

K15-731

**COOPERATIVE ENDEAVOR AGREEMENT**

**CITY OF NEW ORLEANS/OFFICE OF INSPECTOR GENERAL**

**AND**

**POLICE ASSESSMENT RESOURCE CENTER**

**Assessment of the operations of the Independent Police Monitor Division  
of the Office of Inspector General**

**THIS COOPERATIVE ENDEAVOR AGREEMENT** (the "Agreement") is made and entered into on this 15<sup>th</sup> day of July, 2015, with an effective date of July 10, 2015, by and between the City of New Orleans, represented by Mitchell J. Landrieu, Mayor (the "City"), and the Police Assessment Resource Center (PARC), represented by Merrick Bobb, President and Executive Director.

**WHEREAS**, pursuant Article 7, Section 14(C) of the Louisiana Constitution of 1974, and related statutes, and Section 9-314 of the Home Rule Charter of the City of New Orleans, the City may enter into cooperative endeavors with the State of Louisiana, its political subdivisions and corporations, the United States and its agencies, and any public or private corporation, association, or individual with regard to cooperative financing and other economic development activities, the procurement and development of immovable property, joint planning and implementation of public works, the joint use of facilities, joint research and program implementation activities, joint funding initiatives, and other similar activities in support of public education, community development, housing rehabilitation, economic growth, and other public purposes;

**WHEREAS**, PARC is a New York non-profit organization with offices in Los Angeles, California and New York City, New York that was founded to provide independent, evidence-based counsel and research on effective, respectful, and publicly accountable policing to law enforcement agencies, government entities, and community groups;

**WHEREAS**, the OIG and PARC desire to accomplish the valuable public purpose of ensuring that public funds are being spent efficiently and effectively by assessing the operations of the Independent Police Monitor Division of the Office of Inspector General;

**WHEREAS**, the Audit, Inspection and Evaluation, and Investigation Divisions of the OIG have been reviewed by the Association of Inspectors General (AIG) in 2012 and 2015 and both independent reviews found that the Divisions met all relevant standards;

**WHEREAS**, the Independent Police Monitor is a Division of the OIG tasked with monitoring the New Orleans Police Department, and has never received an independent external review since

its inception in 2009;

**WHEREAS**, PARC was awarded a major grant from the Bureau of Justice Assistance of the United States Department of Justice to lead a group of peer experts and monitors in constructing National Guidelines for Police Monitors – providing a first-of-its kind foundation for the work and approach of other monitors, civilian review boards, auditors, police commissions, and law enforcement agencies subject to civilian oversight;

**WHEREAS**, PARC was previously retained by the New Orleans City Council in 2007 to assist in drafting the establishing legislation for the IPM Division;

**WHEREAS**, PARC's President and Executive Director, Merrick Bobb, has over two decades of experience working as an independent monitor of law enforcement agencies and has been referred to as the nation's leading expert on police accountability;

**WHEREAS**, the PARC personnel assigned to this project have offered their services at a discounted rate;

**NOW THEREFORE**, the City and PARC, each having the authority to do so, agree as follows:

**I. OBLIGATIONS OF THE PARTIES.**

**A. Obligations of PARC:**

PARC will:

- Review the IPM Division's mission statement, goals and objectives, and policies and procedures to determine whether they meet nationally accepted standards and best practices;
- Review a statistically significant sample of work products issued by the IPM Division between 2012 and 2015 to determine whether they were completed in accordance with requirements outlined in the IPM Division's policies and procedures and consistent with nationally accepted standards
- Assess the community's perceptions and knowledge of the IPM Division's roles, responsibilities, and responsiveness.

This work will include the following phases:

- Preparatory Work. PARC will prepare for its on-site work by reviewing the written work product of the IPM Division;
- On-Site Work. meet with key stakeholders and officials on-site, conducting evaluation and assessment of relevant issues;
- Post-Visit Work. PARC will continue evaluation and assessment. Draft report summarizing findings and/or recommendations no later than 30 days after the on-site visit.

**A. Invoices.**

1. The Contractor will submit invoices for work performed under this Agreement to the OIG no later than ten (10) calendar days following the completion of the Phase/Work Product covered by the invoice. Untimely invoices may result in delayed payment for which the City is not liable. At a minimum, each invoice must include the following information:

- a. Descriptive detail of the work completed, the number of hours devoted to specific activities, the hourly rate, the person(s) completing the work, the total number of hours, and the total cost. Payment for the final report will not be provided until the report has been completed and submitted to the OIG.
- b. An authorized signature under penalty of perjury attesting to the validity and accuracy of the invoice.

2. The payment schedule is as follows:

- a. Pre-visit preparation \$19,500 maximum
- b. Site Visit \$31,250 maximum
- c. Post-visit/Report \$23,750 maximum

3. Invoices will be processed upon OIG's written acknowledgement of receipt of the satisfactory work products.

4. The OIG has the sole right to approve or require changes to the form of the invoice. The City or OIG may require additional supporting documentation to be submitted with invoices.

5. All work products are expected to be delivered according to the timeline developed in a mutually agreed upon work plan. Failure to meet any deadline must be explained in writing within 3 (three) business days; said notice must include a plan of corrective action and an updated timeline. When possible, any foreseeable delays should be communicated to OIG before deadlines. All delays are subject to OIG approval and unacceptable delay may be ground for financial penalties and/or termination of the contract.

OIG acknowledges that the project may experience unexpected delays due to data and/or interview requests not being fulfilled in a timely manner. In this event, all applicable timelines and deadlines will be adjusted to account for these delays.

6. The OIG retains the right to cancel this project at any time if it determines that the work being provided by the contractor is not of adequate quality.

**A. Obligations of the City.** The City will make payments in a timely manner based upon receipt of invoices from PARC which are approved by the OIG.

**II. FUNDING/COMPENSATION.**

The maximum payable under this Agreement is \$75,000.00 (Seventy-five thousand dollars and no/100) plus reasonable costs (see Exhibit A).

Payments will not be issued until the OIG has signed off on the corresponding phase/work product(s).

This Agreement does not guarantee any amount of work or compensation except as specifically authorized by the OIG in accordance with the terms and conditions of this Agreement.

### III. DURATION.

This Agreement will be effective for one year from the Effective Date.

### IV. TERMINATION.

**A. Termination for Convenience.** The OIG may terminate this Agreement at any time during the term of the Agreement by giving PARC written notice of its intention to terminate at least thirty (30) days before the intended date of termination.

**B. Termination for Cause.** Either party may terminate this Agreement immediately for cause. If either party prevails in a challenge to a termination for cause, the termination for cause will be deemed to be a termination for convenience effective thirty (30) days from the date that the original written notice of termination for cause without the requirement of notice.

### V. INDEMNITY.

**A. Duty to Indemnify the City.** To the fullest extent permitted by law, the PARC will protect, defend, indemnify, and hold harmless the City, its agents, elected officials, and employees (collectively, the "Indemnified Parties") from and against all claims, demands, actions, liabilities, losses (including, without limitation, economic losses), and costs, arising out of or related to (a) any actual or alleged act or omission in the performance of this Agreement by the PARC, its employees, or any subcontractor or (b) any act outside the scope of this Agreement by the PARC, its employees, or any subcontractor.

**B. Limit on Duty to Indemnify.** Notwithstanding anything in this Agreement to the contrary, the PARC is not required to indemnify the Indemnified Parties for any loss that results from the gross negligence or willful misconduct of any of the Indemnified Parties, provided that the PARC or any subcontractor did not contribute to such gross negligence or willful misconduct.

**C. Independent Duty to Defend.** Notwithstanding anything in this Agreement to the contrary, the PARC, at its option, will immediately defend the City from, or reimburse the City for the City's costs incurred in the defense of, any claim that actually or potentially falls within the scope of this indemnity, even if the claim is groundless, false, or fraudulent, or if the PARC is absolved of liability.

**D. Expenses.** PARC will bear all expenses, including without limitation reasonable attorney fees, of the City in enforcing the terms of this article.

### VI. INSURANCE.

Except as otherwise noted, at all times during this Agreement or the performance of work required by this Agreement, the Contractor will maintain professional liability insurance in full force and effect for the duration of the work under this Agreement, with not less than

\$1,000,000 per occurrence. If any policies contain deductible or self insurance retention, then the evidence of insurance for those policies shall disclose the deductible/ retention amount.

## **VII. NON-DISCRIMINATION.**

**A. Non-Discrimination in Employment.** With regard to any hiring or employment decision made in connection with the performance of this Agreement, including without limitation employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other compensation, and selection for training including apprenticeship, PARC:

1. Will not discriminate or retaliate, in fact or in perception, against any employee or person seeking employment on the basis of race, color, national origin, religion, creed, culture, ancestral history, age, gender, sexual orientation, gender identity, marital or domestic partner status, physical or mental disability, or AIDS- or HIV-status;
2. Will take affirmative action to ensure compliance with this section;
3. Will include statements in all solicitations or advertisements for employment that all qualified applicants will receive consideration for employment without regard to race, color, national origin, religion, creed, culture, ancestral history, age, gender, sexual orientation, gender identity, marital or domestic partner status, physical or mental disability, or AIDS- or HIV-status;
4. Will post notices containing the provisions of this section in conspicuous places available to employees and persons seeking employment.

**B. Non-Discrimination.** In the performance of this Agreement, PARC:

1. Will not discriminate or retaliate, in fact or in perception, on the basis of race, color, national origin, religion, creed, culture, ancestral history, age, gender, sexual orientation, gender identity, marital or domestic partner status, physical or mental disability, or AIDS- or HIV-status against: any employee of the City; any employee of any person working on behalf of the City; or any person seeking accommodation, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by PARC.
2. Will comply with and abide all federal, state, and local laws relating to non-discrimination, including without limitation Title VII of the Civil Rights Act of 1964, as amended, Section V of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990.

**C. Subcontracts.** PARC will incorporate the provisions of this Article by reference into all subcontracts relating to the performance of this Agreement.

## **VIII. NOTICES.**

Except for any routine communication, any notice, demand, communication, or request required or permitted under this Agreement will be given in writing and delivered in person or by certified mail, return receipt requested as follows:

1. To the City:  
Suzanne Lacey Wisdom, General Counsel  
Office of Inspector General  
City of New Orleans  
525 St. Charles Ave.  
New Orleans, LA 70130  
&

City Attorney  
City of New Orleans  
1300 Perdido Street, Suite 5E03  
New Orleans, LA 70112

2. To PARC:

Merrick Bobb, President and Executive Director  
4954 Cromwell Ave.  
Los Angeles, CA 90027

Notices are effective when received, except any notice that is not received due to the intended recipient's refusal or avoidance of delivery is deemed received as of the date of the first attempted delivery. Each party is responsible for notifying the other in writing that references this Agreement of any changes in its address(es) set forth above.

## **IX. MISCELLANEOUS PROVISIONS.**

**A. Ownership of Documents.** All data collected and all products of work prepared, created, or modified by PARC in the performance this Agreement, including, without limitation, any and all notes, tables, graphs, reports, files, computer programs, source code, documents, records, disks, original drawings, or other such material, regardless of form and whether finished or unfinished, (collectively, "Work Product") are the exclusive property of the OIG, and no reproduction of any portions of such Work Product may be made in any form without the express written consent of the OIG. The OIG shall have all right, title, and interest in all Work Product. The OIG may use or distribute all Work Product for any purpose without the consent of and for no additional consideration owing to PARC.

**B. Order of Documents.** In the event of any conflict between the provisions of this Agreement and any incorporated documents, the terms and conditions of the documents will apply in this order: this Agreement; PARC's Proposal (Exhibit A).

**C. Prohibition Against Financial Interest in Agreement.** No elected official or employee of the City shall have a financial interest, direct or indirect, in this Agreement, including through any financial interest held by the spouse, child, or parent. Any willful violation of this provision, with the expressed or implied knowledge of PARC, will render this Agreement voidable by the City and shall entitle the City to recover, in addition to any other rights and remedies available to the City, all monies paid by the City to PARC pursuant to this Agreement without regard to PARC's satisfactory performance.

**D. Non-Solicitation Statement.** PARC swears that it has not employed or retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement. PARC has not paid or agreed to pay any person, other than a bona fide employee working for it, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from this Agreement.

**E. Convicted Felon Statement.** PARC swears that it complies with City Code § 2-8(c). No

principal, member, or officer of PARC has been convicted of or pled guilty to a felony under state or federal statutes for embezzlement, theft of public funds, bribery, or falsification or destruction of public records in the past five years.

**F. Audit and Other Oversight.** PARC will abide by all provisions of City Code § 2-1120, including without limitation City Code § 2-1120(12), which requires PARC to provide the Office of Inspector General with documents and information as requested. Failure to comply with such requests is a material breach of the Agreement. In signing this Agreement, PARC agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena.

**G. Ownership Interest Disclosure.** PARC will provide a sworn affidavit listing all persons, natural or artificial, with an ownership interest in PARC and stating that no other person holds an ownership interest in PARC via a counter letter. For the purposes hereof, an “ownership interest” shall not be deemed to include ownership of stock in a publicly traded corporation or ownership of an interest in a mutual fund or trust that holds an interest in a publicly traded corporation. If PARC fails to submit the required affidavits, the City may, after thirty (30) days’ written notice to PARC, suspend or cause the suspension of any further payments until the required affidavits are submitted..

