPD policy, the OIPM is now providing input and recommendations regarding the use of the RTCC by the NOPD.

Currently, both the policy of RTCC and the NOPD is silent regarding oversight when used for law enforcement purposes and when the RTCC is used to facilitate NOPD interactions with the public. As a result, several community groups have brought to the OIPM's attention concerns regarding the NOPD's use of the RTCC. The OIPM is required under ordinance to facilitate those community concerns and provide feedback to both the community and the NOPD on the NOPD's use of this equipment/center to ensure the NOPD is compliant with the Consent Decree, Paragraph 225 regarding the integration of "community and problem-orientated policing

¹ New Orleans Code of Ordinances, Section 2-1121, Paragraphs 3, 4, 9, 14 and 16.



principals” into NOPD “resource deployment, tactics and accountability systems,” of which the RTCC is one.

In this letter, the OIPM seeks to both communicate the expressed concerns of these community groups and provide recommendations to strengthen the oversight of how and when the NOPD uses the RTCC.

Background

OIPM began engaging the PSI when various² community groups³, made the OIPM aware of their concerns regarding privacy, profiling, and disparate impact. In November 2017, the OIPM catalogued a few issues for the city to consider as the PSI advanced. This is as a follow up to the letter the OIPM released on November 28, 2017⁴. This letter addresses the evolution of the Citywide Public Safety Improvements (PSI) Plan⁵ authored by Mayor Landrieu on January 23, 2017.

Although the PSI is not being implemented by any single agency, one of the clearest manifestations of the plan has been the creation of the Real-Time Crime Center (RTCC)⁶. OIPM began obtaining more information about how the RTCC and NOPD interact, how NOPD utilizes RTCC’s tools, and how the NOPD’s use of RTCC tools impacts NOPD’s compliance with its own rules, including the Consent Decree. First, OIPM management met with the Directors of Public Safety and Homeland Security to request access to the RTCC and ask several initial questions. Additionally, through Col. Terry Ebbert and Director Collin Arnold, the OIPM was able to bring the entire OIPM team to receive an extensive tour of the RTCC by staff. OIPM was able to ask detailed questions and get detailed answers regarding how the RTCC operated. Finally, on January 30, 2019, OIPM organized a tour of the RTCC that allowed our community to engage directly with other City departments in charge of the facility or providing some oversight of the RTCC, which helped to answer questions with detailed information, and allayed some of the concerns. OIPM and participant community groups noted that RTCC has some existing oversight controls and infrastructure in place, including the Human Relations Commission and its Director. This infrastructure was put in place at the beginning of the program and has been continued at your direction and leadership. Additionally, RTCC management has set the supervisory tone of training employees, operators and technical staff to be concerned about security and community issues.

² https://www.theadvocate.com/baton_rouge/opinion/letters/article_a6010418-f3a1-11e6-bba4-db9b27de9778.html

³ Official MaCCNO Statement: Proposed Citywide Safety Plan Invites Profiling, Damages Culture

⁴ <http://nolaipm.gov/wp-content/uploads/2017/11/Letter-Regarding-Citywide-Public-Safety-Improvements-Plan-Proposed-by-Mayor-Landrieu.pdf>

⁵ http://www.nola.gov/city/new-orleans-public-safety-final_012317

⁶ <https://www.nola.gov/homeland-security/real-time-crime-center/>



The collective group was appreciative of the cooperative and collaborative quality of the meeting and discussed how this meeting was meant to be the first conversation and meeting on this subject. In fact, the collective group requested a more thorough public vetting of the RTCC through a public forum. The collective group found the information that they obtained during the tour to be informative and thought that more community members could benefit from such a public forum. OIPM would like to coordinate with the HRC and the community groups to hold a public forum about the RTCC. Given the OIPM's field of oversight in this matter regarding the NOPD's use of the RTCC in policing, this public forum will fulfill part of the OIPM's Public Accountability duties as outlined in the OIPM Ordinance.⁷ Additionally, the Mayor's Office, Department of Homeland Security, City Attorney's Office, and the HRC provide oversight to the RTCC as a part of their executive branch functions. Holding a public forum is just one of the recommendations from both the OIPM and community contained herein.

