

INDEPENDENT POLICE MONITOR



OFFICE OF INSPECTOR GENERAL



CITY OF NEW ORLEANS

Memorandum of Understanding Between the NOPD and the IPM

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PREAMBLE

The Office of the Independent Police Monitor (IPM) and the New Orleans Police Department (NOPD) recognize the need for interagency communication, interoperability, and cooperation. The City of New Orleans has established an ordinance creating the IPM to provide civilian oversight to the NOPD. Both agencies understand the need to work together to establish and maintain communications and cooperation to fulfill the will of the public with respect to the ordinance.

PURPOSE

The purpose of this Memorandum of Understanding (MOU) is to provide a structure for the personnel of both agencies to work together to allow the monitoring of NOPD investigations and policies/procedures.

IMPLEMENTATION

It is the responsibility of the heads of each agency to ensure that this MOU is followed and to ensure that agency personnel are trained and updated appropriately.

MODIFICATIONS

Updates and modifications will take place, as necessary and as agreed upon.

AUTHORIZING ORDINANCE

Legislation establishing the Independent Police Monitor Office is codified in the Municipal Code of Ordinances, Part II, Chapter 2, Article XIII Section 2-1121, entitled "Office of independent police monitor:"

1. Creation of the Office of Independent Police Monitor

There is hereby created within the Office of Inspector General an Independent Police Monitoring Division, headed by an Independent Police Monitor. The Independent Police Monitor shall be assisted by a Deputy Independent Police Monitor, and an Executive Director of Community Relations.

2. Qualifications

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

3. Duties and Responsibilities

The Independent Police Monitor shall monitor the New Orleans Police Department, civilian and internally-generated complaints; internal investigations; discipline; use of force; and in-custody deaths. The Independent Police Monitor shall review and analyze the numbers and types of complaints; assess the quality and timeliness of New Orleans Police Department investigations; review the adequacy of data collection and analysis; review the public integrity bureau's policies, procedures, and resource needs; conduct risk management reviews; review the operations and effectiveness of New Orleans Police Department "early warning system"; review specific issues regarding supervision, training, and discipline; conduct relevant pattern analysis; and other tasks to ensure New Orleans Police Department accountability, transparency, and responsiveness to the community it serves.

4. Complaints

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

5. Investigatory Power

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

6. Public Reporting Requirements

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

7. Police Commendations

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

8. Civilian Complainants

Civilian complainants, who have tried unsuccessfully to obtain a meaningful status report on a complaint they initiated, may, upon request, receive such a status report from the Independent Police Monitor. Civilian complainants, who are dissatisfied with the outcome of an investigation they initiated, may request a review by the Independent Police Monitor of the completed New Orleans Police Department investigation. When he deems it appropriate, the Independent Police Monitor may recommend that such an investigation be re-opened and report to the complainant whether he has recommended any further investigation. The re-

opening of case recommendation provision only applies to the very limited instance where the statutory time limit permits.

9. Civil Claims and Lawsuits

The Independent Police Monitor shall 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. The Independent Police Monitor shall review the investigation of the underlying incidents described in such claims and lawsuits, whether those investigations pre-dated the filing of a claim or lawsuit or the investigations were initiated following such filings.

10. Recommendations to Police Superintendent

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

11. Training Review

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

12. Public Accountability

The Independent Police Monitor shall distribute information about its office, duties and functions. The Independent Police Monitor shall issue complaint and commendation forms in languages and formats accessible to residents. The Independent Police Monitor shall be required to hold at least one public outreach meeting in each council district of the city at least once every four months. The Independent Police Monitor shall be required to meet with each police association a minimum of three (3) times each year.

13. Civil Service Commission to Establish Rules and Regulations

The New Orleans Police Department and the Civil Service Commission shall work cooperatively to establish rules and regulations that require both to cooperate with the Independent Police Monitor as he actively monitors disciplinary and non-disciplinary proceedings. Those policies shall provide for, among other things: timely notification prior to disciplinary proceedings; complete access to the proceedings of departmental boards and civil service hearings involving the disciplining of officers; and complete access to all materials to which those boards and the civil service commission have access. The policies shall also provide for the ability of the Independent Police Monitor to attend disciplinary and non-disciplinary proceedings, to review disciplinary and non-disciplinary documents, to make determinations as to whether departmental rules or policies have been violated, to make recommendations regarding appropriate discipline, and to review the appropriateness of disciplinary sanctions. The Independent Police Monitor in conjunction with the New Orleans Police Department internal

investigations office shall make recommendations to the civil service commission relative to improving police disciplinary procedures.

14. Review of Data Collection and Analysis

The Independent Police Monitor shall review New Orleans Police Department data collection and analysis to enable it 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 the early warning system to intervene with an officer in need of additional training, supervision, or other issues of concern that arise during a review by the Independent Police Monitor. The New Orleans Police Department shall provide the appropriate database and personnel to facilitate this section.

15. Mediation of Civilian Complaints

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

16. Public Reporting Requirement

The Independent Police Monitor shall be required to issue at least one public report each year, by March 31st, detailing its monitoring and review activities and the appropriate statistical information from the internal investigations office, and other divisions of the New Orleans Police Department. The Independent Police Monitor shall be required to report upon problems it has identified, recommendations made and recommendations adopted by the New Orleans Police Department. The report shall also identify commendable performance by the New Orleans Police Department and improvements made by the department to enhance the department's professionalism, accountability, and transparency. The criminal justice committee of the New Orleans City Council shall conduct a hearing on each annual report within 30 days of submission. Additional reports relating to policy and training recommendations, matters of significant public interest, or other concerns may be issued throughout the year. Such reports will be submitted to the Criminal Justice Committee of the City Council of New Orleans and simultaneously released to the public. The Committee will have discretion as to whether to conduct a public hearing relating to such reports.

17. Penalties for Violating this Section

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

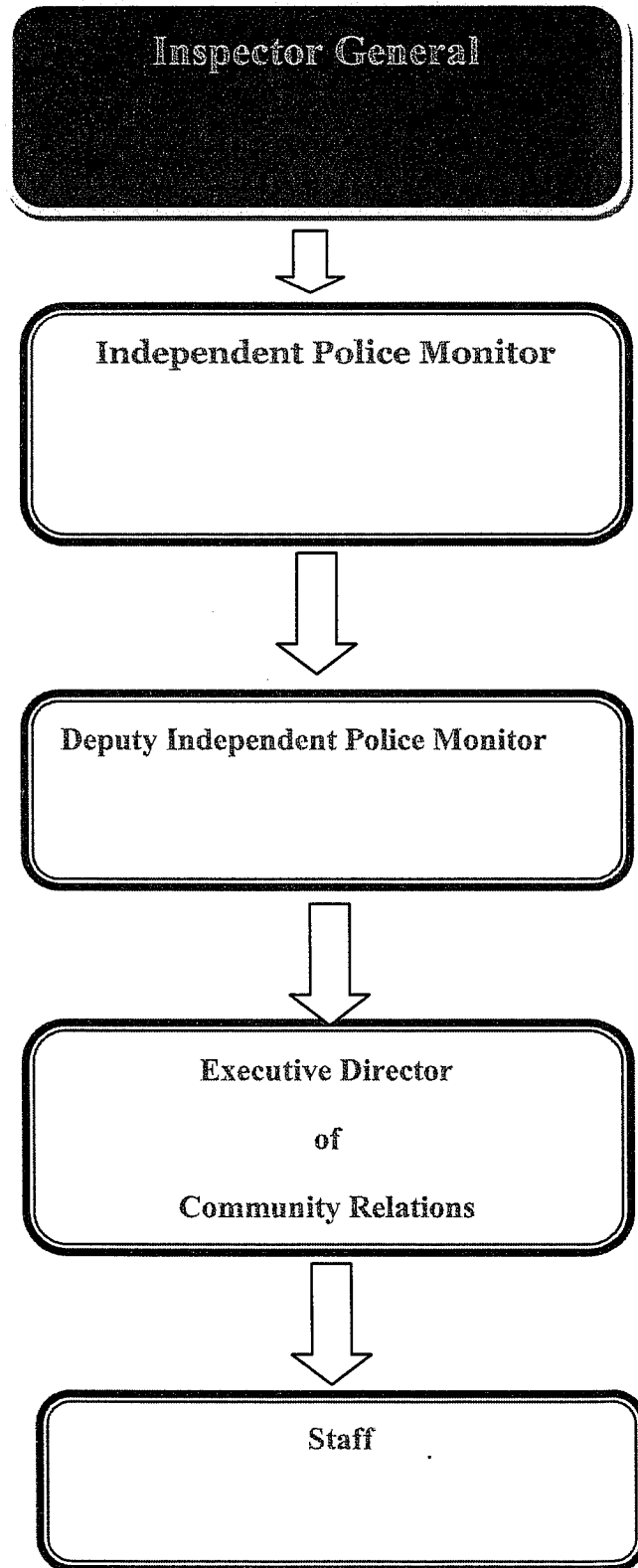
18. Negotiation of Protocols

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

19. Retention of Powers by Inspector General

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

INDEPENDENT POLICE MONITOR ORGANIZATION CHART



DEFINITIONS

For purposes of this Memorandum of Understanding, these words and phrases have the following meanings:

Classifications: Pursuant to NOPD Operations Manual Chapter: 52.1, Internal Disciplinary Investigations, all complaints are classified as *DI-1*, *DI-2*, *DI-3* or *INFO*:

DI-1 (formal disciplinary investigation) – Documentation of the initiation of a formal investigation of a complaint from a citizen or employee, whether a third party or anonymous, or observed behavior of an employee. The investigation of behavior, an act, or the omission of an act by an employee, which a supervisor has become aware of, involving an alleged violation of a departmental regulation, order, or procedure, or of a criminal law.