**H. Key Personnel.** The only personnel who will perform work pursuant to this Agreement are listed in PARC’s Proposal, attached hereto as Exhibit A and made a part of this Agreement. The personnel assigned to this Contract may not be replaced without the written consent of the OIG. Such consent shall not be unreasonably withheld or delayed provided an equally qualified replaced is offered. Contractor must provide a resume demonstrating adequate qualifications, prior to work commencement, of any personnel substitutions.

**I. Employee Verification.** PARC swears that it has no employees in State of Louisiana.

**J. Non-Exclusivity for the City.** The City shall be free to engage the services of other persons for the performance of some or all of the obligations contemplated this Agreement.

**K. Acknowledgment of Exclusion of Worker’s Compensation Coverage.** PARC expressly agrees and acknowledges that it is an independent contractor as defined in La. R.S. 23:1021 and as such, it is expressly agreed and understood between the parties hereto, in entering into this services agreement, that the City shall not be liable to PARC for any benefits or coverage as provided by the Workmen’s Compensation Law of the State of Louisiana, and further, under the provisions of La. R.S. 23:1034, anyone employed by PARC shall not be considered an employee of the City for the purpose of Workers’ Compensation coverage.

**L. Acknowledgment of Exclusion of Unemployment Compensation Coverage.** PARC herein expressly declares and acknowledges that it is an independent contractor, and as such is being hired by the City under this Agreement for hire as noted and defined in La. R.S. 23:1472(E), and therefore, it is expressly declared and understood between the parties hereto, in entering into this services agreement, or agreement for hire, and in connection with

unemployment compensation only, that:

1. PARC has been and will be free from any control or direction by the OIG over the performance of the services covered by this contract; and
2. Services to be performed by PARC are outside the normal course and scope of the OIG's usual business; and
3. PARC has been independently engaged in performing the services listed herein prior to the date of this agreement.

Consequently, neither PARC nor anyone employed by PARC shall be considered an employee of the City for the purpose of unemployment compensation coverage, which is expressly waived and excluded.

**M. Waiver of Benefits.** The City and PARC agree and understand that PARC, acting as an independent agent, shall not receive any sick and annual leave, health or life insurance, pension, or other benefits from the City.

**N. Jurisdiction.** PARC consents and yields to the jurisdiction of the State Civil Courts of the Parish of Orleans and formally waives any pleas of jurisdiction on account of the residence elsewhere.

**O. Governing Law.** Any dispute arising from or relating to this Agreement or the performance of any obligations under this Agreement shall be resolved in accordance with the laws of the State of Louisiana.

**P. Rules of Construction.** This Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties. The headings and captions of this Agreement are provided for convenience only and are not intended to have effect in the construction or interpretation of this Agreement. The singular number includes the plural, where appropriate. Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved in favor of or against either party on the basis of which party drafted the language.

**Q. Severability.** The parties intend all provisions of this Agreement to be enforced to the fullest extent permitted by law. Accordingly, if a court of competent jurisdiction finds any provision to be unenforceable as written, the court should reform the provision so that it is enforceable to the maximum extent permitted by law. If a court finds any provision is not subject to reformation, that provision shall be fully severable and the remaining provisions of this Agreement shall remain in full force and effect and shall be construed and enforced as if such illegal, invalid, or unenforceable provision was never included, and the remaining provisions of this Agreement shall remain in full force and effect.

**R. Survival of Provisions.** All representations and warranties and all responsibilities regarding record retention, access, and ownership, cooperation with Office of Inspector General investigations, and indemnification shall survive the termination of this Agreement and continue in full force and effect.

S. **No Third-Party Beneficiaries.** This Agreement is entered into for the exclusive benefit of the City and PARC, and the parties expressly disclaim any intent to benefit any person that is not a party to this Agreement.

T. **Non-Waiver.** The failure of either party to insist upon strict compliance with any provision of this Agreement, to enforce any right, or to seek any remedy upon discovery of any default or breach of the other party shall not affect or be deemed a waiver of any party's right to insist upon compliance with the terms and conditions of the Agreement, to exercise any rights, or to seek any available remedy with respect to any default, breach, or defective performance.

U. **Agreement Binding.** This Agreement is not assignable by either party unless authorized by a validly executed amendment.

V. **Modifications.** This Agreement shall not be modified except by written amendment executed by authorized representatives of the parties.

W. **Voluntary Execution.** PARC has read and fully understands the terms, covenants and conditions set forth in this Agreement and is executing the same willingly and voluntarily of its own volition.

X. **Complete Agreement.** This Agreement supersedes and replaces any and all prior agreements, negotiations, and discussions between the parties with regard to the terms, obligations, and conditions of this Agreement.

**IN WITNESS WHEREOF**, the City and PARC, through their duly authorized representatives, execute this Agreement.

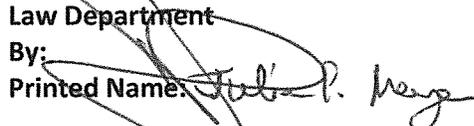
CITY OF NEW ORLEANS

BY:   
MITCHELL J. LANDRIEU, MAYOR

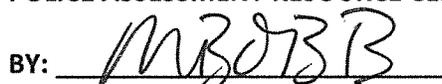
7/15/15

FORM AND LEGALITY APPROVED:

Law Department

By:   
Printed Name: Julie P. King

POLICE ASSESSMENT RESOURCE CENTER (PARC)

BY:   
MERRICK BOBB, PRESIDENT AND EXECUTIVE DIRECTOR

**EXHIBIT A**

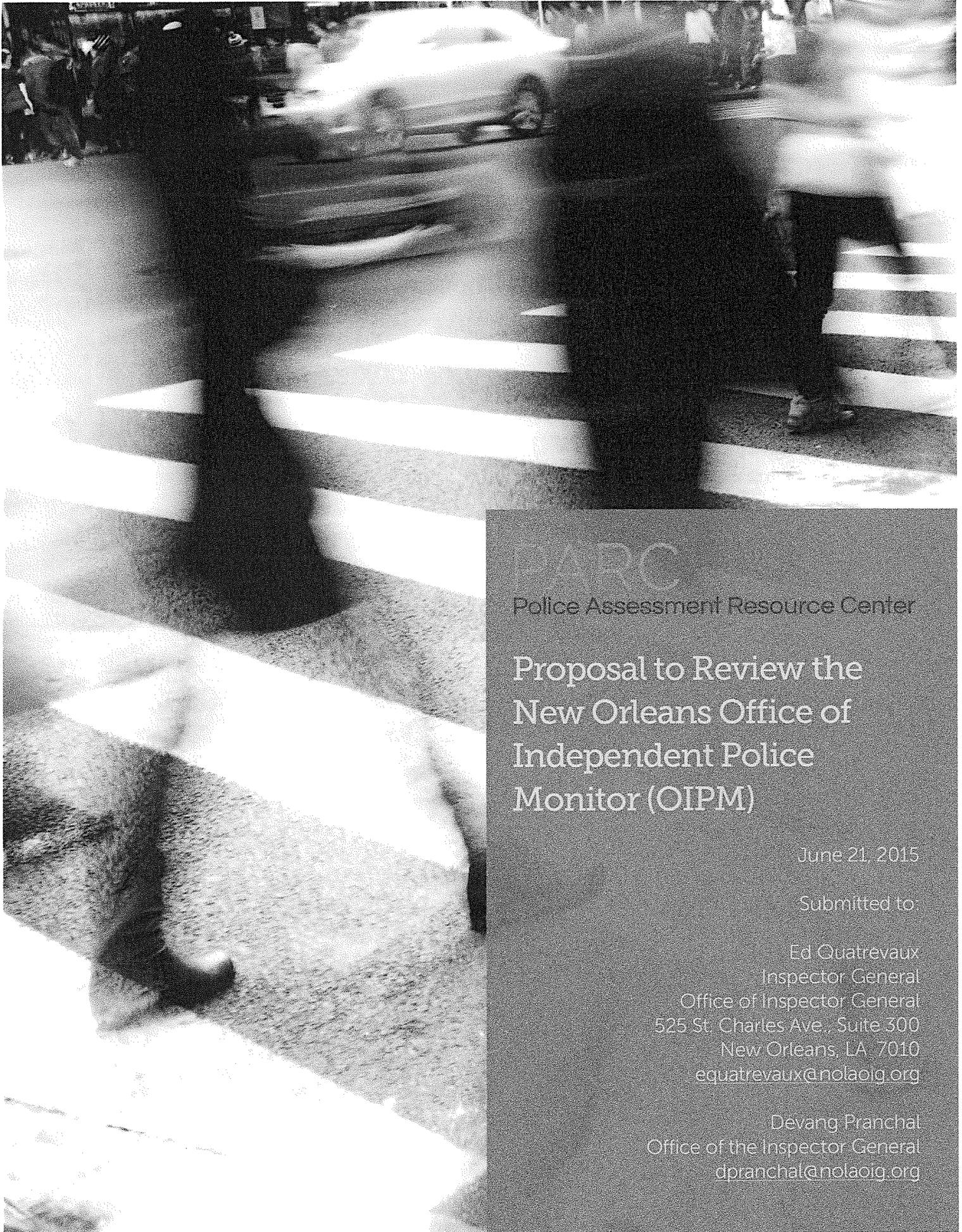
**COOPERATIVE ENDEAVOR AGREEMENT**

**CITY OF NEW ORLEANS/OFFICE OF INSPECTOR GENERAL**

**AND**

**POLICE ASSESSMENT RESOURCE CENTER**

**Assessment of the operations of the Independent Police Monitor Division  
of the Office of Inspector General**



WARC

Police Assessment Resource Center

Proposal to Review the  
New Orleans Office of  
Independent Police  
Monitor (OIPM)

June 21, 2015

Submitted to:

Ed Quatrevaux  
Inspector General  
Office of Inspector General  
525 St. Charles Ave., Suite 300  
New Orleans, LA 7010  
[equatrevaux@nolaolg.org](mailto:equatrevaux@nolaolg.org)

Devang Pranchal  
Office of the Inspector General  
[dpranchal@nolaolg.org](mailto:dpranchal@nolaolg.org)

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# PARC

Police Assessment Resource Center

**NEW YORK | LOS ANGELES**

115 W 18th St.  
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(202) 257-5111

P.O. Box 27445  
Los Angeles, CA 90027  
(213) 623-5757

[www.parc.info](http://www.parc.info)

*Proposal Contact:*

**Merrick Bobb**  
President & Executive Director  
P.O. Box 27445  
Los Angeles, CA 90027  
(213) 623-5757  
[merrickbobb@parc.info](mailto:merrickbobb@parc.info)

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## Introduction

The Police Assessment Resource Center (PARC) is pleased to submit this proposal to determine how closely the Office of the Independent Police Monitor (OIPM) adheres to its mission and engages in best practices in civilian oversight. The OIPM was created in 2009 as a civilian oversight agency monitoring certain specific activities of the New Orleans Police Department (NOPD). The OIPM is part of the Office of the Inspector General Ed Quatrevaux. The current Independent Police Monitor, Susan Hutson, took office in June 2010.

PARC proposes to conduct this study for \$74,500 plus expenses. It will commence its study in approximately one month and will endeavor to deliver this report approximately 6-8 weeks thereafter. PARC will review documents and data, and will interview a spectrum of individuals inside and outside of the NOPD and city government and across New Orleans's racial and ethnic diversity. PARC's goal will be to examine:

- The structure and composition of the OIPM and the breadth and limitations of its oversight authority;
- The degree to which the policies and practices of the OIPM reflect best practice and current thinking on civilian oversight;
- The quality of the OIPM's work product; and
- The community's perceptions and knowledge of the OIPM's roles, responsibilities, and responsiveness.

Merrick Bobb, PARC's Executive Director and founder, will personally work on this project along with two other PARC employees or consultants. PARC contemplates one or two site visits to New Orleans to accomplish the work.

### About the Police Assessment Resource Center (PARC)

The Police Assessment Resource Center (PARC) was founded to provide **independent, evidence-based counsel and research on effective, respectful, and publicly accountable policing** to law enforcement agencies, government entities, and community groups.

PARC has a long history of providing independent, evidence-based counsel on effective, respectful, and publicly accountable policing and civilian oversight. It was founded in 2001 by Merrick Bobb and the Vera Institute of Justice with the generous support of the Ford Foundation.

A nonprofit organization with offices in New York and Los Angeles, PARC works with police agencies, local governments, civic leaders, appointed and elected officials, and community organizations to **address difficult law enforcement issues and solve long-term problems.**

PARC has consulted at various points for the cities of Detroit, Michigan; Los Angeles, Burbank, Pasadena, Oakland, and San Francisco, California; Wallkill, New York; Albuquerque and Farmington, New Mexico; Mesa, Arizona; Milwaukee, Wisconsin; Portland and Eugene, Oregon; Denver, Colorado; the Southern Ute Reservation in Colorado; Seattle and King County, Washington; and several others.