It is the goal of the OIPM's outreach program in 2019 to amplify community voices through our work to reach the ultimate goal of Community Led Policing and compliance with the Consent Decree. Without the cooperation and access from RTCC management and staff, the concerns and recommendations in this letter could not have been drafted. As mentioned previously, the OIPM is required under ordinance to facilitate those community concerns and provide feedback to both the community and the NOPD, pursuant to Consent Decree, Paragraph 225, regarding the integration of "community and problem-orientated policing principals" into NOPD "resource deployment, tactics and accountability systems".⁸

RTCC Legal Framework & Policies

The RTCC is a part of the executive branch of municipal government in New Orleans and operates under the guidance of the Mayor's Office.⁹ Current guidelines for the facility's operations are included in four pages of internal policy. Highlights of RTCC's operations and current protocols in place, include:

1. The system is designed with the intent to "deter criminal activity" (Section IIA);
2. "No person shall be targeted by the System solely because of actual or perceived race, color, religion or creed, age, national origin, alienage, citizenship status, gender, sexual orientation, disability..." (Section C);
3. "Facial recognition technology is not to be used by the System" (Section C);

⁷ New Orleans Municipal Code of Ordinances, Section 2-1121 (12).

⁸ <https://www.aclu.org/issues/privacy-technology/surveillance-technologies/community-control-over-police-surveillance>

⁹ 3,000 hours is the approximately the cost of two sergeants working full time at \$73K / year.
<https://joinnopd.org/career-paths-and-benefits/salary-calculator/>



4. "Cameras that are part of the System shall have accompanying signage or decals" (Section C);
5. "Footage shall be retained for a maximum of 30 days" (Section D);
6. There currently no city, state, or federal laws that explicitly relate to the operation of the RTCC;
7. Oversight of the RTCC is carried out by the Mayor's Office, HRC, City Attorney's Office, and Department of Homeland Security. This structure was specifically enacted to ensure that RTCC was not overseen by NOPD.

Recommendation for a Public Forum

The community groups and OIPM were appreciative of information provided during the tour, the receipt of written policies, and the RTCC's proactive approach to creating controls. However, further questions were developed after the tour, and both the OIPM and the following community groups request a public forum, to include the City agencies present at the RTCC tour, to share information and answer questions for a wider audience:

1. American Civil Liberties Union of Louisiana
2. American Friends Service Committee - New Orleans
3. Bourbon Alliance of Responsible Entertainers
4. Jewish Voice for Peace - New Orleans
5. Music and Culture Coalition of New Orleans
6. Nola to Angola
7. Stop Watching Nola
8. Ubuntu Village

A brief overview of the community concerns expressed to and by OIPM is provided below:

1. Camera Locations and Potential for Disparate Impacts. RTCC has not released camera locations to the public or OIPM. The tour elevated concerns around possibly unconstitutional and disparate racial impacts of the camera system for which the collective group recommended.