DI-2 (disciplinary citation) – The documentation of corrective action taken by a supervisor upon confirming an employee's behavior involving a minor violation of a Departmental regulation, order, or procedure. This behavior must be considered so minor that it is correctable by simple counseling or minimal intervention by a supervisor.

DI-3 or NIMS (informal disciplinary investigation) – The documentation of a review of information received by a supervisor of an allegation made by a citizen or employee of an employee's conduct, which may or may not involve a minor violation of a Departmental regulation, order or procedure. The supervisor's review must address the concerns of the complainant, and the subsequent action taken by the supervisor to either remedy those concerns and/or to counsel the employee. The incident does not merit a formal investigation; therefore this classification does not result in the initiation of a formal investigation.

INFO (information documentation) – The documentation of information relative to a potential complaint (example: witness to an incident for which no official complaint has been received information), a situation reported by a citizen, or an observation by an employee which does not contain sufficient information to initiate an investigation of an alleged violation of a departmental regulation, order, or procedure.

Complaint: A written, filed expression of dissatisfaction, an allegation of misconduct or of a violation of a departmental regulation, order or procedure or of criminal law by an NOPD employee, whether brought by a civilian or internally generated. Complaints can be brought by an involved party or by a third party. Complaints can be brought anonymously.

Computing Time: When calculating any time period specified in this Protocol the following rules apply: (A) exclude the day of the event that triggers the period; (B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and

(C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

Critical Incident: The term “Critical Incident” means:

- All incidents involving the use of deadly force by an NOPD officer, including an Officer Involved Shooting (“OIS”);
- All uses of force by an NOPD officer resulting in an injury requiring hospitalization, (commonly referred to as a law enforcement related injury or LERI incident);
- All head strikes with an impact weapon, whether intentional or not;
- All other uses of force by an NOPD officer resulting in a death, (commonly known as a law enforcement activity related death or LEARD incident); and
- All deaths while the arrestee or detainee is in the custodial care of the NOPD, commonly referred to as an in-custody death or ICD; and

Department member: any employee of the NOPD, whether a civilian or a commissioned officer.

Early Warning System: A method of identifying department members exhibiting a pattern of behavior that signals potential problems for both the NOPD and the public.

Findings: Upon completion of any internal disciplinary investigation, however classified, the complaint will be found: sustained, not sustained, exonerated, unfounded, resigned or retired under investigation (RUI), dismissed under investigation (DUI), withdrawn, cancelled or duplicate.

Independent Police Monitor (PM): The director of the IPM.

Mediation: A voluntary, confidential complaint resolution option. It is an alternative to the investigation, adjudication or disciplinary processes. Mediation is a structured process guided by a neutral, third-party, professionally-trained mediator which enables direct communication between the complainant and the department member.

Misconduct: Actions that include but are not limited to the following:

- Use of excessive force
- Abuse of authority such as unlawful searches and seizures), premises enter and search, no warrant, threat to notify child services, threats to damage property, etc., refusal to take complaint, refuse to identify themselves); damages to property seized
- Failure to supervise
- Falsification of records
- Inappropriate language or attitude
- Harassment
- Interference with Constitutional rights
- Neglect of duty

- Discrimination in the provision of police services or other discriminatory conduct on the basis of race, colors, creed, religion, ancestry, national origin, gender, sexual orientation
- Theft
- Retaliation for filing a complaint with the NOPD or the IPM

Office of the Independent Police Monitor (IPM): The Division within the Office of Inspector General that shall monitor the New Orleans Police Department, civilian and internally-generated complaints; internal investigations; discipline; use of force; and in-custody deaths; training and policies and procedures, to ensure New Orleans Police Department accountability, transparency, and responsiveness to the community it serves.

Public Integrity Bureau (PIB): The NOPD Bureau designated by the Superintendent of Police to have the “primary responsibility for the intake, coordination and review of every allegation of police misconduct.” NOPD Operations Manual Chapter: 52.1 Para. 19.

Standard of Proof: NOPD disciplinary findings must be supported by a preponderance of the evidence. Civil Service Commission Rules Sec. 44; Cittadino v. Civil Service, 558 So. 2d 1311 (4th Cir. 1990).

Superintendent: Superintendent of Police of the New Orleans Police Department (NOPD).

MONITORING INVESTIGATIONS OF ALLEGED NOPD EMPLOYEE MISCONDUCT

The IPM monitors NOPD investigations of allegations of misconduct committed by NOPD members, whether the allegations are raised by civilian complaints or are internally generated. The IPM also monitors investigations of critical incidents as defined above.

IPM Complaint Intake and Referral to PIB

The IPM shall receive complaints from any source regarding alleged misconduct by an NOPD member. Complaints may be filed by telephone, in writing, by mail, by e-mail, in person at designated locations or on the IPM's website. They may be submitted by third parties not directly involved in the complaint or incident and they may be submitted anonymously. See, **Confidentiality/Safety of Complainants**, below.

1. Anyone may request that the IPM receive their complaint, including a person who is currently incarcerated or one who has a pending criminal charge may file a complaint without fear of retaliation. If the complainant is incarcerated, the IPM will visit the complainant upon request and will notify PIB of his/her location.
2. When complainants present IPM staff with physical evidence, the IPM will immediately contact PIB to take custody of the evidence. If conditions prevent the IPM from contacting PIB, the IPM shall follow best practices for preserving the chain of custody maintaining this evidence until PIB can collect it.
3. The IPM will note the afterhours phone number for PIB on its complaint hotline message, to facilitate provide immediate assistance for complainants when the IPM is closed.
4. To facilitate reporting of complaints, the IPM will widely disseminate copies of Appendix A, Complaint/Commendation Form, in English, Vietnamese and Spanish.
5. The IPM and PIB shall develop relationships with community and civic groups that may receive civilian and anonymous complaints of police misconduct and shall accept complaints from these groups on behalf of individuals who have complained to them. The IPM and PIB may jointly provide training to these groups on the acceptance of complaints.
6. The IPM shall refer complaints to the PIB within four (4) days of receipt. See, Appendix B, Referral to PIB.
7. Alternatively, the IPM or PIB may recommend such complaints for mediation. See, Mediation below.

8. Where appropriate, the IPM shall refer such complaints to the Federal Bureau of Investigation, the United States Attorney, the District Attorney or other relevant agencies for possible investigation and criminal prosecution. The IPM shall notify the Deputy Superintendent of PIB of any such referrals if agreed to by the referral agency.

Confidentiality/Safety of Complainants and Witnesses

9. The NOPD and the IPM jointly agree that both offices will keep the names of any complainants and witnesses confidential from public disclosure, to the extent allowed by law, if the complainant or witness asks for anonymity.
10. If it is necessary to enter the name of confidential complainants and witnesses in any database maintained by the IPM and/or NOPD, said name will be masked or inaccessible to all employees of each office, excluding the investigative officer or IPM's reviewing staff-member; and their supervisors.
11. The Superintendent of Police, Deputy Superintendent of PIB, Independent Police Monitor and the Deputy Independent Police Monitor will have the highest levels of access to all confidential information, except as noted specifically herein.
12. The IPM will notify PIB within 24 hours of any complainant or witness, especially department employees, who fears retaliation for filing a complaint.

PIB Notification to IPM

13. PIB will notify the IPM within seven (7) days of its receipt of all complaints, whether civilian or internally generated, and however classified. The PIB will simultaneously provide the IPM with a complete copy of the original "COMPLAINANT/INITIAL INTAKE," and/or the DI-1 initiation form, DI-2 Citation of Disciplinary Action, DI-3 initiation form or INFO form, and any related incident reports. PIB shall not exclude any information from the complaint form provided to the IPM.
14. Upon request by the IPM, PIB will provide the IPM with complete access to the departmental employee's work history, including discipline, the early warning system and all current and/or prior complaints involving the department member. NOPD Operations Manual Chapter 52.2, DEFINITION *DI-1*.

Classification

15. The IPM will provide PIB with its recommendation as to classification of any complaint within seven (7) days of receipt of information regarding prior or current complaints or investigations involving the department member.
16. The IPM will provide PIB with its written criteria for the review of the classification of any complaint. See, Appendix C, IPM Classification Checklist.

17. The NOPD and the IPM jointly agree that complaints shall be classified as INFO or NIMS when the sole reason for the complaint consists of one or more of the following issues, unless the initial conversation with the complainant identifies other types of misconduct:
 - a. Disputed traffic citation, excluding complaints related to the traffic stop such as racial profiling, illegal search and any use of force;
 - b. Delay in service, if the delayed response of a patrol unit or a detective failing to conduct a follow up interview is due to workload. However, if the preliminary investigation discloses there was negligence rather than a delay in providing service due to workload (e.g., call lost when passed from one unit to another at change of watch), the complaint will be classified according to its merits.
 - c. Complaints that are of a civil nature, unless the conduct or its effects had some substantial nexus to the employment of the accused employee.

The IPM will also review cases classified in this manner.