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PARC does not merely do work in the oversight area—it is a **leading authority in the field**. PARC “wrote the book on police oversight after the Rodney King beating in Los Angeles.”<sup>1</sup> Its work on a wide array of accountability, technical, and community issues is widely cited by policy experts, other monitors, civilian oversight mechanisms and community groups—and is one of a few groups that “[t]he best departments keep an eye on” with respect to its reports and recommendations on best practices.<sup>2</sup>

PARC’s **focus on independent assessments and monitoring is unique**. It is the foremost expert on independent, in-depth assessment of mechanisms for civilian oversight. This focus on in-depth, real-world monitoring led to the award of a major grant from the Bureau of Justice Administration to lead a group of peer experts and monitors in constructing National Guidelines for Police Monitors—providing a first-of-its-kind foundation for the work and approach of other monitors, civilian review boards, auditors, police commissions, and law enforcement agencies subject to other civilian oversight.<sup>3</sup> PARC played a similar role in the construction of national guidelines for internal affairs.

PARC has **wide experience evaluating commissions, independent monitors, inspectors general, and civilian review boards**. One example of that work involved Milwaukee, Wisconsin. In the wake of increasing tension in police community-relations, the City of Milwaukee, which had the oldest fire and police commission (FPC) in the United States, trusted PARC to evaluate its structures, practices, and procedures—and make recommendations for improvement.

Although some community stakeholders advocated for the wholesale disbanding and replacement of the Commission, PARC made **concrete, practical recommendations** to improve the Commission’s operations, including legislative recommendations. In conducting the review, PARC examined best practices in comparable jurisdictions to guide recommendations for improving the Commission’s work—situating action items in terms of the real-world experiences of other jurisdictions and oversight commissions.

PARC’s recommendations provided policymakers with a clear and pragmatic roadmap for reform of the Commission. Investigators and analysts were hired to conduct more meaningful investigations. The executive director began to take on a new role. The process of participating in the PARC assessment was cited by several stakeholders as an **encouraging step toward ongoing engagement with the community** on issues of structural reform.

In another instance, PARC was hired by Eugene, Oregon to do a study of civilian oversight. When Eugene was considering implementing a new civilian oversight mechanism, it asked PARC to report on law enforcement oversight models used by cities across the U.S. In its report, **PARC pioneered the leading conceptual framework for police oversight models** — helping the City of Eugene tailor an accountability system to the community’s needs.

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<sup>1</sup> Dominic Holden, “SPD’s Big Job Opening,” *The Stranger* (Aug. 1, 2012), <http://www.thestranger.com/seattle/spds-big-job-opening/Content?oid=14332997>.

<sup>2</sup> Sally Kestin et al, “Policing the Police: Investigating Law Enforcement,” IRE Conference (2013), *available at* [https://www.ire.org/media/uploads/ire-2013/tipsheets/iretipsheet\\_police.pdf](https://www.ire.org/media/uploads/ire-2013/tipsheets/iretipsheet_police.pdf)

<sup>3</sup> Police Assessment Resource Center, *National Guidelines for Police Monitors* (2009), <http://static1.squarespace.com/static/5498b74ce4b01fc317cf2575/t/54aff2f3e4b0233e1957492a/1420817139792/Monitoring+Guidelines.pdf>.

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## Budget

Set forth at **Appendix A** is a table setting forth an anticipated budget for the project. Merrick Bobb and two other professionals will perform the bulk of the work.

Mr. Bobb will perform services at the substantially reduced rate of \$250/hour; the two professionals will work for a substantially reduced rate of \$200/hour. Mr. Bobb is handicapped and requires the services of Jeffrey Yamson, Merrick's personal assistant. Jeffrey's compensation will not be charged to New Orleans. It is difficult to predict in advance how many hours a given project will take. Our best estimate is that we can accomplish the project at a cost of \$74,600 plus expenses.

Because PARC is a nonprofit organization, it offers two advantages to those who engage in it. First, the normal hourly rates of the individuals involved are several hundred dollars greater than what is proposed here. PARC considers the difference as a *pro bono* contribution to New Orleans. Second, absent a new agreement to the contrary, any work performed greater than the costs quoted above will be considered also a *pro bono* contribution to New Orleans consistent with PARC's mission as a nonprofit resource to law enforcement agencies and local governments.

## Staff

**Merrick Bobb** and **Matthew Barge** are the principal individuals from PARC who will be involved. PARC is currently making arrangements for third professional to join the team. Both Merrick and Matthew bring to bear substantial experience and expertise.

Merrick Bobb  
President & Executive Director

Merrick J. Bobb is PARC's Executive Director and head of its Los Angeles Office. Merrick has consulted for or conducted work in all PARC projects since PARC's inception, including serving currently as the federal court-appointed Monitor of the Seattle Police Department.

For 22 years, Merrick Bobb served as Special Counsel to the Los Angeles County Board of Supervisors for the purpose of monitoring the Los Angeles County Sheriff's Department (LASD) — the fourth-largest law enforcement agency in the United States. In doing so, he functioned as the first long-term, independent monitor of a law enforcement agency. Mr. Bobb issued some 34 reports that addressed a host of critical issues, including use of force, civilian complaints, internal investigations and reviews of critical incidents, training, supervision, and risk management.

Merrick Bobb served on three blue-ribbon commissions that investigated law enforcement in Los Angeles in the aftermath of the Rodney King incident in the early 1990s. The first was the Christopher Commission investigation of the LAPD, where Mr. Bobb served as a staff member and a Deputy General Counsel. Thereafter, Mr. Bobb served as Special Counsel to the Los Angeles Police Commission for the purposes of establishing the first Office of Inspector General (OIG) within the Los Angeles Police Department (LAPD). He co-authored a special study of the LAPD five years after the Rodney King incident. The second blue ribbon commission was the Kolts investigation of the LASD where Merrick Bobb served as General Counsel. The third blue-ribbon commission involved the LAPD. In 2005, he was appointed by Chief William Bratton to serve on a Board of Inquiry to examine LAPD SWAT practices.

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Mr. Bobb and PARC have received substantial grants to develop national guidelines or best practices in several important areas. The Bureau of Justice Administration (BJA) made a major grant to PARC to formulate national guidelines for monitors of law enforcement agencies. PARC received a major sub-grant from the COPS Office of the Department of Justice to the LAPD to develop national standards for Internal Affairs bureaus.

Before founding PARC, Merrick, a lawyer, worked at the law firms of Tuttle & Taylor and O'Melveny & Myers. At both firms, he specialized in complex litigation and investigation for public agencies, government, and corporate clients. He also conducted detailed investigations for corporate boards of directors of officers and directors. He is a graduate of the University of California at Berkeley School of Law (Boalt Hall) and of Dartmouth College.

**Matthew Barge**  
Vice President & Deputy Director

Matthew Barge is PARC's Vice President and Deputy Director. He is the head of its New York City office.

Mr. Barge has extensive experience with monitoring, consulting for, or investigating incidents at law enforcement agencies across the United States. Mr. Barge has served as Deputy Monitor for the court-appointed monitoring team overseeing a federal consent decree in Seattle. In that capacity, he has been a primary day-to-day contact on the monitoring team for the Seattle Police Department, city, Department of Justice, and community and political stakeholders.

Mr. Barge has engaged in significant monitoring and assessment projects for cities such as Mesa, Arizona; Los Angeles and Pasadena, California; Denver, Colorado; Farmington, New Mexico; Walkill, New York; and Portland, Oregon. He has reviewed critical incidents, analyzed officer tactics, assessed internal processes and procedures, and scrutinized the quality and scope of supervision and department leadership. He and PARC have conducted exhaustive reviews of high-profile use of force incidents for the University of California, Los Angeles and the Los Angeles Unified School District and made recommendations for improving internal policies and procedures in each instance.

A lawyer, Mr. Barge worked as a litigator specializing in mass torts and complex litigation at the law firms of Skadden, Arps, Slate, Meagher & Flom and Quinn, Emanuel, Urquhart & Sullivan in New York City. He is a graduate of N.Y.U. School of Law and of Georgetown University. He has lectured frequently at universities, law schools, and professional organizations on police accountability and Fourth Amendment issues.

## Conclusion

Please contact Merrick Bobb or Matthew Barge if you have any questions about any of the foregoing. We very much appreciate the opportunity to submit this proposal and look forward to working with New Orleans on this important matter.

## Appendix A. BUDGET

	Primary Expert	Second Expert	Third Expert	Personal Assistant
<b>A. LABOR COSTS</b>				
Labor Rates	\$250/hour	\$200/hour	\$200/hour	\$0
Preparatory Work Prepare for on-site visit to New Orleans.	\$7,500 (30 hours)	\$6,000 (30 hours)	\$6,000 (30 hours)	\$0
On-Site Meet with key stakeholders and officials on-site, conducting evaluation and assessment of relevant issues.	\$11,250 45 hrs	\$10,000 50 hrs	\$10,000 50 hrs	\$0
Post-Visit Continue evaluation and assessment. Draft report summarizing findings and/or recommendations.	\$8,750 35 hrs	\$8,000 40 hrs	\$7,000 35 hrs	\$0
<b>B. TRAVEL EXPENSES</b>				
Air (LAX - MSY, round-trip)	\$860	\$860	\$860	\$860
Hotel (6 Nights)	\$1,200	\$1,200	\$1,200	\$0
Per Diem (6 Days)	\$348	\$348	\$348	\$348
Sub-Total (1 Site Visit)	\$2,408	\$2,408	\$2,408	\$1,208
<b>TOTAL BUDGET (1 Site Visit, 1 x \$8,432)</b>				
<b>TOTAL BUDGET (2 Site Visits, 2 x \$8,432)</b>				
	\$74,500			
	\$19,500			
	\$31,250			
	\$33,750			
	\$8,432			
	\$3,440			
	\$3,600			
	\$1,392			
	\$8,432			
	\$82,932			
	\$91,364			



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# Peer Review of the New Orleans Office of Independent Police Monitor

**PARC**  
Police Assessment Resource Center

January 2016

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## Scope of the Inquiry

The City of New Orleans, at the instance of its Office of Inspector General (“OIG” or “IG”) led by its current Inspector General Ed Quatrevaux, engaged the Police Assessment Resource Center (“PARC”) on July 15, 2015 to conduct a “peer review” of the Office of Independent Police Monitor (“OIPM”). Generally speaking, PARC understands a “peer review” to be an examination of the quality or nature of a given entity that is conducted by a similarly-situated entity.<sup>1</sup>

Given a peer’s unique understandings of the opportunities and challenges inherent in the common undertaking, such a review can focus not on hypothetical or abstract notions about what OIPM could do but, instead, on real-world experiences and clear metrics that PARC, as a peer, has found valuable in applying to its own monitoring and independent assessment work.

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Peer review has been a staple of quality assessment across government, business, and numerous other fields for some time.

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Peer review has been a staple of quality assessment across government, business, and numerous other fields. For instance, “[e]very 3 years, independent organizations perform a peer review of GAO’s [the U.S. Government Accountability Office’s] system of quality control for work done under generally accepted government auditing standards to determine whether it is suitably designed and operating effectively.”<sup>2</sup> In the 1980s and 1990s, the federal government “contracted with peer review organizations to monitor hospital use and quality of care” provided to Medicare patients.<sup>3</sup> The Association to Advance Collegiate Schools of Business (AACSB) uses “Peer-Review Teams . . . comprised of volunteer deans and business school administrators” to evaluate the standing of business schools.<sup>4</sup> Police departments themselves often ask peer law enforcement agencies to evaluate their work.<sup>5</sup> Likewise, the Inspector General’s office in New Orleans has previously retained independent, outside peer review.<sup>6</sup>

One purpose of a peer review is to ascertain the degree to which the reviewed organization’s actions reflect adherence to the organization’s purpose and mission statement. Another purpose of peer evaluation is to test whether the organization promotes and practices objectivity, transparency, fairness, education, accountability, and adherence to guiding legal and ethical principles.

The scope of PARC’s work per the Cooperative Endeavor Agreement executed with the City of New Orleans required that PARC:

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<sup>1</sup> See, e.g., Peer Review, BusinessDictionary.com, <http://www.businessdictionary.com/definition/peer-review.html> (last visited Aug. 10, 2015) (defining “peer review” as an “[e]valuation of the performance, or the quality of work, of a member of a peer group by experts drawn from that group”).

<sup>2</sup> Peer Review, Government Accountability Office, <http://www.gao.gov/about/review.html> (last visited Aug. 10, 2015).

<sup>3</sup> Stephen E. Dippe, et al, “A peer review of a peer review organization,” 151 West. J. Med. 93, 93 (1989).

<sup>4</sup> Peer Review Teams, AACSB International, <http://www.aacsb.edu/en/accreditation/volunteers/peer-review-teams/> (last visited Aug. 10, 2015).

<sup>5</sup> See, e.g., Austin Police Department, “Peer Review of Seattle Police Investigation 2010-303528,” available at <http://www.seattle.gov/Documents/Departments/OPA/highprofilecases/AustinReport.pdf>; MGT of America, Inc. “Public Safety Police Operations” (June 2008), available at <https://austintexas.gov/sites/default/files/files/Auditor/au06118a.pdf>.

<sup>6</sup> Association of Inspectors General, Letter to E. Quatrevaux (Apr. 6, 2015), available at <http://www.nolaoig.org/uploads/File/Peer%20Review/Peer%20Review%20Report%202015.pdf>.