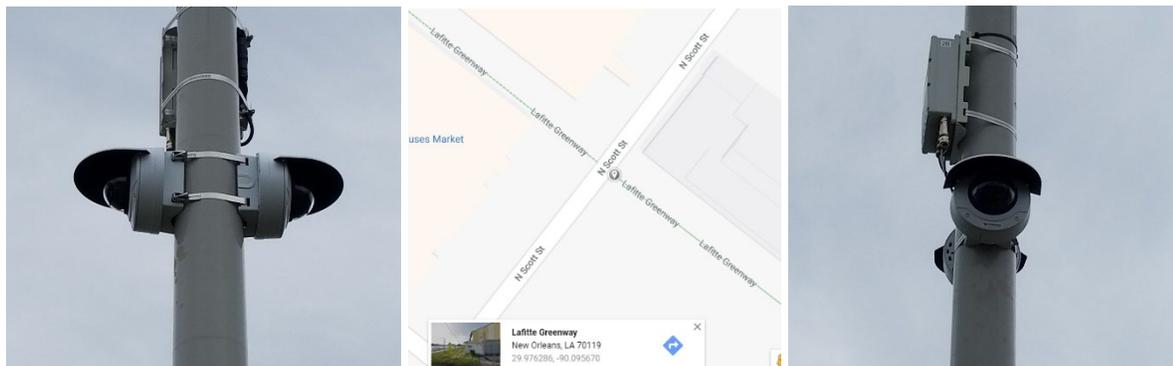
Both OIPM and HRC are tasked with monitoring and working to reduce disparate impacts on protected classes. Additionally, the City of New Orleans has launched an Equity Strategy to, amongst other things, look at equity issues in city operations and their review of this issue would be informative. Community groups, such as Stop Watching Nola, are working to conduct an impact analysis.



A public forum could answer a broad range of questions regarding the discretion of the camera operators, controls, proactive oversight and auditing—to review how cameras are positioned and located, as well as the way NOPD polices impact the effectiveness of the criminal justice system. If these cameras are becoming a larger part of NOPD tactics and operations, then it could lead to negative outcomes in the criminal justice system and raise questions of constitutional legality.

2. Facial Recognition. The Mayor has banned the use of facial recognition, and RTCC assured the community groups and OIPM that no facial recognition software is in place. However, a thorough vetting of the community’s concerns surrounding the legality and implementation of such software by law enforcement is recommended.
3. Unmarked Cameras. In addition to the written policy, City officials and RTCC staff also advised four participants that all cameras were marked with an NOPD decal. A review by Stop Watching Nola, in at least one region of the City, showed that 30 of 30 cameras surveyed were found to have no identifying marker. A public forum will provide community an opportunity to identify other unmarked cameras.

Additionally, community groups found it unsettling that private cameras can be fed into RTCC without the public having any knowledge that such footage is being monitored by law enforcement. We recommend a thorough public discussion regarding this aspect of the system, as well.



4. 30-day Retention Policy. The ACLU recommends that communities “choose a retention period that balances a desire to be responsive to public records requests with residents’ civil liberties, including privacy”¹⁰. There has not been a community discussion about this issue, and additional concerns to be discussed at a wider forum include how a 30-day window impacts the ability of NOPD accountability systems to identify video

¹⁰ https://www.aclunc.org/docs/20160325-making_smart_decisions_about_surveillance.pdf



related to any complaint or use of force. OIPM notes that misconduct complaints are often initiated over a month after the original incident.

5. Additional Proactive Oversight. During the tour, comments from both RTCC and the City Attorney made clear that the facility is not subject to formal external oversight by any legislative body. RTCC does have some existing infrastructure in place that could be used for oversight purposes, but a forum would allow the community to discuss with the City the efficacy of external auditors. Both OIPM and HRC are tasked with monitoring and working to reduce disparate impacts on protected classes. Additionally, as a part of its normal operations, OIPM reviews issues concerning NOPD's compliance with its own rules, including the Stops, Searches, and Arrests paragraphs of NOPD's consent decree.¹¹ The collective community groups requested a public forum to further discuss how RTCC policies work in relation to the consent decree, immigration enforcement agencies, accountability, and jurisdiction.

8. Fiscal Discussion. During the tour, RTCC stated that although there is not currently any direct causal evidence that the camera system has led to a reduction in crime, a notable success of the system is having saved over 3,000 person-hours of investigative time, the equivalent of about \$150k in salary, or two sergeant hires. A public discussion about the use of public funding and priorities for policing would be informative for the New Orleans community.

Should you have any questions or concerns about this letter or wish to discuss it further, the OIPM staff are at your disposal. Additionally, many of the involved community groups welcome the opportunity to engage the city on this matter.

Sincerely,



Susan Hutson
Independent Police Monitor

¹¹ NOPD Consent Decree Paragraphs 122-162.