18. Should the IPM disagree with PIB's classification of any complaint or investigation, it will notify PIB in writing within seven (7) days of receipt of notification the complaint. See, Appendix D, Recommendation for Re-classification.
19. The PIB will have seven (7) days to respond to the IPM's Recommendation for Re-classification. An extension of time for the response may be agreed to between the IPM and PIB. After that time, the IPM may issue a public report regarding the complaint and stating the grounds for its disagreement. This report shall include the PIB response, if received within the time period designated.

Monitoring Ongoing Investigations

20. The IPM will continue to attend the PIB Comstat meeting each week. At least two (2) days prior to the meeting, the IPM will provide the Deputy Superintendent of PIB a list of cases or issues which the IPM requests be discussed in detail during the meeting.
21. In order to allow the IPM to fulfill its monitoring functions under the Ordinance, the IPM will have read and print access to PIB investigative files located in the IPM/PIB database. The IPM will not make editions or changes to the investigative files in the database.
22. As to administrative investigations conducted by PIB, the IPM will have view only access in the IPM/PIB database to the ongoing investigation, including but not limited to complaints, reports, and evidence, as the information is added or

scanned into the electronic case file in the database. PIB supervisors shall review and approve the scanned material prior to the IPM's access.

23. As to criminal investigations conducted by PIB, the IPM will view these investigations in the database once they become ongoing administrative investigations after the close of the criminal investigation. The Police Monitor will be briefed by the Deputy Chief of PIB about the status of criminal investigations which cannot be viewed in the database.
24. Although, the IPM will monitor the investigations, the IPM will not write its report about the quality of the investigation, until the completed investigation has been approved by the Director of PIB. If the IPM notes any issues/concerns with respect to an investigation while it is still open, the Police Monitor will provide those issues/concerns to the Deputy Chief of PIB at the weekly PIB Comstat meeting.

Status Report on Investigations

25. On the request of a complainant who has tried unsuccessfully to obtain a meaningful status report on a complaint initiated with the NOPD, the IPM will review the status of the investigation in the IPM/PIB database or, if the database is unavailable, obtain such a report from PIB within seven (7) days of the request. See, Appendix E, Notice of Status of Complaint.
26. Upon a request for a status report on an investigation, PIB will provide the IPM with the following information:
 - a. The date the complaint was received by the NOPD;
 - b. How it was classified;
 - c. The assigned investigator and his/her contact information;
 - d. Any actions taken by the PIB;
 - e. The outcome of the investigation if it has been completed, including any discipline imposed; and
 - f. Any pending deadlines, such as those imposed by La. R.S. 40:2531 or by departmental regulations.
27. The IPM will provide the complainant with the following information about the status of the investigation:
 - a. Whether the complaint investigation is still open (ongoing) or closed; and
 - b. The assigned investigator and his/her contact information;
28. The IPM will provide PIB with any supplemental complaint information received from the complainant within three (3) days of its receipt by the IPM.

29. If the complaint was sustained by PIB and appealed by the NOPD member to the Civil Service Commission, the IPM will also inform the complainant of the date of appeal to the Civil Service Commission and the dates of hearings before the Commission. The IPM will provide the complainant with a copy of the Commission's decision if it has been rendered and further inform the complainant if the appellant has appealed a decision of the Civil Service Commission to the 4th Circuit Court of Appeals.

Review of Completed PIB Investigations of Alleged Misconduct

30. The IPM shall complete its review of the results of PIB investigations within ten (10) days of its completion or of the IPM's receipt thereof.
31. The investigation will be considered to be completed upon its approval by the Deputy Superintendent of the Public Integrity Bureau.
32. The IPM shall have the authority to review the investigations of all allegations of criminal misconduct, any critical incidents, *DI-1* formal administrative disciplinary investigation, *DI-3* informal administrative investigation, *DI-2* Citation of Disciplinary Action or INFO, as soon as it is available, but no later than ten (10) days of its completion. It is goal of both PIB and IPM that the case be available for IPM review within enough time to allow the IPM to give its findings about the investigation prior to the adjudication of the complaint.
33. The IPM shall have access to investigative reports, all evidence collected during investigations and any other documents or materials related to the investigation of the allegations of misconduct, including but not limited to recordings of interviews, investigative notes, chronological records, or memoranda.
34. The IPM will provide PIB with its written criteria for the review of investigations. See, Appendix F, IPM Complaint Investigation Review Matrix.
35. Whenever the IPM reviews a completed investigation, it shall submit a report in writing to the NOPD, the public and/or the complainant (if the complainant requested the review) stating whether the investigation was found to be fair, thorough and timely.
36. If the IPM makes a determination that the investigation was not fair, thorough or timely, it can issue findings and recommend that the investigation be re-opened. However, this power is limited to those investigations where further investigation is not barred by state law. IPM and PIB shall issue a joint final report as to PIB's response to the IPM's findings. The joint final report shall be issued within 15 days of the IPM's findings. An extension of time for the report may be agreed to between the IPM and PIB.

DISCIPLINE AND HEARINGS

37. The PIB shall provide the IPM with five (5) days prior notification of all disciplinary and non-disciplinary hearings, as authorized by paragraph 13 of the Ordinance; including but not limited to the Administrative Shooting Hearing, Commander's Hearing, the Bureau Chief's Hearing, the Assistant Superintendent's Committee and the Superintendent's Hearing.
38. The PIB shall provide the IPM with complete access to the proceedings of departmental boards and civil service hearings involving the disciplining of officers; and complete access to all materials to which those boards and the civil service commission have access at least five (5) days prior to the disciplinary or non-disciplinary hearing.
39. The NOPD shall permit the IPM to attend all disciplinary and non-disciplinary hearings.
40. The PIB shall provide the IPM with notice of the findings of the hearings officer within seven (7) days of their issuance.
41. As to hearings, the IPM shall, 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 paragraph 13 of the Ordinance. These determinations, recommendations, and findings shall be submitted to the NOPD in writing within seven (7) days of receipt of notice of the discipline.

MONITORING OF CRITICAL INCIDENTS

42. The Command Desk will notify the PM, or her designee, of the occurrence of any critical incident, within **1 hour** of its occurrence.
43. The IPM will monitor these investigations on the same basis and using the same procedures set forth herein for monitoring civilian and internally generated complaints.
44. The Superintendent of Police or his designee shall designate one supervisory officer of the investigating unit, at the scene, to provide the IPM with an overview of the incident. See attached Appendix G, IPM Critical Incident Response Form. Such briefing shall include, but not be limited to the following information:
 - a. Location of Occurrence: (Address/Intersection/Description)
 - b. Incident Details
 - c. Officers Involved (District assignments, Badge/Employee No., rank)
 - d. Subjects Involved (Name, DOB, race, sex, address)
 - e. Deaths (If known)
 - f. Injuries, Number & Injury Type (to officers and subjects)
45. The supervisor of the investigating unit shall allow the PM, or her designee, access to the crime scene during the immediate investigation. While at the scene, the IPM will be given a walk-through of the crime scene area and perimeters, to the extent possible, without compromising the scene or the evidence therein. Such walk-through shall include, but not be limited to, to the viewing of the following information:
 - a. Any deceased persons still at the scene (to the extent allowed by the Coroner's Office)
 - b. Any evidence to be processed at the scene, including but not limited to:
 - i. Bullets/bullet casings
 - ii. Weapons
 - iii. Clothing
 - iv. Blood or tissue
 - v. Entry or exit points
 - c. Pathways taken by the involved officers, subjects and witnesses
 - d. Any video or audio that will be viewed at the scene by investigators
46. The investigating unit shall provide the IPM access to the incident report, use of force report and the investigative report (with complete investigation), within 24 hours of the creation of the report.
47. The IPM shall be notified at least 48 hours prior to the interviews of police officers involved in critical incidents and shall be allowed to view those interviews from the monitoring room. The investigating unit shall provide the IPM beforehand with all documents, evidence and information available to the NOPD investigators conducting the interviews.

48. Within 7 days of the notification of any critical incidents, PIB will provide the IPM with complete access to the departmental employee's work history, including discipline, the early warning system and all current and/or prior complaints involving the department member. NOPD Operations Manual Chapter 52.2, DEFINITION *DI-1*.
49. After a lead investigator has assigned, he/she is responsible for keeping the IPM staff member assigned to monitor the case informed of all pertinent issues throughout the investigative process. The IPM staff member and lead investigator will discuss the incident complete with a dialogue regarding all known issues, conflicts, problems, and concerns.
50. All staff members of the IPM have responsibilities in maintaining the strict confidentiality of the investigation and involved personnel. Use of force investigations typically include considerations of potential criminal culpability and inappropriate or untimely disclosure of evidence could potentially damage the progress of an investigation.
51. Within 7 days of receipt of the complete internal investigation into the critical incident, but prior to the Administrative Shooting Hearing decision as to the appropriateness of the use of force, the IPM will submit its written report as to matters of investigative techniques, unchallenged assumptions or unconscious biases from investigators, case law, discipline, training, department policy, as well as a consideration of tactics employed during the incident and investigative thoroughness (depth and scope). See attached Appendix H, IPM Critical Incident Investigations Matrix and Appendix I, IPM Critical Incident Review Report.