- Review the [O]IPM (“Office of Independent Police Monitor”) Division’s mission statement, goals and objectives, and policies and procedures to determine whether they meet nationally accepted standards and best practices;
- Review a statistically significant sample of work products issued by the IPM Division between 2012 and 2015 to determine whether they were completed in accordance with requirements outlined in the IPM Division’s policies and procedures and consistent with nationally accept standards[; and]
- Assess the community’s perceptions and knowledge of the IPM Division’s roles, responsibilities, and responsiveness.

To conduct the peer review in a manner consistent with this overall charge, PARC identified four key areas of inquiry:

- (1) The structure and composition of the OIPM, including the breadth and limitations of its oversight authority.
- (2) The degree to which OIPM’s policies and practices reflect best practice on civilian oversight;
- (3) The quality of OIPM’s work product; and
- (4) The community’s perceptions and knowledge of the OIPM’s roles, responsibilities, responsiveness, and effectiveness.

## Background of the Reviewing Entity

PARC, as the nation’s leading repository and resource center on police oversight, collects and evaluates oversight mechanisms and their strengths and weaknesses as an ongoing project. Indeed, its founder and Executive Director has been engaged on a full-time basis in police oversight for nearly 25 years and has been credited with the invention of contemporary police oversight policy, theory, and practice.

PARC does not merely do work in the oversight area – it is a leading authority in the field. PARC “wrote the book on police oversight after the Rodney King beating in Los Angeles.”<sup>7</sup> Its work on a wide array of accountability, technical, and community issues is widely cited by policy experts, other monitors, civilian oversight bodies, and community groups – and is one of a few groups that “[t]he best departments keep an eye on” with respect to its reports and recommendations on best practices.<sup>8</sup> PARC’s work has been widely recognized as “thorough, fair and methodical, with a reputation that has put [its] work above reproach.”<sup>9</sup>

The Police Assessment Resource Center (PARC) was founded in 2001 by Merrick Bobb and the Vera Institute of Justice, and with the generous support of the Ford Foundation, to provide independent, evidence-based counsel and research on effective, respectful, and publicly accountable policing to law enforcement agencies, government entities, and community groups. A nonprofit organization with offices in New York and Los

<sup>7</sup> Dominic Holden, “SPD’s Big Job Opening,” *The Stranger* (Aug. 1, 2012), <http://www.thestranger.com/seattle/spds-big-job-opening/Content?oid=14332997>.

<sup>8</sup> Sally Kestin, et al, “Policing the Police: Investigating Law Enforcement,” IRE Conference (2013).

<sup>9</sup> Kevin Uhrich, “From Good to Great,” *Pasadena Weekly* (Sept. 11, 2013).

Angeles, PARC works with police agencies, local governments, civic leaders, appointed and elected officials, and community organizations to address difficult law enforcement issues and solve long-term problems.

PARC has a long history of providing independent, evidence-based counsel on effective, respectful, and publicly accountable policing and civilian oversight. It has consulted at various points for the cities of Detroit, Michigan; Los Angeles, Pasadena, Oakland, and San Francisco, California; Wallkill, New York; Albuquerque and Farmington, New Mexico; Mesa, Arizona; Milwaukee, Wisconsin; Portland and Eugene, Oregon; Denver, Colorado; the Southern Ute Reservation in Colorado; Seattle and King County, Washington; and several others. PARC currently serves as staff to Mr. Bobb in his capacity as court-appointed monitor overseeing the implementation of the federal consent decree in Seattle.

PARC's focus on independent assessments and monitoring is unique. It is the foremost expert on independent, in-depth assessment of mechanisms for civilian oversight. This focus on in-depth, real-world monitoring led to the award of a major grant from the Bureau of Justice Administration to lead a group of peer experts and monitors in constructing National Guidelines for Police Monitors—providing a first-of-its-kind foundation for the work and approach of other monitors, civilian review boards, auditors, police commissions, and law enforcement agencies subject to other civilian oversight. PARC played a similar role in the construction of national guidelines for internal affairs.

PARC has evaluated institutionalized police commissions, review boards, inspectors general, and monitors. One example of that work involved Milwaukee, Wisconsin. In the wake of increasing tension in police community-relations, the City of Milwaukee, which has the oldest fire and police commission in the United States, trusted PARC to evaluate its structures, practices, and procedures – and make recommendations for improving the rigor and transparency of its processes and procedures. Although some community stakeholders advocated for the wholesale disbanding

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PARC has evaluated institutionalized police commissions, review boards, inspectors general, and monitors across the country – making it uniquely situated to conduct a peer review of OIPM.

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and replacement of the Commission, PARC made concrete, practical recommendations to improve the Commission's operations, including legislative recommendations. In conducting the review, PARC examined best practices in comparable jurisdictions to guide recommendations for improving the Commission's work—situating action items in terms of the real-world experiences of other jurisdictions and oversight commissions.

PARC's recommendations provided policymakers with a clear and pragmatic roadmap for reform of the Commission. Investigators and analysts were hired to conduct more meaningful investigations. The executive director began to take on a new role. The process of participating in the PARC assessment was cited by several stakeholders as an encouraging step toward ongoing engagement with the community on issues of structural reform.

In another instance, PARC was hired by Eugene, Oregon to conduct a study of civilian oversight. When Eugene was considering implementing a new civilian oversight mechanism, it asked PARC to report on law enforcement oversight models used by cities across the U.S. In its report, PARC pioneered the leading

conceptual framework for police oversight models – helping the City of Eugene tailor an accountability system to the community’s needs.

For the present inquiry, PARC drew upon the experience of 25 years as the foremost authority on civilian oversight. In the same way that it has for countless other communities, it has considered how both the successes and lessons learned of other jurisdictions, civilian oversight mechanisms, and monitors might be applied to the New Orleans OIPM.

## Methodology

In 2008, pursuant to a grant from the United States Department of Justice, and with the assistance of the Community Oriented Policing Services (“COPS”) Office, PARC convened a broad group of stakeholders to debate and ultimately draft National Guidelines for Police Monitors (the “National Guidelines for Police Monitors” or “National Guidelines”). Twenty-three (23) police accountability practitioners and law enforcement professionals from across the United States served as members of the working group that generated the standards. Thirty (30) additional practitioners and professionals gave shape, input, and direction to the efforts.

Thus, the National Guidelines for Police Monitors were generated by a wide group of seasoned and experienced experts. The final guidelines were subject to vigorous debate, discussion, and review while being constructed.

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PARC’s peer review considered how OIPM has been operating in light of Department of Justice-sponsored National Guidelines for Police Monitors and the National Association for Civil Oversight of Law Enforcement Code of Ethics.

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As such, the guidelines represent consensus views and positions among a diverse, experienced set of monitors and civilian oversight professionals, not merely PARC or its agents.

The National Guidelines for Police Monitors address issues related both to “litigation-initiated monitors,” or those who oversee consent decrees or settlement agreements stemming from federal or private litigation,<sup>10</sup> and to “municipal action monitors,” or those “appointed pursuant to voluntary municipal action” and who are charged with “assess[ing] the police department’s performance as required by the governing ordinance or municipal code from which they derive their authority and with reference to accepted standards and best practice in law enforcement.”<sup>11</sup> Because the OIPM is an institutionalized police oversight wing established pursuant to municipal action, our review considered how OIPM was operating with respect to the guidelines that are applicable to municipal action, rather than litigation-initiated, monitors.

OIPM also adopted, with the approval of the OIG, the National Association for Civilian Oversight of Law Enforcement’s (“NACOLE”) Code of Ethics (the “NACOLE Code of Ethics”).<sup>12</sup> The values and interests

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<sup>10</sup> Police Assessment Resource Center, “National Guidelines for Police Monitors” (2008) [hereinafter “National Guidelines for Police Monitors”] at 12–13.

<sup>11</sup> *Id.* at 15.

<sup>12</sup> Office of Inspector General, City of New Orleans, “Strategic Plan: 2013-2016” at 1 (Sep. 1, 2012), available at <https://nacole.org/wp-content/uploads/2-NOLA-OIG-IPM-Joint-2013-to-2016-Strategic-Plan.pdf> (“[T]he IPM division adheres to the Code of Ethics, Principles and Standards promulgated by the National Association for Civilian Oversight of Law Enforcement.”).

contained within that Code are consistent with the National Guidelines and with other national assessment standards. PARC is a member of NACOLE and recognizes NACOLE's Code of Ethics as a leading professional guide in the field of police accountability.

Our approach has also been informed by national auditing and inspection standards, including but not limited to:

- The Association of Inspectors General, *Principles & Standards for Offices of Inspector General* (the “Green Book”);
- The Institute of Internal Auditors, *International Standards for the Professional Practice of Internal Auditing* (the “Red Book”); and
- The United States Government Accountability Office (GAO), *Government Auditing Standards* (the “Yellow Book”).

Of these national inspection and auditing standards, the most directly applicable to the work of police oversight and the charge of OIPM, as set forth in the enabling legislation that established it, are the Association of Inspectors General so-called “Green Book.” As with the National Guidelines for Police Monitors, some of the guidelines for Inspectors General are not necessarily applicable to OIPM. Indeed, because Office of Inspectors General “are established . . . often under differing authorities and mandates[,] [t]hese differences, as well as other factors, may affect the practices of various offices and, consequently, the applicability of standards to these offices.”<sup>13</sup> Thus, we gauged OIPM against those Green Book standards that, based on our experience as a peer organization that has engaged in municipal action monitoring and our understanding of the nature of OIPM's work and nature of its charge, appeared applicable to the office. The findings of our report discusses, in greater detail, both the important similarities between the charge of a generic Office of Inspector General, the New Orleans Office of Inspector General, and the Office of Independent Police Monitor.

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Monitoring police agencies can look and feel very different from auditing the spending of a municipal agency or scrutinizing the data of a local utility.

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The Institute of Internal Auditors' so-called “Red Book” and the Government Accountability Office's so-called “Yellow Book” are of less direct utility to the present inquiry. Successful monitoring of police agencies entails both quantitative and qualitative, as well as systemic, audit-like and focused, intervention-oriented, work. That is, determinations about how well a police department is functioning is often “a mix of ‘yes or no’ questions . . . , qualitative judgments . . . , and quantitative judgments”<sup>14</sup> – both with respect to overall trends and with respect to specific instances, cases, or incidents.<sup>15</sup> Monitoring police agencies can, then, look and feel very different from auditing the spending of a municipal agency or scrutinizing the data of a local utility.

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<sup>13</sup> The Association of Inspectors General, *Principles & Standards for Offices of Inspector General* (2004) [hereinafter “Green Book”] at 7.

<sup>14</sup> National Guidelines for Police Monitors at 85.

<sup>15</sup> See, e.g., Rebekah Hollwedel & Tim Burns, Office of the Police Ombudsman, Spokane, Washington, “A Current Sampling of Civilian Oversight of Law Enforcement Practices in the United States” at 5 (June 2012), <https://static.spokanecity.org/documents/opo/documents-reports/other/civilian-oversight.pdf> (“Other than auditing, reviewing, and investigating complaints, [police] oversight responsibilities can include policy and procedure recommendations, mediation and helping set up and maintain early warning systems to track complaints made against officers who may need more training or counseling from a supervisor.”).

Throughout this report, we reference the specific standards, guidelines, or practices against which we evaluated OIPM either directly in the text of the report or, in some instances, in footnotes.

## Findings

### I. Structure & Composition of the OIPM

#### A. Models of Civilian Oversight

Modern American policing must be conducted in a manner that is consistent with the values of the community that it serves. One manner of ensuring this is the participation and involvement of non-sworn members of the community in important aspects of internal investigations or analysis of how a department and its officers are performing.<sup>16</sup>

Institutionalized civilian oversight is important for several reasons. Most fundamentally, civilian oversight of and participation in policymaking and decision-making related to law enforcement is consistent with “the democratic idea that citizens should have influence over their government,” which can be “particularly important in relation to the police, given their significant power” or influence in “the daily lives of citizens.”<sup>17</sup> Beyond merely being consistent with democratic ideals, “complaints and misconduct, or other areas of policy, [may be] addressed more effectively when civilians are involved in the process than when police deal with such

issues on their own.”<sup>18</sup> Indeed, regardless of the effectiveness of such mechanisms in particular cases or systematically, even simply the appearance to the community that civilian complaints or concerns “are dealt with in a transparent and fair way can be seen as a goal in its own right”<sup>19</sup> toward establishing greater public confidence and community trust in the police.

The Consent Decree between the United States and City of New Orleans addressing use of force, bias-free policing, supervision, accountability, and many other expressly recognizes the importance of civilian- and community-driven oversight and accountability mechanisms.<sup>20</sup> Strong, permanent civilian oversight in any city is indispensable to assure that a department’s policing is effective, safe, constitutional, and consistent with the values of the

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Although the need for and benefits of community involvement and civilian oversight are similar across communities, civilian oversight structures vary widely as far as specific responsibilities, duties, and structures.