MEDIATION

52. The IPM and PIB will work together to jointly establish and administer a mediation protocol and program for civilian complaints, guided by best practices identified in other jurisdictions with such mediation programs. The agreed to mediation protocol will be attached to this agreement as Appendix J, Mediation Program.
53. The IPM and PIB will offer mediation as a confidential, voluntary alternative to the traditional complaint process.
54. Mediation allows complainants an opportunity to address and resolve their concerns, and for both parties to learn from the open discussion and contribute to better community relations. A trained and neutral mediator can help the parties understand the underlying issues, deal with stereotypes and misperceptions and overcome any perceptual barriers.
55. Because the IPM/PIB mediation program is a non-adversarial alternative to the regular complaint-handling procedure conducted by PIB, if the citizen and employee agree to mediation, there will be no PIB investigation and no disciplinary action. A record of the complaint will be maintained, indicating: "Closed by mediation."

COMMENDATIONS

56. The IPM shall receive commendations from the public for NOPD members.
57. The IPM shall forward these commendations within 7 days of their receipt to PIB or the NOPD member's chain of command.
58. The IPM shall also compile data regarding commendations and shall identify department members, units and precincts that have been commended by the public for doing exceptionally meritorious work.
59. Such information shall be included in public reports. The IPM will note patterns in commendations and will identify practices and initiatives that should be emulated broadly through the department. No provision of this section shall violate the Police Officers' Bill of Rights.

DATA COLLECTION AND ANALYSIS

60. Prior to the IPM/PIB database becoming operational and with such limitations as shall be agreed upon by the IPM and the NOPD, the IPM shall be allowed complete electronic access to the IPM/PIB database in order to retrieve, print and download information to which it is legally entitled.
61. The IPM will have control of the civilian oversight functions of the database.
62. The NOPD and IPM will each have a system administrator to assist each office in its administration of the separate investigative (NOPD) and oversight (IPM) functions therein.
63. The IPM shall: 1) assess 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) make recommendations to the Superintendent to improve the PIB's data collection and analysis, and resources.
64. The IPM shall analyze 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 IPM.
65. The IPM and NOPD will work together to jointly establish procedures for the IPM to access the Department's data/information which is necessary to conduct risk management reviews and pattern analyses pursuant to paragraph 3 of the Ordinance.
66. Prior to and after the IPM/PIB database becomes operational, the IPM will have complete access to, review and assess the effectiveness of any early warning system that the NOPD may have in place and make recommendations to the Superintendent, or his designee, for improvement.

ACCOUNTABILITY AND REPORTING

67. The IPM shall periodically issue and publicize reports which detail its monitoring and review activities, the appropriate statistical information from IPM/PIB database, policy and training recommendations, matters of significant public interest, or other concerns/recommendations.
68. In all reports issued publicly by the IPM, the identity of all complainants and departmental members shall be confidential, up and until the point at which the case is closed. A case is closed on the date the Superintendent makes his final decision with respect to discipline.
69. All reports issued publicly by the IPM will be submitted to PIB prior to public dissemination.
70. All reports issued publicly by the IPM will be disseminated to the criminal justice committee of the City Council of New Orleans and simultaneously released to the public, pursuant to the IPM Ordinance.
71. At least once each year, by March 31, the IPM shall issue a public report for the preceding calendar year, January 1 through December 31, detailing its monitoring and review activities during that period and the appropriate statistical information collected from the PIB and other divisions of the NOPD. The IPM shall report on problems it has identified, recommendations it has made and recommendations adopted by the NOPD.
72. In order to allow the IPM sufficient time to prepare this annual report, the PIB shall provide information regarding complaints and investigations for the preceding calendar year by January 31st. It is recognized that until the IPM/PIB database becomes fully functional, PIB may not be able to produce a full report in 2011 as to statistics regarding complaint investigations.
73. PIB shall have 30 days in which to respond to any of the IPM's reports and findings, excluding reports/findings on individual investigations.
74. It is the desire of both the IPM and PIB to jointly prepare and disseminate a report regarding actions to be taken in response to any IPM report or evaluation.
75. The IPM may also periodically review contents of randomly selected completed complaint files for the purpose of quality control; and publish reports about its findings.
76. The IPM shall also identify commendable performance by the NOPD and improvements made the Department to enhance its professionalism, accountability, effectiveness and transparency.

77. The IPM shall issue additional reports relating to policy and training recommendations, matters of significant public interest or other concerns throughout the year.
78. The IPM will develop an audit plan to systematically review the NOPD. The plan shall be developed in conjunction with the NOPD.

POLICY AND PROCEDURES

79. The IPM shall review specific issues regarding supervision, training discipline and other issues to identify problems and make recommendations for improvement. It is the desire of both the IPM and PIB to jointly prepare and disseminate a report regarding actions to be taken in response to any IPM report or evaluation.

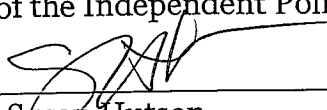
80. The IPM shall periodically review training sessions and schedules to identify best practices and any need for improvements to training curriculum or frequency.

81. The IPM shall make recommendations to the Superintendent to improve NOPD policies and practices based on national best practices.

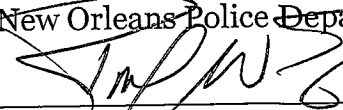
82. The IPM shall conduct period risk assessments of NOPD activities and advise the NOPD and the City Attorney of its findings.

"IN WITNESS WHEREOF the undersigned, duly appointed representatives of the Office of the Independent Police Monitor and of New Orleans Police Department, respectively, have on behalf of the Parties signed the present Memorandum of Understanding in two originals, this 10th day of November, 2010.

Office of the Independent Police Monitor:


Name: Susan Hutson
Title: Independent Police Monitor
Date: 11-10-10

~~New Orleans Police Department:~~


Name: Ronal Serpas
Title: Superintendent of Police
Date: 11-10-10

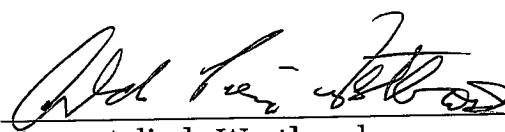

Name: Arlinda Westbrook
Title: Deputy Superintendent of Police
Date: 11-10-10

TABLE OF APPENDICES

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Appendix J, IPM-NOPD Mediation Program

IPM Complaint Form (cont.)

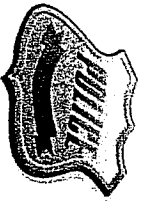
Witness Information (Name, Address & Telephone Number)

This completed complaint form may be either mailed, faxed, or brought in person to the IPM:

525 St. Charles Avenue
New Orleans, LA 70130
Phone: (504) 681-3217
Fax: (504) 681-3230

Cooperating organizations - You can also file a complaint with:

Safe Streets Strong Communities
1600 Oretha Castle Haley Blvd.
New Orleans, LA 70112
(504) 522-3949



Commendations

If you want to compliment an officer, you can speak to the officer's supervisor or write to the Superintendent of Police at:

715 S. Broad Street
New Orleans, LA 70119

You can also contact the IPM to make a commendation.

How to File your Complaint

IPM

You can file with us by phone, by mail, on our website at www.nolaipm.org or in person at our offices in the Federal Reserve Bank. Please ring the bell at the gate for entrance. A guard will assist you.

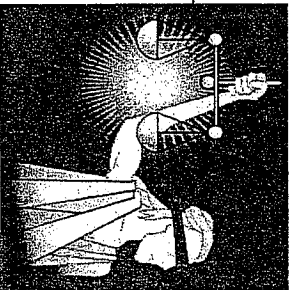
525 St. Charles Avenue
New Orleans, LA 70130
Hotline (504) 681-3217

You may also file complaints with the:

- NOPD Public Integrity Office - You can file in person, by phone or by mail at 118 North Rochelave St. New Orleans, LA 70119 (504) 658-6800

For complaints of criminal activity *only* you can file with:

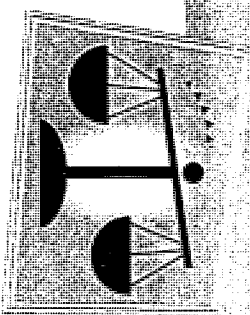
- District Attorney's Office - (504) 822-2414
- Federal Bureau of Investigation - (504) 816-3000



Any person with knowledge of alleged misconduct can file a complaint, whether a victim, a witness or third person who is not involved.

Independent Police Monitor

Office of Inspector General
City of New Orleans



DEDICATED to improving cooperation and trust between the community and the NOPD

COMMITTED to bringing highest national standards and best practices to the NOPD

ACCOUNTABLE to the People of New Orleans

525 St. Charles Avenue
New Orleans, LA 70130
504-681-3217

OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



SUSAN HUTSON
INDEPENDENT POLICE MONITOR

November 10, 2010

Arlinda Westbrook
Director, Public Integrity Bureau
New Orleans Police Department
118 North Rocheblave St.
New Orleans, LA 70119

COMPLAINT REFERRAL

Dear Ms. Westbrook:

This is to inform you pursuant to New Orleans City Code Section 2-1121 (the Police Monitors Ordinance) that the Office of the Independent Police Monitor (IPM) has received the following complaint of misconduct by an NOPD employee(s):

Complaint Information

IPM Complaint #:

Date filed with IPM:

NOPD Item #:

Complainant Information:

Name:

Race:

Sex:

DOB:

Address:

Home Phone:

Cell Phone:

Other Phone:

E-mail:

Subject NOPD Employee(s) Information:

525 ST. CHARLES AVENUE | NEW ORLEANS, LOUISIANA | 70130-3049
Phone (504) 681-3223 | Fax (504) 681-3230

OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



SUSAN HUTSON
INDEPENDENT POLICE MONITOR

Name:
Race:
Sex:
Badge #:
Car #:
Description:
District/Unit:

Incident:

Date:
Category:
Location:
Time:

Summary:

Details:

Relevant Summons/Booking #:

Witness Information:

Name:
Race:
Sex:
DOB:
Address:
Home Phone:
Cell Phone:
Statement:

Classification Recommendation:

The IPM recommends that this complaint be classified XXX.

Request for Subject Employee(s)' Disciplinary Files

Please provide the names, badge numbers and supervisors of all NOPD employees involved in this incident. In order that the IPM may properly recommend classification of the complaint, please provide the IPM with the disciplinary files of the subject employee(s) within seven (7) days of receipt of this letter.

OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



SUSAN HUTSON
INDEPENDENT POLICE MONITOR

I appreciate your prompt attention to this matter. Please contact me if you have any questions.

Sincerely,

Susan Hutson
Independent Police Monitor
504-681-3275

CC:

Transcribed by:

Independent Police Monitor
Office of The Inspector General
Complaint Classifications Checklist
(Created 8/17/10)

NOPD Complaint Classifications:

DI-1 - FORMAL disciplinary investigation of:

Behavior which mandates a DI-1 classification (Chapter 52.2):

- 1) an alleged violation of a Departmental regulation, order, or procedure, except a violation of a minor nature which can be corrected by simple counseling or minimal intervention by a supervisor;
- 2) an alleged violation which parallels the same behavior documented in three (3) DI-2 citations, all three (3) cited violations having occurred with the twelve (12) months prior to the date of occurrence of the current complaint;
- 3) an alleged violation which parallels the same behavior documented in three (3) DI-3 investigations, all three (3) alleged behaviors having occurred within the twelve (12) months prior to the date of occurrence of the current complaint; and
- 4) an alleged violation of a criminal law or an alleged involvement in criminal activity.

DI-2 - an alleged violation of Departmental regulation, order, or procedure that **IS** so minor in nature that it can be corrected by simple counseling or minimal intervention by a supervisor.

DI-3 - INFORMAL disciplinary investigations or NIMS - alleged violation of a Departmental regulation, order, or procedure, minor *or otherwise*, where the following circumstances apply:

- 1) Accused employee acted in accordance with a Departmental regulation, order, or procedure;
- 2) All available means to identify accused employee have been exhausted without success;
- 3) Adjudication is pending for the complainant's arrest, summons, warrant, or evidence;
- 4) The complainant requested that a formal disciplinary investigation not be initiated;
- 5) The complainant requested supervisory intervention/action in lieu of a formal disciplinary investigation.

INFO - A catchall classification used to document information relative to a potential complaint (ex: witness information to an incident for which no official complaint has been received) or a situation reported by a citizen. It can also apply to an observation by an employee which does not contain sufficient information to initiate an investigation of an alleged violation of a departmental regulation, order, or procedure.

I. **Violations of Criminal Law:**

Does the complaint describe an alleged violation of criminal law?

A. NO _____

If NO, skip to Section II, below.

Complaint Classification Checklist

B. YES _____

If YES, do any of the following exceptions apply?

- (1) All available means to identify the accused employee have been exhausted without success _____
- (2) The legality of complainant's arrest/summons/citation; warrant obtained/served; evidence seized has yet to be adjudicated _____
- (3) The complainant requested a formal disciplinary investigation not be initiated _____
- (4) The complainant supported supervisory intervention/action (counseling, discussion of complainant's concerns with accused employee, and/or remedial training) in lieu of formal disciplinary investigation _____
- (5) The accused employee acted in accordance with a Departmental regulation, order, or procedure _____

_____ If YES, the complaint is a **DI-3**.

_____ If NO, the complaint is a **DI-1**.

II. ***Violations of Departmental Rules and Regulations***

Does the complaint describe an alleged violation of a Departmental regulation, order, or procedure?

A. NO _____

_____ If the complaint does not describe a violation of departmental rules or regulations **and** does not describe a violation of criminal law, the complaint is a **DI-3**.

B. YES _____

If YES, do any of the following exceptions apply?

- 1) All available means to identify the accused employee have been exhausted without success _____

Complaint Classification Checklist

- 2) The legality of complainant's arrest/summons/citation; warrant obtained/served; evidence seized has yet to be adjudicated _____
- 3) The complainant requested a formal disciplinary investigation not be initiated_____
- 4) The complainant supported supervisory intervention/action (counseling, discussion of complainant's concerns with accused employee, and/or remedial training) in lieu of formal disciplinary investigation_____
- 5) The accused employee acted in accordance with a Departmental regulation, order, or procedure _____

_____If ANY of these exceptions apply, the complaint is a **DI-3**.

_____If NONE of these exceptions apply, but the violation can be corrected by simple counseling or MINIMAL INTERVENTION by a supervisor, the complaint is a **DI-2**.

III. **Prior Complaints**

Does a complaint that would otherwise be classified as a **DI-2** or **DI-3** describe behavior by the subject officer described in 3 previous **DI-2** or **DI-3** complaints?

NO_____

If NO, the complaint retains its original classification.

YES_____

If YES, do any of the following exceptions apply?

- 1) All available means to identify the accused employee have been exhausted without success _____
- 2) The legality of complainant's arrest/summons/citation; warrant obtained/served; evidence seized has yet to be adjudicated _____
- 3) The complainant requested a formal disciplinary investigation not be initiated_____
- 4) The complainant supported supervisory intervention/action (counseling, discussion of complainant's concerns with accused employee, and/or remedial training) in lieu of formal disciplinary investigation_____

Complaint Classification Checklist

- 5) The accused employee acted in accordance with a Departmental regulation, order, or procedure _____

_____ If ANY of these exceptions apply, the complaint retains its original classification.

_____ If NONE of these exceptions apply, the classification is changed to **DI-1**.

IV. Classification

How was the complaint classified?

- 1) DI-1
- 2) DI-2
- 3) DI-3
- 4) INFO

Was the classification appropriate?

NO _____

If NO, please explain. _____

YES _____

If YES, no comment required.

OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



SUSAN HUTSON
INDEPENDENT POLICE MONITOR

November 10, 2010

Arlinda Westbrook
Director, Public Integrity Bureau
New Orleans Police Department
118 North Rocheblave St.
New Orleans, LA 70119

RECOMMENDATION FOR RECLASSIFICATION

Dear Ms. Westbrook:

Pursuant to New Orleans City Code Section 2-1121 (the Police Monitors Ordinance) the Independent Police Monitor (IPM) has reviewed the following complaint filed with your office:

PIB #:
IPM # (if any):
Complainant:
Subject NOPD employee:

Although your office classified this complaint as a XXX, the IPM recommends that it be classified XXX, for the following reasons:

In the event you disagree with this recommendation, please notify our office within seven (7) days. Thank you for your assistance in this matter.

Sincerely,

Susan Hutson
Independent Police Monitor
504-681-3227

CC:

Transcribed by:

OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



SUSAN HUTSON
INDEPENDENT POLICE MONITOR

November 10, 2010

Arlinda Westbrook
Director, Public Integrity Bureau
New Orleans Police Department
118 North Rocheblave St.
New Orleans, LA 70119

REQUEST FOR STATUS REPORT

Dear Ms. Westbrook:

Pursuant to New Orleans City Code Section 2-1121 (the Police Monitors Ordinance) please provide the Independent Police Monitor with information regarding of the following complaint, including but not limited to:

- a. The date the complaint was received by the NOPD;
- b. How it was classified;
- c. Any actions taken by the PIB;
- d. The outcome of the investigation if it has been completed, including any discipline recommended; and
- e. Any pending deadlines, such as those imposed by La. R.S. 40:2531 or by departmental regulations.

If the complaint was sustained by PIB and appealed by the NOPD employee to the Civil Service Commission, please provide the date of appeal to the Civil Service Commission and the dates of scheduled hearings before the Commission.

Complaint Information

IPM Complaint #:

Date filed with IPM:

NOPD Item #:

Complainant Information:

525 ST. CHARLES AVENUE | NEW ORLEANS, LOUISIANA | 70130-3049
Phone (504) 681-3223 | Fax (504) 681-3230

OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



SUSAN HUTSON
INDEPENDENT POLICE MONITOR

Name:

Race:

Sex:

DOB:

Address:

Home Phone:

Cell Phone:

Other Phone:

E-mail:

Subject NOPD Employee(s) Information:

Name:

Race:

Sex:

Badge #:

Car#:

Description:

District/Unit:

Thank you for your assistance in this matter.

Sincerely,

Susan Hutson
Independent Police Monitor
504-681-3275

CC:

Transcribed by:

Complaint Investigations Matrix

C. Name & Employee No. of Investigating Officer (I/O):

D. Name & Employee No. of Approving Supervisor (OIC):

E. Entity receiving the complaint.

1. IPM
2. PIB
3. NOPD District
4. MCC
5. Other

F. Name & Employee No. of Complaint Intake person:

G. Name & Employee No. of Approving Supervisor of Complaint:

Complaint Investigations Matrix

II. Complaint Processing

1. **Did the personal initiating/receiving complaint properly document all of the complainants' allegations of misconduct in the written complaint document?**

Comments: Review complaint to see if any of the complainant's allegations are missing from the complaint.