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<sup>16</sup> Chris Stone & Merrick Bobb, “Civilian Oversight of the Police in Democratic Societies” (2002), [http://www.vera.org/sites/default/files/resources/downloads/Civilian\\_oversight\\_2.pdf](http://www.vera.org/sites/default/files/resources/downloads/Civilian_oversight_2.pdf).

<sup>17</sup> Joel Miller, Vera Institute of Justice, “Civilian Oversight of Policing: Lessons from the Literature” at 2 (May 2002), [http://vera.org/sites/default/files/resources/downloads/Civilian\\_oversight.pdf](http://vera.org/sites/default/files/resources/downloads/Civilian_oversight.pdf).

<sup>18</sup> Joel Miller, Vera Institute of Justice, “Civilian Oversight of Policing: Lessons from the Literature” at 2 (May 2002), [http://vera.org/sites/default/files/resources/downloads/Civilian\\_oversight.pdf](http://vera.org/sites/default/files/resources/downloads/Civilian_oversight.pdf).

<sup>19</sup> *Id.*

<sup>20</sup> See *U.S. v. City of New Orleans*, Case No. 2:12-cv-01924-SM-JCW (E.D. La.) at Dkt. 2-1 ¶¶ 432-35 (requiring district community outreach and public information programs in each New Orleans Police Department district); ¶¶ 436-38 (outlining requirements of a Police-Community Advisory Board); ¶ 439 (requiring City and NOPD participation in a community-based restorative justice project); ¶¶ 440-43 (endorsing continuing role of Office of Independent Monitor and incorporating the terms of a November 10, 2010 Memorandum of Understanding between NOPD and the IPM into the terms of the Consent Decree)

community that it serves.. Nothing in this report should be read as an attack on the merits of police reform, enhanced accountability, and civilian oversight of law enforcement in New Orleans.

Although the need for and benefits of community involvement and civilian oversight are similar across communities, civilian oversight structures vary widely as far as specific responsibilities, duties, and structures.<sup>21</sup> Across the more than 200 civilian oversight entities functioning around the United States<sup>22</sup>, the way that these external accountability mechanisms function depends significantly on the history of the jurisdiction, the local structures and legal foundations of the city and law enforcement organization, and the community and political context in which the mechanism was originally established.

Despite differences in many of the details, civilian oversight mechanisms can be categorized into a few major models.<sup>23</sup> The first are review and appellate bodies. These accountability mechanisms generally review completed investigations—they typically cannot “conduct independent investigations or hearings” or “adjudicate complaints or mete out discipline.”<sup>24</sup> The models tend to “deal exclusively with citizens’ complaints on an individual basis” and “do not . . . look at the department as a whole or search for patterns and practices” of systemic performance, issues, or misconduct.<sup>25</sup> Because they are incident-driven, they typically do not make recommendations about changes on policy, practice, procedure, or training. Likewise, the investigation of complaints still occurs as an internal, department function, with only a review occurring externally.<sup>26</sup> A primary example of review and appellate bodies are review boards in places like Albany, New York; Charlotte, North Carolina; St. Paul, Minnesota; and others.

Other civilian oversight bodies are investigative or quality assurance bodies. These entities typically either investigate complaints of police misconduct or are actively involved, during the pendency of such investigations, in providing comment or feedback on the “quality and integrity of individual investigations” of misconduct complaints.<sup>27</sup> These mechanisms make the investigation and review processes both external to the law enforcement agency.<sup>28</sup> The Berkeley, California Police Review Commission; New York City’s Civilian Complaint Review Board; and Washington D.C.’s Office of Police Complaints are some examples of investigative or quality control bodies.

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<sup>21</sup> See, e.g., Samuel Walker, *The New World of Police Accountability* 15 (2013) (noting the distinct roles and functions of civilian complaint review boards, police auditors, and other forms of external oversight of law enforcement).

<sup>22</sup> Martin Kaste, “Police are Learning to Accept Civilian Oversight, but Distrust Lingers,” NPR.org (Feb. 24, 2015), <http://www.npr.org/2015/02/21/387770044/police-are-learning-to-accept-civilian-oversight-but-distrust-lingers>.

<sup>23</sup> See generally Samuel Walker, “Variety of Citizens Review: The Implications of Organizational Features of Complaint Review Procedures for Accountability of Police,” 15 *American Journal of Police* 65 (1996); Merrick Bobb, et al, Police Assessment Resource Center “Review of National Police Oversight Models for the Eugene Police Commission” (Feb. 2005) [hereinafter “Review of National Police Oversight Models”], available at <http://static1.squarespace.com/static/5498b74ce4b01fe317ef2575/t/54caf3abe4b04c8e2a3b6691/1422586795583/Review+of+National+Police+Oversight+Models+%28Feb.+2005%29.pdf>.

<sup>24</sup> *Id.* at 11.

<sup>25</sup> *Id.*

<sup>26</sup> Jack McDevitt, et al, “Enhancing Citizen Participation in the Review of Complaints and Use of Force in the Boston Police Department” at 6 (Dec. 2005) [hereinafter “Enhancing Citizen Participation”], <http://www.nlg-npap.org/sites/default/files/Northeasternreport12-05.pdf>.

<sup>27</sup> Review of National Police Oversight Models at 20.

<sup>28</sup> Enhancing Citizen Participation” at 5 (Dec. 2005).

Still other civilian oversight mechanisms, which may be classified as evaluative and performance-based oversight mechanisms, focus on attempting to address “systemic failures” that may not be identified or solve “when one proceeds on a case-by-case basis.”<sup>29</sup> These oversight bodies evaluate how well a given law enforcement agency is functioning in terms of not only the quality of the internal investigatory and discipline processes but across all core functions, including supervision, use of force, search and seizure activity, community policing and engagement, and others. The oversight structures focus not solely on individual incidents but on what those incidents, whether in isolation or in the aggregate, say about how well a department’s policies, procedures, structures, training, and the like are functioning for the city and community that the department serves. Generally, professional police monitors, auditors, or ombudspersons all fall under the umbrella of an evaluative or performance-based oversight mechanism.<sup>30</sup> Boise, Idaho’s Community Ombudsman; Los Angeles County’s Inspector General; and Portland, Oregon’s Independent Police Review Division are examples of evaluative and performance-based mechanisms.

Many cities use “models [that] combine elements of the above models, (e.g. Ombudsperson with civilian boards).”<sup>31</sup> These “[h]ybrid models of review often started with one” oversight mechanism but “added elements as the needs of the organization or the community changed.”<sup>32</sup>

As the following sections discuss, OIPM is just such a hybrid model. Because of both a broad legislative charge and imprecise areas of focus within the Monitor’s office itself, OIPM’s activities have incorporated elements associated with each of the review and appellate, investigative and quality assurance, and evaluative and performance-based models.

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OIPM is a hybrid model of police oversight – because of both a broad legislative charge and imprecise areas of focus within the Monitor’s office itself.

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## B. Authority, Duties, and Responsibilities Granted to the OIPM

Civilian oversight in New Orleans is currently provided by the Office of the Independent Police Monitor, which, until recently, has been a division of the New Orleans Inspector General’s Office. In October 2015, the OIPM and the OIG negotiated an agreement to separate. Consequently, OIPM now has a larger budget and an important opportunity to further professionalize and administer itself in a way that amplifies confidence and trust between those who live and work in New Orleans and those who protect and serve them. Because the formal separation of OIPM and OIG is relatively recent, however, it is too early to consider how the new

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<sup>29</sup> Review of National Police Oversight Models at 21; *accord* Debra Livingston, “The Unfulfilled Promise of Citizen Review,” 1 *Ohio St. J. Crim. L.* 655 (2004) (noting that most civilian oversight’s “focus on the retrospective investigation of complaints as a principal mechanism for rooting out officer malfeasance and enhancing the performance of police” is “inadequate” because, “[i]n reality, complaint investigation is but a small piece of any comprehensive strategy aimed at improving policing and minimizing” misconduct).

<sup>30</sup> Enhancing Citizen Participation at 6. (Dec. 2005).

<sup>31</sup> *Id.* at 7; *accord* Barbara Attard & Kathryn Olson, “Overview of Civilian Oversight of Law Enforcement in the United States” at 2, <http://www.fairfaxcounty.gov/policecommission/subcommittees/materials/oversight-us-law-enforcement.pdf> (“Most oversight agencies in the U.S. today are multifaceted ‘hybrids’ that incorporate a combination of functions and can include a community board or commission, investigation of police misconduct complaints, monitoring/auditing of a police department’s internal investigations, or review of broader policy and training systems.”); *see generally* Sanakar Sen, *Enforcing Police Accountability through Civilian Oversight* (2010) (describing variety of hybrid police oversight mechanisms systems used nationally and internationally).

<sup>32</sup> Enhancing Citizen Participation at 7.

arrangement may impact the nature, scope, or quality of its work. Regardless, although recent legislation codified OIPM's independence from the Office of Inspector General, it neither materially changed any of duties or responsibilities assigned to the OIPM since its creation nor added any additional duties.

The 2009 municipal ordinance that established the OIPM identifies a scope of duty and responsibility that appears to expressly call for a hybrid civilian oversight structure – one that must focus on complaints of misconduct but must also conduct more systemic, evaluative reviews of NOPD's operations, data, risk management, policies, procedures, resources, and the like.<sup>33</sup>

Among other express duties, OIPM's duties include:

- Monitoring “civilian and internally-generated complaints; internal investigations; discipline; use of force; and in-custody deaths”;
- “[R]eview[ing] and analyz[ing] the numbers and types of complaints”;
- “[A]ssess[ing] the quality and timeliness of” NOPD investigations”;
- “[R]eview[ing] the adequacy of data collection and analysis”;
- “[R]eview[ing] the public integrity bureau’s policies, procedures, and resource needs”;
- “[C]onduct[ing] risk management reviews”;
- “[R]eview[ing] the operations and effectiveness” of NOPD’s early warning system;
- “[R]eview[ing] specific issues regarding supervision, training, and discipline”;
- “[C]onduct[ing] relevant pattern analysis”; and
- Engaging in “other tasks to ensure New Orleans Police Department accountability, transparency, and responsiveness to the community it serves.”<sup>34</sup>

With respect to complaints, OIPM is tasked with receiving complaints about misconduct of NOPD personnel, which the Office must refer to the Department’s Office of Internal Investigations for investigation.<sup>35</sup> OIPM reviews the classification of those internal investigations, recommends reclassification if appropriate, and “review[s] and monitor[s] such investigations.”<sup>36</sup> The monitor may “recommend that an internal investigation be reopened if he [or she] determines that the investigation was not thorough or fair.”<sup>37</sup> If NOPD does not accept OIPM’s recommendations, the monitor “shall issue a public report relative to the refusal.”<sup>38</sup> In any event, completed NOPD investigations that the monitor reviews “shall be accompanied by a report in writing” to NOPD “stating whether the investigation was considered fair, thorough, timely or insufficient.”<sup>39</sup>

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<sup>33</sup> Code of the City of New Orleans, §§ 2-1121(3)–(16).

<sup>34</sup> § 2-1121(3).

<sup>35</sup> § 2-1121(4).

<sup>36</sup> § 2-1121(5).

<sup>37</sup> § 2-1121(6).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

Complainants can request from OIPM a “status report” regarding the investigation of their complaint.<sup>40</sup> Those persons “dissatisfied with the outcome of an investigation they initiated may request a review by the independent police monitor” of the completed investigation.<sup>41</sup> The monitor may recommend that an investigation be reopened.<sup>42</sup>

However, the Monitor is tasked not only with addressing complaints but also with “compil[ing] data regarding commendations [,] . . . identify[ing] officers, units, and precincts that have been commended by the public for doing exceptional work,” and presenting the information about commendations in “public reports.”<sup>43</sup>

The ordinance likewise expressly instructs OIPM to “review patterns relating to civil claims and lawsuits alleging New Orleans Police Department misconduct, payout amounts over time, units disproportionately represented as subjects of claims and lawsuits, related training, and other issues.”<sup>44</sup> Further, the monitor is authorized to “review the investigation of underlying incidents described in such claims and lawsuits,” regardless of when those investigations occurred.<sup>45</sup> After reviewing this and other “trends . . . and investigation practices,” the monitor “shall make recommendations to the superintendent to improve upon policies and practices based on national best practices.”<sup>46</sup> The monitor also “shall periodically review training sessions and schedules to identify best practices and any need for improvements to training curriculum or frequency.”<sup>47</sup>

The enabling legislation also calls for the monitor to conduct significant community outreach and engagement – “distribut[ing] information about its office, duties and functions”; “issu[ing] complaint and commendation forms in languages and formats accessible to residents”; “hold[ing] at least one public outreach meeting in each council district of the city at least once every four months”; and “meet[ing] with each police association a minimum of three times each year.”<sup>48</sup>

In sum, OIPM evaluates and reviews complaints. Regardless of the nature of the Monitor’s involvement, the Monitor neither independently investigates nor adjudicates misconduct investigations. Instead, it “review[s],”<sup>49</sup> “monitor[s],”<sup>50</sup> and makes “recommendations”<sup>51</sup> to NOPD.