- A. Yes
B. No (comment required)

1 st	2 nd
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2. **Based on the allegation(s), was PIB notified promptly?**

Comments: Was P.I.B. notified immediately if the nature of the misconduct involves:

- i. A violation of criminal law;
 - ii. Vehicle accidents involving injuries to any parties, including the employee;
 - iii. Alcohol or suspected alcohol abuse by employees on or off duty; or
 - iv. Domestic or other disturbances involving on or off duty employee's.
- (Chapter 21.1, Paragraph 13)

- A. Yes
B. No (comment required)

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3. **If the misconduct was reported to a department employee or the IPM was it forwarded to PIB in a timely manner?**

Comments: Supervisors shall "submit the documentation in a timely manner according to the guidelines of the corresponding departmental regulations:"

- i. Chapter 52.2 - DI-1 (three (3) calendar days of the date the supervisor originally received, observed, or became cognizant of the complaint)
- ii. Chapter 52.3 - DI-2 (four (4) calendar days of the date the supervisor originally received, observed, or became cognizant of the complaint)
- iii. Chapter 52.4 - DI-3 (fourteen (14) calendar days of the date the supervisor originally received, observed, or became cognizant of the complaint)

A disciplinary investigation shall be initiated against the initiating supervisor for any documentation form not received in the P.I.B. office within the mandated time period.

- A. Yes
B. No (comment required)

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Complaint Investigations Matrix

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4. Was an extension timely and properly requested and received?

Comments: The I/O shall “[a]pply for an extension of the due date (within the first fifteen (15) days of the date the investigation was initiated) when necessary, and particularly when any complainant, witness, principal, or evidentiary material will not be available in time to complete the investigation by the investigator’s assigned due date. Chapter 52.1, paragraph 42.

- A. Yes
- B. No (comment required)
- C. N/A

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Complaint Investigations Matrix

III. Complaint Classification

5. How was the complaint classified? (See Classification Checklist)

Comments: The documentation of an investigation of a complaint of misconduct against a member of the New Orleans Police Department shall be classified as a DI-1, DI-2, DI-3, or INFO.

- A. DI-1
- B. DI-2
- C. DI-3
- B. INFO

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6. Was the complaint classified appropriately? (See Classification Checklist)

Comments:

1. **DI-1** (formal disciplinary investigation) - Documentation of the initiation of a formal investigation of a complaint from a citizen or employee. The investigation of behavior, an act, or the omission of an act by an employee, which a supervisor has become aware of, involving an alleged violation of a departmental regulation, order, or procedure, or of a criminal law. Behavior which mandates a DI-1 classification (Chapter 52.2):
 - a. an alleged violation of a Departmental regulation, order, or procedure, except a violation of a minor nature which can be corrected by simple counseling or minimal intervention by a supervisor;
 - b. an alleged violation which parallels the same behavior documented in three (3) DI-2 citations, all three (3) cited violations having occurred with the twelve (12) months prior to the date of occurrence of the current complaint;
 - c. an alleged violation which parallels the same behavior documented in three (3) DI-3 investigations, all three (3) alleged behaviors having occurred within the twelve (12) months prior to the date of occurrence of the current complaint; and
 - d. an alleged violation of a criminal law or an alleged involvement in criminal activity.
2. **DI-2** (disciplinary citation) - The documentation of corrective action taken by a supervisor upon confirming an employee's behavior involving a minor violation of a Departmental regulation, order, or procedure. This behavior must be considered so minor that it is correctable by simple counseling or minimal intervention by a supervisor.
3. **DI-3** (informal disciplinary investigation) - The documentation of a review of information received by a supervisor of an allegation made by a citizen or employee of an employee's conduct, which may or may not involve a minor violation of a Departmental regulation, order, or procedure. The supervisor's review must address the concerns of the complainant, and the subsequent action taken by the supervisor to either remedy those concerns and/or to counsel the employee. The incident does not merit a formal investigation, therefore this classification does not result in the initiation of a formal investigation.
4. **INFO** (information documentation) - The documentation of information relative to a potential complaint (example: witness information to an incident for which no official complaint has been received), a situation reported by a citizen, or an observation by an employee which does not contain sufficient information to initiate an investigation.

- A. Yes
- B. No (Comment required)

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Complaint Investigations Matrix

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7. Did PIB forward the complaint to the IPM for the review of the classification in a timely manner?

Comments: The New Orleans Police Department will advise the Independent Police Monitor within seven (7) days of receipt by the New Orleans Police Department of any complaint of misconduct, classified as a formal disciplinary investigation, disciplinary citation, informal disciplinary investigation, or information documentation. (See IPM Ordinance).

- A. Yes
- B. No (comment required)

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8. Should the employee have been placed on emergency suspension or administrative reassignment?

Comments: If the violation involves actions or conditions which question the accused employee's continued ability to perform his/her duty, the supervisor shall take the necessary steps to obtain the proper authorization to have the employee placed on emergency suspension or administrative reassignment (Chapter 52.8).

- A. Yes (comment required)
- B. No

1 st	2 nd
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Complaint Investigations Matrix – Continued

IV. Investigation

9. Did the I/O use every available and reasonable means to identify the accused employee?

Comments: Were the following types of documentation reviewed:

- i. A roll call for the officers and civilian employees working at the NOPD stables in City Park on 8/11/2010
- ii. A vehicle log of the vehicles available that are based at the NOPD stable and a record of their use during the course of the tour.
- iii. A trip sheet for each vehicle that was used during that tour, recording all locations visited by the vehicle
- iv. Memo book entries for all of the officers working during the tour who fit the description

- A. Yes.
- B. No. (comment required)
- C. UTD, there was no chronological record in the case file

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10. Should a timeline have been created by the I/O?

Comments: Review to determine if a timeline is necessary to understand the chronology of events in an investigation.

- A. Yes, and one was created.
- B. Yes, and one was not created.
- C. No.

1 st	2 nd
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11. Did the I/O keep a chronological record of his/her progress in the investigation?

Comments: Necessary to determine the investigative steps taken by the I/O.

- A. Yes
- B. No (comment required)
- C. UTD, Chronological Record was missing from the case file
- D. N/A, an investigation was not conducted

1 st	2 nd
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Complaint Investigations Matrix – Continued

12. Was the I/O's chronological record updated and did it properly document the progress of the investigation?

Comments: Necessary to determine the investigative steps taken by the I/O.

- A. Yes
- B. No (comment required)
- C. UTD, Chronological Record was missing from the case file
- D. N/A, an investigation was not conducted

1st 2nd

13. Was the investigation completed within the required timeframe?

Comments: The administrative disciplinary investigation should be completed within sixty (60) days, or within the extended time frame as approved by the Civil Service Commission for the city of New Orleans or as agreed to via written agreement between the accused and the appointing authority. (Chapter 52.1, Paragraph 38(h).)

- A. Yes
- B. No (comment required)

1st 2nd

14. Did the I/O prepare and forward correspondence to the complainant as required?

Comments: Chapter 52.1, paragraph 59, including initial correspondence (sent immediately) and updates (every 45 days).

- A. Yes
- B. No (comment required)

1st 2nd

15. Did the I/O address each section of the investigative report, documenting all facts?

Complaint Investigations Matrix – Continued

Comments: Chapter 52.1, paragraph 42 and Chapter 52.6, paragraph 61-62. The investigator shall utilize an NOPD Form 105 (Interoffice Correspondence) to document the formal investigation. The investigator shall address each of the following areas using the following headings:

- i. INTRODUCTION
- ii. INVESTIGATION
- iii. SUMMARY
- iv. RECOMMENDATION(S)
- v. EXHIBITS

- A. Yes
- B. No (comment required)

1 st	2 nd
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16. Did the I/O reach a logical conclusion and prepare a recommendation?

Comments: Chapter 52.1, paragraph 42.

- A. Yes
- B. No (comment required)

1 st	2 nd
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17. Did the I/O submit a complete, coherent investigative report to his/her ICO or designee by the investigator's assigned due date?

Comments: Chapter 52.1, paragraph 42. The date of the investigative report shall be the date the completed report is submitted to the investigator's ICO or designee for approval.

- A. Yes
- B. No (comment required)

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18. Were all the allegations listed on the complaint form addressed by the investigation?

Comments: Even if not addressed by investigation, review to see if all allegations were disposed of within the body of the investigation, in some manner.

Complaint Investigations Matrix – Continued

- A. Yes
- B. No (comment required)

1 st	2 nd
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19. Did the allegations as framed in the investigation properly address the complained of acts of misconduct?

Comments: Review to see if for example, racial profiling was listed as an allegation if articulated by the complainant.

- A. Yes
- B. No (comment required)

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20. Was there a conscious or subconscious bias in the department member’s report?

Comments: Review I/O’s questions and comments to see if a particular tendency or inclination to skew questions in favor of the accused officer is present.

- A. Yes (comment required)
- B. No

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21. Did the I/O make reasonable efforts to identify, locate, interview and audio tape all relevant witnesses that were noted in the investigation, whether mentioned by the complainant, accused employee or other witnesses?

Comments: See **Chapter: 52.1, paragraph 42.** The I/O shall “[i]nterview and audio tape the statements of the complainant, any principal, and every known witness, both for and against the accused employee. (For non-department employees, a written statement, signed and dated by the individual giving the statement, may be substituted for an audio taped statement. However, only audio taped statements shall be taken from department employees.)

- A. Yes
- B. No (comment required)
- C. N/A, interview was not appropriate for this investigation

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Complaint Investigations Matrix – Continued

D. UTD, no documentation provided as to the I/O's efforts

22. Did the I/O collect or make reasonable efforts to collect all relevant physical, electronic, documentary, or scientific evidence and property, when applicable, and maintain chain of custody records?

Comments: (e.g., photographs, Arrest Reports, Use of Force Reports, Daily Field Activity Reports, medical reports, diagrams, etc.)

- A. Yes
- B. No (comment required)
- C. UTD (no documentation provided as to I/O's efforts)

1st 2nd

23. Were material inconsistencies between complainant's statements, witness' statements, and the accused employee's statements resolved by the I/O?

Comments: Document any inconsistencies you find that were not addressed in the investigation.

- A. Yes
- B. No (describe inconsistencies and comment)
- C. N/A, statements were consistent or no statements were taken

1st 2nd

24. Were material inconsistencies between statements and physical evidence resolved by the I/O?

Comments: Document any inconsistencies you find between statements and the physical evidence that were not addressed in the investigation

- A. Yes
- B. No (describe inconsistencies and comment)
- C. N/A, there were no inconsistencies between witness statements and the physical evidence or there was no physical evidence and/or no statements were taken

1st 2nd

Complaint Investigations Matrix – Continued

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25. Overall, did the I/O conduct a complete investigation and thoroughly exhaust all leads?

Comments: See Chapter: 52.1, paragraph 42.

A. Yes

B. No (comment required)

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Complaint Investigations Matrix – Continued

V. Interviews

26. Were all statements, except those that indicate a refusal to be taped, tape-recorded? Note tape number.

Comments: Most interviews should be completed recorded, unless recording is refused or unavailable.

- A. Yes
- B. No (indicate name of the witness and reason provided)
- C. UTD, tape could not be located or there were no recorded interviews.

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27. Did the review of the tape-recorded interviews reveal an incomplete interview or that there was any discussion with witnesses that was not recorded?

Comments: (i.e. a statement gets cut off, a statement begins midway, unusual breaks/pauses in the flow of the recording). Note areas on the recordings (tape number and tape counter).

- A. Yes (comment required)
- B. No
- C. UTD, tape could not be located

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28. Did the I/O interview and audio tape the complainant's statement?

Comments: See Chapter: 52.1, paragraph 42. The I/O shall “[i]nterview and audio tape the statements of the complainant, any principal, and every known witness, both for and against the accused employee. (For non-department employees, a written statement, signed and dated by the individual giving the statement, may be substituted for an audio taped statement. However, only audio taped statements shall be taken from department employees.)

- A. Yes
- B. No (document any reason provided)
- C. N/A, Department-initiated complaint or anonymous complainant

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Complaint Investigations Matrix – Continued

29. Did the I/O interview and audio tape the accused employee's statement?

Comments: See Chapter: 52.1, paragraph 42.

- A. Yes
- B. No (document any reason provided)
- C. N/A, unknown or not a Department employee or interviews not appropriate for this investigation

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30. Were all relevant issues covered in the interview?

Comments: Review the tapes and determine whether the questions asked by the I/O were appropriate and focused on the investigation.

- A. Yes (comment required)
- B. No
- C. UTD, tape could not be located or there were no recorded interviews.

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31. Were the statements of NOPD members consistent with requirements of NOPD Standard Operating Procedures SOPs?

Comments: See new honesty policy.

- A. Yes
- B. No (comment required)
- C. UTD, Statements not recorded.

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Complaint Investigations Matrix – Continued

32. Was the overall manner of conducting interviews objective?

Comments: Note areas on the recordings (tape number and tape counter) in which I/O was not objective.

- A. Yes
- B. No (comment required)
- C. UTD, tape could not be located or there were no recorded interviews.

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33. Was applicable policy or law covered in each NOPD member's interview?

Comments: Note applicable policies and law covered during the interview.

- A. Yes
- B. No (comment required)
- C. UTD, tape could not be located or there were no recorded interviews.

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34. Was the investigator's demeanor or intonation of voice different towards citizens than towards members?

Comments: Note I/O's comments and note the areas on the recordings (tape number and tape counter) in which the comments take place.

- A. Yes (comment required)
- B. No
- C. UTD, tape could not be located or there were no recorded interviews.

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35. Did the investigator interject his own personal opinions or rationalize any NOPD member's behavior?

Comments: Note I/O's comments and note the areas on the recordings (tape number and tape counter) in which the comments take place.

Complaint Investigations Matrix – Continued

- A. Yes (comment required)
- B. No
- C. UTD, tape could not be located or there were no recorded interviews.

1 st	2 nd
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36. Were witnesses allowed to give uninterrupted statements? Were witnesses allowed to explain their answers?

Comments: Note the issues and note the areas on the recordings (tape number and tape counter) in which the issues take place.

- A. Yes
- B. No (comment required)
- C. UTD, tape could not be located or there were no recorded interviews.

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37. Did the investigator encourage witnesses to feel at ease prior to beginning the interview?

Comments: Note the issues and note the areas on the recordings (tape number and tape counter) in which the issues take place.

- A. Yes
- B. No (comment required)
- C. UTD, tape could not be located or there were no recorded interviews.

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38. Did the review of the tape-recorded interview reveal a group interview was conducted?

Comments: Group interviews should not be taking place, since it allows one witness to taint another's testimony.

- A. Yes (comment required)
- B. No
- C. UTD, tape could not be located or there were no recorded interviews.

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Complaint Investigations Matrix – Continued

39. Do the facts as represented in the investigation fully, fairly, and accurately summarize the actual tape-recorded statements?

Comments: Note the issues and note the areas on the recordings (tape number and tape counter) in which the issues take place. Document tape number and inaccuracies between write-up of statements and the tape recorded statements.

- A. Yes
- B. No (document tape number and inaccuracies between paraphrased statements and the tape recorded statements)
- C. UTD, tape could not be located or there were no recorded interviews.

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40. If inaccuracies in the write-up of recorded statements exist, whom do they favor?

- A. Complainant (comment required)
- B. Accused Employee (s) (comment required)
- C. N/A, no inaccuracies discovered
- D. UTD.

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41. Did the review of the tape-recorded interviews reveal any inconsistencies between statements made by the Department employees and witnesses?

Comments: Note the issues and note the areas on the recordings (tape number and tape counter) in which the inconsistencies take place.

- A. Yes (comment required)
- B. No
- C. UTD, tape could not be located

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Complaint Investigations Matrix – Continued

42. If inconsistencies between statements made by Department employees and witnesses exist, did the I/O appropriately address the statement inconsistencies?

Comments: Note how and where the inconsistencies are addressed.

- A. Yes (comment required)
- B. No (comment required)
- C. N/A, statements were consistent
- D. UTD

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43. Did the review of the tape-recorded interviews reveal inappropriate leading/suggestive questioning?

Comments: Note the issues and note the areas on the recordings (tape number and tape counter) in which the issues take place.

- A. Yes (comment required)
- B. No
- C. UTD, tape could not be located or interviews were not recorded.

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44. Did the review of the tape-recorded interviews reveal a discourteous, confrontational, or hostile tone/demeanor by the interviewer?

Comments: Note the issues and note the areas on the recordings (tape number and tape counter) in which the issues take place.

- A. Yes (comment required)
- B. No
- C. UTD, tape could not be located

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45. Did the review of the tape-recorded interviews reveal a failure to ask logical follow-up questions?

Complaint Investigations Matrix – Continued

Comments: Note the issues and note the areas on the recordings (tape number and tape counter) in which the issues take place.

- A. Yes (comment required)
- B. No
- C. UTD, tape could not be located

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46. Were any additional allegations raised during the tape-recorded interviews?

Comments: Note the allegations and note the areas on the recordings (tape number and tape counter) in which they were raised.

- A. Yes (comment required)
- B. No
- C. UTD, tape could not be located

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47. How were additional allegations handled?

Comments: Note how and where the allegations are addressed. Included PIB #, if new complaint generated.

- A. Supplemental Investigation
- B. New complaint form generated
- C. Not addressed (comment required)
- D. N/A, no additional allegations raised
- E. UTD

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48. Were the additional allegations handled appropriately?

Comments: Note why handed inappropriately.

- A. Yes
- B. No (comment required)

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Complaint Investigations Matrix – Continued

- C. N/A, no additional allegations raised
- D. UTD, tape could not be located

49. Did the review of the tapes reveal interviews with witnesses who were not denoted elsewhere in the investigation?

Comments: Note the witnesses and note the areas on the recordings (tape number and tape counter) or in the investigation in which they were first introduced.

- A. Yes (comment required)
- B. No
- C. N/A (comment required)
- D. UTD

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Complaint Investigations Matrix – Continued

VI. Adjudication & Discipline/Training

50. Was the adjudicator’s rationale properly completed and supported by the evidence?

Comments: NOPD disciplinary findings must be supported by a preponderance of the evidence and consistent with other similar cases.

- A. Yes
- B. No (comment required)
- C. UTD, it was missing from the case file
- D. N/A, not required.

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51. Should training have been required of the accused employee?