Additionally, the Monitor has a broad ability to conduct overall, systemic reviews of NOPD functions. The Monitor must compile data regarding police commendations, analyze patterns of civil claims and lawsuits, and evaluate complaint trends. However, it is also charged with analyzing the functioning of NOPD’s early warning system; risk management capacity; and reviewing issues related to supervision, training, and discipline – all substantial charges that task NOPD with not simply being a quality control mechanism for internal

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<sup>40</sup> § 2-1121(8).

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* Reopening an investigation is only possible “where the statutory time limit permits.” *Id.*

<sup>43</sup> § 2-1121(7).

<sup>44</sup> § 2-1121(9).

<sup>45</sup> *Id.*

<sup>46</sup> § 2-1121(10).

<sup>47</sup> § 2-1121(11).

<sup>48</sup> § 2-1121(12).

<sup>49</sup> § 2-1121(3).

<sup>50</sup> § 2-1121(4).

<sup>51</sup> *Id.*

investigations but to monitor, review, and make recommendations across a significant scope of NOPD's day-to-day functions.

### C. Stated Mission, Goals, and Objectives of the OIPM

Mission statements “define the fundamental, unique purpose that sets” an organization “apart from other[s]” and serves as a kind of “enduring statement of purpose that reveals an organization’s . . . service, . . . customers, and philosophy.”<sup>52</sup> Mission statements “motivate (and in doing so, control) the behaviors of organizational members toward common organizational goals.”<sup>53</sup> “Although there are no good or bad missions, there are good and bad mission statements.”<sup>54</sup>

A good, clear mission statement “describes the bounds of the business of the organization” in a way that provides clarity of scope for all stakeholders implicated by an organization’s functions.<sup>55</sup> Such statements “simply explain what we do, our reason for being—our purpose.”<sup>56</sup> In contrast, “[a] bad mission statement can confuse the public about the agency’s goals and create false or unattainable expectations.”<sup>57</sup> Although the day-to-day functions and performance of the organization must obviously sufficiently meet the mission statement for the statement to be considered effective, an organization lacking a clear mission statement risks going in directions that may not be consistent with the group’s overall objectives.

OIPM reports that its mission “is to improve police service to the community, citizen trust in the NOPD, and officer safety and working conditions.”<sup>58</sup> With nearly all of the legislatively mandated duties clearly linked to improving police service, citizen trust, and officer safety, OIPM’s general mission statement, while broad, is satisfactory. It positions its legislatively-imposed charges in an understandable and accessible manner. As a civilian oversight mechanism, it appropriately identifies its objectives in terms of the community and citizen trust, while also recognizing its role in ensuring good working conditions for, and the safety of, NOPD officers. After the initial sentence, the Office’s mission statement in turn outlines “three broad responsibilities”:

- (1) [To] ensure that all concerns regarding police misconduct are classified and investigated at the appropriate level and that those investigations are fairly, timely and thoroughly handled. To make information about this review process available to the public.
- (2) [T]o carefully consider aggregate data from complaints, investigations, community concerns and public policy in crafting recommendations aimed toward improving the quality services of NOPD.

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<sup>52</sup> John A. Pearce II & Fred David, “Corporate Mission Statements: The Bottom Line,” 1 *Academy of Mgmt. Exec.* 109 (1987).

<sup>53</sup> Christopher K. Bart, et al, “A Model of the Impact of Mission Statements on Firm Performance,” 39 *Mgmt. Decision* 19, 19 (2001).

<sup>54</sup> Kurt Verweire & Lutgart Van den Berghe, “Performance Goals and the Strategy Formation Process,” in *Integrated Performance Management: A Guide to Strategy Implementation* (Kurt Verweire & Lutgart Van Den Berghe, eds.) 95 (2004).

<sup>55</sup> Sharon M. Oster, *Strategic Management for Nonprofit Organizations: Theory & Cases*, 22-23 (1995).

<sup>56</sup> Peter F. Drucker, *The Five Most Important Questions You Will Ever Ask About Your Organization* (2011).

<sup>57</sup> Douglas W. Thomas & Patricia McFall Torbet, National Center for Juvenile Justice, *Juvenile Probation Administrators’ Desktop Guide* 46 (1997).

<sup>58</sup> Our Mission & Responsibilities, New Orleans Office of Independent Police Monitor (last visited Dec. 24, 2015), [http://nolaipm.org/main/inside.php?page=our\\_mission](http://nolaipm.org/main/inside.php?page=our_mission).

- ③ [T]o reach out to [and] inform the community about the complaint process and IPM activities, and to listen and respond to broader community concerns.<sup>59</sup>

These enumerated responsibilities are, to at least some degree, problematic. First, all three responsibilities centrally mention complaints. As discussed above, although the review of complaints and monitoring of the complaint classification and investigation process are core functions of OIPM, the ordinance contemplates substantially more. Likewise, the broader charge of making overall, systemic recommendations about a number of facets of NOPD operations – from the adequacy and integrity of data analysis to issues regarding supervision, training, and discipline – is addressed secondarily, at best, in the three listed responsibilities of the OIPM mission. In the second of the “three broad responsibilities,” consideration of data would seem only to come from information from complaints, and the investigations of those complaints, and community input, rather than any other data source inside the Department or from systemic analyses conducted by OIPM. In the third of the “broad responsibilities,” OIPM tasks itself with “respond[ing] to broader community concerns” but does not mention, as part of its mission, analyzing and making recommendations about overall concerns that it has identified pursuant to inquiry, investigation, or analysis.

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If anything, the broad responsibilities that OIPM has adopted as part of its mission statement are insufficiently broad to capture the substantial duties and responsibilities that the municipal ordinance establishing it provided.

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Nothing in the mission statement appears contrary to the enabling legislation establishing the Monitor, nor does anything unduly expand upon the authority granted to the Monitor. If anything, the “broad responsibilities” that OIPM has adopted as part of its mission are insufficiently broad to capture the substantial duties and responsibilities provided to it.

By constraining its portfolio of responsibility, at least in the formal sense encapsulated by its mission statement, OIPM at least drives the impression that it is purely a review body – charged simply with reviewing, monitoring, and making recommendations about complaint investigations. OIPM’s stated mission statement is not deficient. However, it could simultaneously do more to describe the organization’s charge more broadly while detailing its specific functions, or the primary means by which OIPM engages in trying to meet those broad objectives, more specifically.

For instance, the Denver Office of the Independent Monitor’s mission statement likewise contains a broad statement of purpose before describing, in three bullet points, that Monitor’s primary responsibilities – with two of the three responsibilities relating to the investigation and disposition of internal investigations. Nonetheless, that body lists its third major responsibility as “[m]aking recommendations regarding broader policy issues,”<sup>60</sup> which is the kind of broader and more comprehensive description that OIPM’s enabling legislation seems to contemplate.

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<sup>59</sup> *Id.*

<sup>60</sup> City of Denver, Colorado, Office of the Independent Monitor, About Us <https://www.denvergov.org/content/denvergov/en/office-of-the-independent-monitor/about-us.html> (last visited Dec. 26, 2015).

To the extent that OIPM has intended its mission to focus on its role within the complaint process, even this could be done more plainly and in a manner that outlines the full scope of its authority in the area of complaints. For example:

The New York City Complaint Review Board (CCRB) is an independent agency. It is empowered to receive, investigate, mediate, hear, make findings, and recommend action on complaints against New York City police officers alleging the use of excessive or unnecessary force, abuse of authority, discourtesy, or the use of offensive language. The Board's investigative staff, composed entirely of civilian employees, conducts investigations in an impartial fashion. The Board forwards its findings to the police commissioner.<sup>61</sup>

In contrast, OIPM's mission does not set forth anything related to its ability to receive complaints about officer misconduct in an environment separate and independent from the Department; to recommend the reopening of an investigation if it was not fair, thorough, and objective; and to issue public reports when the Department refuses to reopen an investigation where OIPM has recommended it.

Given that OIPM has recently become an office separate from the Office of the Inspector General, one area of focus for the newly-independent OIPM would be to craft a more comprehensive missions statement that adequately addresses the breadth of issues on which the legislation establishing it require it to focus. As many areas of this report emphasize, the more frequently and effectively that OIPM can describe its varied tasks and responsibilities in the context of overriding objectives and functions, the more that NOPD, the community, and other branches of city government may appreciate its value, heed its recommendations, and look to OIPM as the the primary, comprehensive civilian and community oversight mechanism for the NOPD – rather than merely as an auditor, quality control mechanism, or added layer of government bureaucracy.

#### D. 2013-2016 Inspector General Strategic Plan

In September 2012, Inspector General Ed Quatrevaux released a Strategic Plan covering the years 2013 through 2016 (the "Strategic Plan"). Accordingly, that basic document has been guiding the direction, goals, and areas of emphasis for the Office of Inspector General and the Office of Independent Police Monitor since at least January 1, 2013.

The Strategic Plan is neither especially strategic nor much of a plan. As such, it is a minimally useful document with respect to understanding precisely how OIPM, or the OIG, would be conducting monitoring and oversight over the period of 2013 through 2016. The Plan focuses on OIPM's role in taking complaints and monitoring misconduct investigations conducted by NOPD. However, it incorrectly suggests that it has the authority to independently investigate complaints

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The 2013-2016 Strategic Plan of the Inspector General and OIPM was neither especially strategic nor much of a plan.

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<sup>61</sup> New York City, Civilian Complaint Review Board, About Us, <http://www.nyc.gov/html/ccrb/html/about/about.shtml> (last visited Dec. 27, 2015).

and fails to adequately detail how it might accomplish the substantial other tasks that the ordinance establishing it requires the Monitor to conduct.

The Plan fairly lists a summary of the scope of areas that OIPM is charged, by ordinance, with monitoring.<sup>62</sup> It indicates that “[t]he IPM accomplishes [these] missions by monitoring the process by which the New Orleans Police Department (NOPD) investigates allegations of misconduct and uses of force by its employees in order to determine if the investigative process is timely, thorough, and fair.”<sup>63</sup> The Plan also allows that OIPM “collects and analyzes data about complaints and police operations in order to identify problem areas . . . .”<sup>64</sup> Again, then, OIPM is substantially limiting for itself the scope and emphasis of its works to the investigation of misconduct complaints and the analysis of such complaints – emphasizing those areas without emphasizing its work in others.

The Plan codifies an argument that we heard from several quarters during the course of our work: that “IPM cannot perform all of the thirteen duties set forth in its governing ordinance because of limited resources – the IPM staff consists of four persons.”<sup>65</sup> Because of these resource limitations, OIPM indicated that it would focus on giving “highest priority . . . [to] responding to critical incidents, monitoring the NOPD critical incident investigation and reviewing the NOPD critical incident investigations upon their completion.”<sup>66</sup> OIPM’s definition of “critical incident” entailed, generally, NOPD use of deadly force, head strikes with an impact weapon, and in-custody deaths.<sup>67</sup>

Accordingly, the Plan asserts resource deficiencies but never specifically describes them. It is unclear what the then-four employees’ workloads, capacity, areas of responsibility, and aggregate output may have entailed. The frequency or rate of “critical incident” review is left unspecified.

The Plan also indicates that its “second priority is to accept complaints of NOPD misconduct,” which “will provide an independent and safe place for members of the community and NOPD to lodge their complaints.”<sup>68</sup> Confusingly, it notes that complaints that OIPM takes “will be sent to NOPD for resolution unless the complaint alleges misconduct involving a critical incident,” which the Plan cites as “one effect of insufficient resources.”<sup>69</sup> The governing ordinance provides OIPM with no independent authority to investigate complaints; instead, it must forward the complaint to the NOPD and must monitor the Department’s classification and investigation of the complaint.<sup>70</sup> Indeed, in other documents, OIPM has expressly recognized that “OIPM is not statutorily permitted to conduct its own administrative investigations.”<sup>71</sup> This is an example of the lack of precision with respect to OIPM’s roles and limits that the present review identified in a number of sources from both the OIG and OIPM.

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<sup>62</sup> New Orleans Office of Inspector General, Strategic Plan at 16 (Sep. 1, 2012), available at <https://nacole.org/wp-content/uploads/2-NOLA-OIG-IPM-Joint-2013-to-2016-Strategic-Plan.pdf>.

<sup>63</sup> *Id.* at 17.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.* at 18.

<sup>66</sup> *Id.* at 19.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> Code of the City of New Orleans § 2-1121(5).

<sup>71</sup> Office of Independent Police Monitor, 2013 Annual Report at 6 (Mar. 31, 2014), [http://cityofno.granicus.com/MetaViewer.php?view\\_id=3&clip\\_id=1804&meta\\_id=240026](http://cityofno.granicus.com/MetaViewer.php?view_id=3&clip_id=1804&meta_id=240026).

Perhaps most troublingly, the Strategic Plan presents the OIG Strategic Plan as separate and apart from the Independent Police Monitor's Strategic Plan.<sup>72</sup> The Plan discusses areas of focus with respect to NOPD in two

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OIPM would benefit, going forward, by working collaboratively and proactively with the City so that its current priorities can be consistent with other community and government stakeholders.

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separate places – a set of “risk mitigation”<sup>73</sup> activities ostensibly to be conducted by the Office of Inspector General more generally and then OIPM's plan for its activities, set forth in the final section of the document. Thus, in what reads to be the OIG's general plan, a number of “projects . . . planned” for the 2013 through 2016 period and related to NOPD are listed.<sup>74</sup> This section of the document contains no reference to OIPM, who may be conducting the work, and how these areas of focus were determined. It must be noted

that, in the Office of Inspector General's recently-released Strategic Plan for 2016 through 2019, the scope of work addressing NOPD directly is minimal.<sup>75</sup>

In sum, there appeared to be a lack of connection between OIPM's powers under the Municipal Code, its mission statement, and the OIG's Strategic Plan. Going forward, OIPM would benefit, in the same manner as any civilian oversight agency does, by working collaboratively and proactively with the City so that its current priorities can be consistent with those of the City of New Orleans. OIPM is now independent of the OIG. But it is not independent of the City and plays an important role in city governance. The City must also not shy away from its responsibility to actively partner with OIPM so that the Office is not left in isolation to shape its own agenda without the input of other community and government stakeholders.

## E. OIPM Procedures & Internal Standards

One criticism that we heard from several stakeholders with respect to OIPM was that it did not effectively apply rigorous standards to its inquiries. Put plainly, some accused OIPM of “making it up as they go along.” To the extent that OIPM adheres to the inquiry required by its Critical Incident Investigation Matrix, PARC has identified no evidence that support this view.

Specifically, the analysis of critical incidents, OIPM uses what it calls a Critical Incident Investigation Matrix (the “Matrix”). That Matrix is a 56-page document that guides OIPM's inquiry on the quality, thoroughness, objectiveness, and integrity of NOPD's inquiry of significant incidents.

PARC is impressed by the level of rigor that the instrument demands. Reviewers log both audit-like details about the incident – such as names, and the presence or absence of particular factors – and respond to qualitative inquiries. When such inquiries are qualitative, a specific question prompts the inquiry and “comments” immediately below the question explain how a reviewer should structure their inquiry to answer

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<sup>72</sup> See New Orleans Office of Inspector General, Strategic Plan at 1 (Sep. 1, 2012), available at <https://nacole.org/wp-content/uploads/2-NOLA-OIG-IPM-Joint-2013-to-2016-Strategic-Plan.pdf> (present OIPM Plan as a separate, standalone product in the table of contents and isolating the content of the Plan to a standalone section VII (although the numbering scheme utilized features identical roman numeral “VII,” which this report presumes to be an editing oversight).

<sup>73</sup> *Id.* at 7.

<sup>74</sup> *Id.* at 9.

<sup>75</sup> *Id.* at 5.

the question. For instance, the first question under Section IX, addressing “Investigation Quality and Completeness,” asks the reviewer the following:

1. Were all involved officers and witness officers separate immediately following the critical incident?

*Comments: Review the investigation for documentation that indicates every officer who was involved or was a witness to the Critical Incident was separated immediately.*<sup>76</sup>

Accordingly, the Matrix does a good job of operationalizing qualitative variables by attempting to standard the type, nature, and scope of a reviewer assessments. Thus, the instrument appropriately operationalizes the vague standards associated with “quality” – or “convert[ed] . . . the abstract idea or notion into a measurable item” – in terms of whether it would ultimately permit a neutral factfinder to fairly and fully apply SPD’s officer use of force policy.<sup>77</sup>

The Matrix focuses in on the most important elements of internal investigations and asks appropriate, probing, and objective questions about specific attributes and features of NOPD’s investigation of critical incidents such as force, in-custody deaths, and others. PARC compared the Matrix to Department of Justice-sponsored standards and guidelines for internal affairs investigations.<sup>78</sup> The Matrix appropriately focuses on the key features and sub-features of internal investigations while asking specific questions that appear to stem from the particular requirements of NOPD policy with respect to internal investigations.

The instrument, most importantly, provides ample opportunity for OIPM reviewers of incidents to explain and justify their views – with specific reference to particular questions and key features. Thus, the Matrix does a good job of taking what could be a diffuse and undefined inquiry and providing a framework for precise, clear, and standardized consideration of important issues.

The primary worry that we had is with respect to how much the Matrix is subject to continuing refinement, revision, and improvement. The document that we ultimately reviewed suggested – with its May 24, 2011 date reflected in the electronic file name and the document noting that it was last revised on September 29, 2010. As OIPM inevitably learns about the strengths and weaknesses of the Matrix as a foundational methodological approach, the Monitor should not hesitate to make reasoned, supported, and incremental changes to the Matrix to ensure that it fairly and comprehensive addresses the quality of NOPD investigations of critical incidents.

Beyond the Matrix, we could not readily identify any kind of manual of policies governing and guiding the Monitor and the Office. Even if it exists in some format, it was not something that was discussed in OIPM reports or reviews. OIPM’s credibility and transparency would increase if it rigorously outlined, in all of its reports and in its communications with the public, precisely the standards to which it is holding itself as it conducts its work. However, the absence of an OIPM policy manual or handbook does not necessarily suggest

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<sup>76</sup> Office of Independent Police Monitor, Critical Incident Investigation Matrix at 19 (Sep. 29, 2010).

<sup>77</sup> Mark L. Dantzker & Ronald Hunter, *Research Methods for Criminology & Criminal Justice* 47 (2012).

<sup>78</sup> Department of Justice, “Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice” (2008), available at <http://www.parc.info/national-internal-affairs-standards/>.

that OIPM was not holding itself against any external standard – as the clear, voluntary commitment of OIPM to uphold the NACOLE Code of Ethics makes clear.

## II. OIPM's Performance

### A. OIPM Work Product

The Collective Endeavor Agreement between PARC and the City of New Orleans required PARC to “[r]eview a statistically significant work sample of work products issued by the IPM division between 2012 and 2015 . . . .”<sup>79</sup> PARC reviewed OIPM work product made public from 2012 through 2015. We discuss the most significant, in terms of scope or substance, here.

Because OIPM is not an investigatory agency, public reports are its stock and trade. These public documents should clearly inform the city government, Police Department, community organizations, and members of the public about how NOPD is functioning:

Monitoring reports are generally available to the general public and to the media. The monitor, then, has the additional burden of writing reports that are clear, succinct, jargon-free, and explanatory. The reports must make internal police process transparent and understandable . . . Thus, . . . the monitors’ reports assist policymakers, opinion makers, and the general public in becoming conversant and capable of reaching informed judgments about the performance of law enforcement.<sup>80</sup>

Such reports should “be appropriate to the purpose, concise, complete, objective, timely, relevant, free of jargon, and accurate,” “comply with appropriate professional standards,” and “conform to the [office’s] established policies and procedures.”<sup>81</sup> As noted above, among other of the professional standards expressly adopted by OIPM are the NACOLE Code of Ethics, which require, among other things, that OIPM adhere to the following:

**Independent and Thorough Oversight.** Conduct investigations, audits, evaluations and reviews with diligence, an open and questioning mind, integrity, objectivity and fairness, in a timely manner. Rigorously test the accuracy and reliability of information from all sources. Present the facts and findings without regard to personal beliefs or concern for personal, professional or political consequences.

**Transparency and Confidentiality.** Conduct oversight activities openly and transparently providing regular reports and analysis of your activities, and explanations of your procedures and practices to as wide an audience as possible  
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<sup>79</sup> Cooperate Endeavor Agreement, City of New Orleans/OIG and PARC, K-15-731, IG 598085 at 2.

<sup>80</sup> National Guidelines for Police Monitors at 18–19.

<sup>81</sup> Green Book at 19.

**Outreach and Relationships with Stakeholders.** Disseminate information and conduct outreach activity in the communities that [are] serve[d]. Pursue open, candid, and non-defensive dialog with □ stakeholders. Educate and learn from the community.<sup>82</sup>

## 1. Annual Reports

We reviewed three (3) of OIPM's annual reports released during the study period identified in PARC's agreement with the City of New Orleans (2012 through 2015). Those annual reports covered the years 2012, 2013, and 2014.

The 2012 and 2013 reports are highly similar. They primarily report on, summarize, and synthesize NOPD data about officer misconduct investigations and various critical incident inquiries. The 2014 report differs substantially in scope, covering a good deal of ground. Accordingly, we separate the reports into two (2) categories: summary reports (2012 and 2013) and substantive reports, (2014), discussing each in turn.

### *Summary Reports*

The 2012 and 2013 annual reports were released, respectively, on March 31, 2013 and March 31, 2014.<sup>83</sup> Their most significant deficiencies were that they were insufficiently “easy to understand, concise” and “well-indexed.”<sup>84</sup>

One area of critique that several stakeholders advanced was that OIPM's annual reports “recycled” NOPD data without conducting an independent audit. Indeed, the 2013 Report provides that “OIPM was provided the following raw data contained herein [from NOPD], which is presented for the public's review.”<sup>85</sup> It noted that the Monitor “hope[d] to supplement this Annual Report in the summer of 2014 with both a statistical analysis of this data and a review of some of the investigations conducted by PIB [the Public Integrity Bureau].”<sup>86</sup> The Report proceeds to largely summarize NOPD data on complaints, their classifications, how they were adjudicated, and what discipline officers received where appropriate. It does similarly for use of force data.

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It is by no means anathema to professional police monitor for monitors to use, as a fundamental source, information that the monitored agency provides.

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Police agencies must, at heart, transform themselves by adopting a data-driven, outcomes-focused management style. The NOPD must keep data on its performance and officer performance itself. If a “monitored agency

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<sup>82</sup> National Associate for Civilian Oversight of Law Enforcement, Code of Ethics (Aug. 12, 2015), <https://nacole.org/wp-content/uploads/NACOLE-Code-of-Ethics-8.12.2015.pdf> [hereinafter “NACOLE Code of Ethics”].

<sup>83</sup> Susan Hutson, et al, Office of the Independent Police Monitor, City of New Orleans, “2013 Annual Report” (Mar. 31, 2014) [hereinafter “2013 Annual Report”], available at [http://cityofno.granicus.com/MetaViewer.php?view\\_id=3&clip\\_id=1804&meta\\_id=240026](http://cityofno.granicus.com/MetaViewer.php?view_id=3&clip_id=1804&meta_id=240026); Susan Hutson, et al, Office of the Independent Police Monitor, City of New Orleans “2012 Annual Report” (Mar. 31, 2013).

<sup>84</sup> National Guidelines for Police Monitors at 66.

<sup>85</sup> 2013 Annual Report at 14–15.

<sup>86</sup> *Id.* at 15.

does not keep adequate records from which to derive the statistics necessary for accomplishing rigorous and meaningful trend analysis,” then “the agency should be required to” do so.<sup>87</sup> Indeed, the federal Consent Decree requires the NOPD “to develop, implement, and maintain” various systems that can provide aggregated information on a host of issues.<sup>88</sup>

It is by no means anathema to professional police monitoring for monitors to use, as a fundamental source, information that the monitored agency provides. Indeed, the National Guidelines for Police Monitors observe that “if the monitor intends to rely upon data supplied by the monitored agency, the monitor should consider engaging an accounting firm to audit the key statistics and numbers.”<sup>89</sup>

Accordingly, although we understand the reasons for those who believe that OIPM should be systematically skeptical of every piece of data provided to it by the NOPD, it is understandable that OIPM would want to report on the data that NOPD purports to have – as it purported to be looking to follow up with a more rigorous analysis of the data. It should be noted here, again, that being a police monitor is different than being a bean-counter. It involves a different and somewhat more far-reaching set of skills and methodologies:

The monitoring process involves more than passively going down a checklist; rather, it is active, which may require the creation or formulation of new tests of compliance [as monitoring proceeds].<sup>90</sup>

The area for improvement does not, then, relate to OIPM’s use of NOPD data. Instead, the area for improvement is how the data is described and presented – and insufficiently linked to clear descriptions about where NOPD and OIPM have succeeded, what challenges remain, and what areas all stakeholders should focus on going forward.

In some instances, statistics did not entirely add up. For instance, and again in the 2013 report, OIPM says that “NOPD gave the OIPM formal written notice on 23 disciplinary hearings” presided by a Deputy Superintendent and “did not give” such notice in one case.<sup>91</sup> However, a chart on the immediately preceding page reflects that there were 25 such disciplinary hearings overseen by a Deputy Superintendent – leaving one case unaddressed.<sup>92</sup>

In others, basic statistics were presented in unhelpful ways – with charts and graphs seeming to be inserted because the authors could generate them rather than helping the reader understand the issues. For instance, Figure 20 attempts to graphically display the distribution of disciplinary actions taken at the 24 hearings that OIPM attended.<sup>93</sup> While well-intentioned, the displayed pie chart is minimally useful – with nearly every “piece of the pie” reflecting only 1 case; two categories, including the largest (depicted as relating to six cases), not being included in the index, leaving a reviewer completely in the dark as to the category to which the cases belonged; and a dizzying area of highly similar colors likely to frustrate efforts at closely distinguishing the categories.

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<sup>87</sup> National Guidelines for Police Monitors at 82.

<sup>88</sup> Consent Decree ¶¶ 427–29.

<sup>89</sup> National Guidelines for Police Monitors at 69.

<sup>90</sup> *Id.* at 82.

<sup>91</sup> 2013 Annual Report at 30.

<sup>92</sup> *Id.* at 29; *accord id.* at 30 (“In 2013, the Independent Police Monitor’s Office observed 24 police disciplinary hearings presided over by a Deputy Superintendent . . .”).