Comments: Was the employee unaware of the legal or procedural requirements of his/her job?

- A. Yes (comment required)
- B. No

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52. If training was required, is it in the accused employee’s disciplinary or training record?

Comments: IPM should follow up with PIB, training unit, and the employee’s chain of command.

- A. Yes
- B. No (comment required)

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Complaint Investigations Matrix – Continued

53. Taking into account the applicable Disciplinary Matrix (sworn or civilian), was the penalty appropriate and reasonable?

Comments: See Chapter 26.2.

- A. Yes
- B. No (comment required)
- C. N/A, penalty was not imposed

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54. Were the accused employee(s)' complaint history and disciplinary records, where relevant, appropriately taken into consideration in the adjudication of the complaint?

Comments: Did the adjudicator note similar allegations, verbiage, patterns, or directed training from other complaints?

- A. Yes
- B. No, and it should have been considered (comment required)
- C. N/A, unknown or not a Department employee or consideration was not appropriate

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55. Was the complaint adjudicated in favor of the accused employee(s) solely based on the complainant's criminal history?

Comments: The Department should employ the standards set in _____ when it makes credibility determinations; where relevant and appropriate, consideration of the civilian's criminal history may be used to evaluate credibility.

- A. Yes (comment required)
- B. No
- C. N/A, complainant's criminal history was not considered
- D. UTD

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56. Was the criminal history of any independent witness appropriately taken into consideration in the adjudication of the complaint?

Complaint Investigations Matrix – Continued

Comments: The Department should employ the standards set in _____ when it makes credibility determinations; where relevant and appropriate, consideration of the civilian’s criminal history may be used to evaluate credibility.

- A. Yes
- B. No (comment required)
- C. N/A, no independent witnesses or no documented criminal history

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57. Was the complaint adjudicated in favor of the accused employee(s) solely on basis that the complainant withdrew the complaint either in whole or in part?

Comments: DI-1 investigations should be investigated to the extent allowed without the complainant’s cooperation. At a minimum, a review of the accused employee’s complaint history for allegations of a similar nature should be conducted.

- A. Yes (comment required)
- B. No, reasonable efforts were made to investigate the allegations and to corroborate the information by other witnesses
- C. N/A, complainant did not withdraw the complaint in any form

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58. Was the complaint adjudicated in favor of the accused employee(s) solely on basis that the complainant was unavailable or refused to make a statement?

Comments: DI-1 investigations should be investigated to the extent allowed without the complainant’s cooperation. At a minimum, a review of the accused employee’s complaint history for allegations of a similar nature should be conducted.

- A. Yes (comment required)
- B. No, reasonable efforts were made to investigate the allegations and to corroborate the information by other witnesses
- C. N/A, statement was obtained from complainant

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59. Was the complaint adjudicated in favor of the accused employee(s) solely on basis that the complaint was made anonymously?

Complaint Investigations Matrix – Continued

Comments: DI-1 investigations should be investigated to the extent allowed without the complainant’s cooperation. At a minimum, a review of the accused employee’s complaint history for allegations of a similar nature should be conducted.

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- A. Yes (comment required)
- B. No, reasonable efforts were made to investigate the allegations and to corroborate the information by other witnesses
- C. N/A, complainant was not anonymous

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60. Was the complaint adjudicated in favor of the accused employee(s) solely on basis of the officers’ statement or the police report made by the officers?

Comments: There should be no automatic preference for an officer’s statement (written or verbal) over the statement of any other witness including a complainant who is also a witness.

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- A. Yes (comment required)
- B. No, reasonable efforts were made to investigate the allegations and to corroborate the information by other witnesses.

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61. Does the totality of the investigation support the adjudication of each allegation (i.e., consider all of the statements including whether conflicting accounts exist; all relevant evidence [testimonial or physical], and whether all relevant evidence was gathered)?

Comments: Note the reasons the adjudication was unsupported.

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- A. Yes
- B. No (comment required)
- C. UTD (based on the deficiencies in the investigation)

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62. Overall, was the adjudication of the complaint fair and objective?

Comments: Note the reasons the adjudication was unfair or not objective.

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- A. Yes
- B. No (comment required)

Complaint Investigations Matrix – Continued

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Complaint Investigations Matrix – Continued

Comments: Use Complaint Risk Level Criteria.

A. Yes (comment required)

B. No

C. N/A, unknown employee or not a Department employee

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Complaint Investigations Matrix – Continued

VIII. Risk Management & Liability Issues

67. If the review of the accused employee’s disciplinary record, reveals the accused employee has a significant number of complaints and a pattern of similar complaints the last five years, will a Pattern Assessment be recommended?

Comments: Must be approved by IPM or DIPM. See Pattern Assessment Matrix.

- A. Yes (comment required)
- B. No

68. Did your review reveal any potential violations of the accused officer’s rights under Chapter 2531 of Title 40 of the Louisiana Revised Statutes of 1950, "Rights of Law Enforcement Officers While Under Investigation."?

Comments: See CHAPTER: 52.1, paragraphs 29-38 and the Peace Officers Bill of Rights attachment.

- C. Yes (comment required)
- D. No

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69. Did your review reveal any potential constitutional or other legal issues that were not addressed or were addressed inadequately by the investigation?

Comments: Review the investigation and determine if there are any constitutional and/or other legal issues pertaining to *Miranda* warnings, search (pat down/frisk, location search, vehicle search, consent search, search incident to an arrest, pre-booking search, etc.), detention or seizure of any complainant and/or other persons or evidence that were not identified by the investigation. Legal bases for searches include search warrants, probable cause-vehicle exception, searches incident to arrest, consent searches, and searches resulting from exigent circumstances (see the definitions below). If the reviewer is unable to determine a corresponding legal basis for a search, detention or seizure of a person or evidence, the complaint supervisor shall be notified and shall make a determination.

- E. Yes (comment required)
- F. No

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Complaint Investigations Matrix – Continued

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70. Does the investigation suggest other risk management or liability issues that were not adequately addressed by the Department?

Comments: Review the investigation and determine if the investigation identifies all potential risk management or liability issues (lack of supervision, disparate treatment, patterns of misconduct, at-risk employee/supervisor, etc.) and determine if the Department properly addressed them. If any risk or liability issues were **not** addressed, notify a supervisor for appropriate action.

- A. Yes (comment required)
- B. No

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Complaint Investigations Matrix – Continued

**ADDITIONAL COMMENTS ON ITEMS NOT COVERED BY THE MATRIX
OR RECOMMENDATIONS**

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Supervisor Comments:

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INDEPENDENT POLICE MONITOR OFFICE OF THE INSPECTOR GENERAL CRITICAL INCIDENT RESPONSE INVESTIGATION FORM

NOPD Incident No.:

TYPE OF INCIDENT (Check one)	<input type="checkbox"/> OIS <input type="checkbox"/> OIS-ANIMAL <input type="checkbox"/> INJURY <input type="checkbox"/> HEADSTRIKE <input type="checkbox"/> K9 CONTACT <input type="checkbox"/> CHOKE HOLD <input type="checkbox"/> NEGL. DISCHARGE <input type="checkbox"/> ICD <input type="checkbox"/> OTHER		
IPM Staff Responding:	Name	Time at Scene	Time Left Scene
Incident Info:	District or O/S Jurisdiction	Date	Time
Date & Time IPM was Notified:	Date IPM Notified	Time IPM Notified	
IPM Staff Member Info.	Person Receiving IPM Notification	Person Making Notification to IPM Name: Tel. No.	
Location of Occurrence: (Address/Intersection & Descript.)			
Officers Involved:			
On-Scene Briefing Made by	Rank and Name	Telephone:	Dept. Entity/Agency:
Deaths (If known)	# of Officers:	# of Suspects:	# of Animals:
Injuries, Number & Injury Type (Explain Below)	Officers: Type	Suspects: Type	Animals: Type
Weapons, Caliber, Number of Rounds	Weapon Type	Caliber of rounds found	Number of Rounds

IPM On-Scene Investigative Summary --

Revised: 02/04/10 CRG

Approved: Deputy Police Monitor _____ Date: _____

Approved: Police Monitor _____ Date: _____

OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



SUSAN HUTSON
INDEPENDENT POLICE MONITOR

DATE: November 10, 2010

TO: Superintendent of Police
Deputy Superintendent of Police, Bureau of Investigations
Deputy Superintendent of Police, Public Integrity Bureau

FROM: Independent Police Monitor

SUBJECT: OFFICER-INVOLVED SHOOTING – Item No. _____, November 10, 2010

Division Date Time Duty-On () Off() Detail-Yes() No() Uniform-Yes() No()

Officer(s) Involved in Use of Force Length of Service

Total Involved Officer(s)

Suspect Deceased () Wounded () Non-Hit ()

Superintendent Recommendations

Tactics –
Drawing/Exhibiting/Holstering –
Use of Force –

IPM Recommendations

Tactics –
Drawing/Exhibiting/Holstering –
Use of Force –



Superintendent of Police
Deputy Superintendent of Police, Bureau of Investigations
Deputy Superintendent of Police, Public Integrity Bureau
November 10, 2010
Page 2

Incident Summary

Police Report

•

IPM Recommendations

Tactics

•

Drawing/Exhibiting/Holstering

•

Use of Force

•

Investigation Quality

•

Training Issues

•

Equipment Issues

•

Additional Comments

•

Susan Hutson
Independent Police Monitor