<sup>93</sup> *Id.* at 31.

Because “[w]ell-displayed data can clearly illuminate and enhance the interpretation of a study, while badly laid out data and results can obscure the message or at worst seriously mislead,”<sup>94</sup> it was not apparent to us that the pages upon pages of graphs and tables presented did much to illuminate a clear message.

Indeed, any intended “clear message[s]” of the 2013, and 2012, Reports remain somewhat unclear to us. The report presented little along the lines of conclusions drawn from facts – and no “major themes” or significant findings.<sup>95</sup> It provided no recommendations on what OIPM should do going forward. It likewise provided no clear sense of where OIPM would focus its efforts going forward. Although we agree entirely that providing the public with information about what NOPD is doing with respect to complaints, use of force, and misconduct investigations is vital and important work, best practice would point OIPM toward using the report not merely as a summary but as a vehicle to analyze, synthesize, educate, and advance progress in areas that need additional reform or attention.

### ***Substantive Reports***

The 2014 Annual Report is broader in scope than those of 2012 and 2013.<sup>96</sup> Although it addresses officer misconduct investigations, it does not merely summarize NOPD-generated data. Instead, it provides a “year in review” section that summarizes what, from OIPM, were its major areas of focus in the year.<sup>97</sup> It also provides, among other things, significant detail on the New Orleans Community-Police Mediation Program,<sup>98</sup> disciplinary actions,<sup>99</sup> critical incidents and OIPM’s review process,<sup>100</sup> use of force incidents,<sup>101</sup> and community engagement efforts.<sup>102</sup>

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OIPM’s 2014 Annual Report is the best reflection of any of its work product of the broad scope of duty and responsibility that the City Council granted to it.

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We note here that we find the 2014 Annual Report the best reflection of any of OIPM’s work product of the broad scope of duty and responsibility that the City Council granted to the Monitor. As OIPM contemplates future reports on the status and efficacy of its efforts, the 2014 Report can and should serve as a model for covering the relevant bases and communicating adequately to the community and stakeholders its role.

The “year in review” provides brief treatment of a number of issues, including OIPM’s relationships with the Consent Decree Monitor and NOPD Compliance Bureau, major incidents that occurred in 2014 and OIPM’s involvement or response in issues related to them, OIPM’s special reports released during the period, and other areas. This area of the report is brief and appears intended as an overall summary, which is not inappropriate.

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<sup>94</sup> Jenny V. Freeman, et al, *How to Display Data* 1 (2008).

<sup>95</sup> National Guidelines for Police Monitors at 66.

<sup>96</sup> Susan Hutson, et al, Office of Independent Police Monitor, “2014 Annual Report” (March 31, 2015) [hereinafter “2014 Annual Report”].

<sup>97</sup> *Id.* at 10.

<sup>98</sup> *Id.* at 18.

<sup>99</sup> *Id.* at 34.

<sup>100</sup> *Id.* at 49.

<sup>101</sup> *Id.* at 66.

<sup>102</sup> *Id.* at 70.

PARC does wonder, however, about why some topics are covered as part of the OIPM's year in review – such as a trial of one NOPD officer in a high-profile incident, a memorial for an New Orleans resident “killed by an NOPD officer for filing a complaint against him,”<sup>103</sup> and protests being held in New Orleans related to a high-profile use of force incident in Ferguson, Missouri. Certainly, these are important events that bear significantly on the issues related to enhancing public confidence and trust in the NOPD that OIPM's activities and mission address. However, the report does not specify what, if anything, OIPM had to do with the activities – or why some incidents were summarized while other critical incidents or areas of public concern related to law enforcement were not included. As OIPM attempts to define its role more clearly for the public and other stakeholders, any summary of its activities over a given period should be focused on those areas in which OIPM played a direct role in driving and influencing change and accountability in policing and New Orleans rather than cover anything related to policing that occurs in New Orleans.

The remainder of the sections, addressing particular issue areas (use of force incidents, critical incidents, and the like), do a good job summarizing what happened during 2014 – including what NOPD did and how it related to OIPM when it was required to do so. Many portions of the report simply indicate the number of cases or instances that had particular features. Information tends to be reported with minimal or no background and context, without indications as to whether the described phenomenon is encouraging or problematic, and lacking any connection to recommendations for how NOPD might improve performance in the area going forward or maintain and strengthen good performance in the future. For instance, the report provides that:

In 2014, the OIPM found that only one officer involved in OIS incidents was required to attend PPEP training the year the incident occurred. Twenty-eight of the officers involved in OIS incidents had a significant complaint and use of force history over the last five years.<sup>104</sup>

It was unclear to us whether these observations, and the many others like them, constituted an improvement or decline over prior years – and whether the identified numbers needed to be addressed in any particular manner. As a general matter, snapshot statistics are useful but often cannot reveal much in the absence of how those numbers fit into trends over time, other areas of performance, or previous reform recommendations or initiatives. Although the 2014 Annual Report covers substantially more territory than prior such reports, it still tends to provide a lot of summary statistics and numbers without connecting them clearly to qualitative observations or specific recommendations.

Finally, this report – like any such report by a civilian oversight – must balance specificity with accessibility. Portions of the report, like the “Year in Review” section, strike an appropriate balance. Others, such as the discussion of critical incident statistics, risk stranding casual readers deep in bureaucratic weeds. The report would be stronger, and more consistent with the OIPM's stated mission, if it continually emphasized why the observed phenomena matter and how they fit into overall imperatives, values, and initiatives related to reform.

Although there is clear room for improvement, the 2014 Annual Report adequately fulfills its task of updating the City of New Orleans on its activities and areas of focus for the preceding year.

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<sup>103</sup> *Id.* at 15.

<sup>104</sup> *Id.* at 65.

## 2. Special Reports

In addition to Annual Reports, OIPM has issued several special reports covering specific issues or particular cases. This report addresses several of the Monitor’s major special reports here.

### *IPM Interim Recommendations for Tactical & Warrant Service Training (March 14, 2012)*

The Independent Police Monitor wrote a slightly more than two-page letter to then-Mayor and NOPD Superintendent “request[ing] that the New Orleans Police Department request immediate training help in the areas of tactics and warrants service from federal sources.”<sup>105</sup> The basis for the recommendations was IPM’s purported response “to over 20 officer involved shootings over the last year and 10 months” that made the Office “concerned that New Orleans police officers are engaging in tactics that put themselves and the public in danger.”<sup>106</sup>

The letter cites, as basis for the Monitor’s concerns, “a few examples of unsafe tactics that we have observed when we have responded to officer involved shootings.”<sup>107</sup> The cited examples are three, bulleted sentences describing general fact patterns involving officers and subjects. Those examples, and their presentation, confuse us for multiple reasons. First, the report suggests that OIPM became aware of the examples through its own observation. However, the brief description of incidents describe actions that assumedly occurred before the Monitor arrived to the scene.

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Going forward, the Monitor should aim to ensure that OIPM’s substantive recommendations flow directly from fair and objective descriptions or trends within NOPD.

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Second, and more importantly, OIPM’s letter appears to recommend tactical re-training for all NOPD officers – a significant recommendation that, if adopted, would assumedly require a not insubstantial investment of resources. A significant recommendation should be grounded in significant, factual support and systemic findings. Three bare examples likely do not present the strongest case possible for the importance of NOPD adopting the recommendations.

Finally, the letter leaves unclear precisely the type of training assistance for which OIPM recommends that NOPD seek federal assistance. We assume that, because the letter emphasizes warrant service situations, that the training would be geared to such instances.<sup>108</sup> However, the cited examples do not make clear that the tactical issues were squarely associated with warrant service – and, in any event, precisely what set of tactics associated with officer-involved shootings should be prioritized when NOPD reaches out for training assistance.

PARC understands that OIPM was attempting to address an “urgent” concern requiring “immediate and concrete intervention.”<sup>109</sup> Doing so may not have allowed the Monitor to exhaustively inventory or describe all

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<sup>105</sup> Letter from Susan Hutson to Mayor Landrieu and Superintendent Serpas, RE: Tactical and Warrant Service Training (March 14, 2012) at 1.

<sup>106</sup> *Id.*

<sup>107</sup> *Id.*

<sup>108</sup> *Id.* at 2.

<sup>109</sup> *Id.*

details of all situations that supported the letter’s recommendations. Still, going forward, OIPM should aim to ensure that, regardless of context, its substantive recommendations flow directly from fair and objective descriptions of incidents or trends within NOPD.

*Review of the New Orleans Police Department’s Field Interview Policies, Practices, and Data (March 12, 2013)*

Some stakeholders with whom we spoke identified problems, issues, or concerns with OIPM’s review of NOPD’s field interview policies and practices, which is commonly referred to as OIPM’s “Stop and Frisk Report.” They believed that the report was inaccurate, incomplete, or otherwise of poor quality. As conducting our separate, independent study of NOPD’s policies, practices, and data related to stops, searches, and seizures would have been well beyond outside the scope of our engagement, we cannot comment definitively on the accuracy of all of OIPM’s factual determinations or assertions. We can, however, represent that the assertions

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Assertions from some stakeholders that OIPM’s Stop & Frisk Report was of materially deficient or poor quality appeared to us to be misplaced.

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that the Stop & Frisk Report was of materially deficient or poor quality appeared to us to be misplaced.

As a general matter, OIPM includes NOPD’s response to each of its recommendations within the report itself. This running reference to NOPD’s objections or concerns greatly enhances the Monitor’s transparency and the report’s credibility. Further, OIPM engages directly with the running objections of its recommendations – which tends to eliminate any sense that the Monitor systematically ignored criticism of the report’s recommendations. This is consistent with the imperative that a monitor aim to be transparent and open to divergent viewpoints.<sup>110</sup>

Although PARC did not review the original NOPD materials that OIPM discusses in the Stop & Frisk report, many of OIPM’s recommendations –including some that were the subject of dispute with NOPD or others – would be consistent with good practice if the underlying NOPD policies, practices, training, or other materials were as OIPM characterized. For instance, OIPM observes that NOPD’s in-service training on the area “does not properly state the legal standard for initiating a stop,” with the training “misstat[ing] the constitutional standard by (1) not using or explaining the term reasonable suspicion and (2) implying that a stop may be made solely on the reasonable belief that an individual may be armed with a weapon.”<sup>111</sup>

Although the report would be stronger by citing the language from training materials that suggests an incorrect standard, OIPM would be correct that – to the extent that the training fails to explain the term “reasonable suspicion” and implies that a stop solely on belief that an individual may be armed with a weapon – the characterization of the legal standard would not be as complete and correct.<sup>112</sup> NOPD’s criticism of OIPM’s recommendation on this front does not address why it believes that its training adequately addresses the core

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<sup>110</sup> See National Guidelines for Police Monitors at 16.

<sup>111</sup> Susan Hutson, et al, Office of Independent Police Monitor, “Review of the New Orleans Police Department’s Field Interview Policies, Practices, and Data” (March 12, 2013) [hereinafter “Stop & Frisk Report”] at 19.

<sup>112</sup> See, e.g., *Terry v. Ohio*, 392 U.S. 1 (1968) (holding that an officer must have a reasonable suspicion that criminal conduct has occurred, is occurring, or is about to occur); *Floyd v. City of New York*, Case 1:08-cv-01034-SAS-HBP, Dkt. 373 at 8 (S.D.N.Y. Aug 12, 2013) (indicating that “the Fourth Amendment permits the police to stop and briefly detain a person for investigative purposes if the officer has a reasonable suspicion supported by articulable facts that criminal activity ‘may be afoot,’ even if the officer lacks probable cause”); see also *United States v. City of Seattle*, Case 2:12-cv-01282-JLR, Dkt. 176 (W.D. Wash. Sep. 2, 2014) (providing Court-approved training on search and seizure for the Seattle Police Department);

concept of “reasonable suspicion” other than to observe that it provides NOPD recruits a five-page discussion of legal requirements in the area. PARC admits some confusion as to the assertion that providing recruits with five pages on the core Fourth Amendment concept of “reasonable suspicion” in the academy would be sufficient training, whether in the Academy or in-service context – especially when OIPM’s finding discusses both in-service and Academy training.

Some of OIPM’s recommendations related to stop and frisk would, again, be stronger if they were more specific. For instance, the Monitor observes that NOPD policy provides a “list of facts that ‘may be considered’ in making a stop” but “does not sufficiently explain what officers must do to articulate objective reasonable suspicion in each situation.”<sup>113</sup> If NOPD’s policy is, in fact, as OIPM describes, it would be a reasonable recommendation for improvement that the policy describe how those factors, taken in context and in aggregate, relate to the formation of reasonable suspicion necessary under the Fourth Amendment to justify a stop of a civilian in this context. A review of NOPD’s current policies are beyond the scope of PARC’s review here. However, lacking reference to that list of factors, to applicable law, or to the policies of other departments that do a better job of explaining what officers must do to articulate reasonable suspicion, the recommendation is less precise and actionable than it could be.

Overall, PARC finds that – as with nearly all reports by nearly any entity – some areas could benefit from additional detail, further support, or a more comprehensive discussion. However, taking OIPM’s factual assertions and characterizations relating to NOPD’s policy, training, and procedure in the area of search and seizure to be true, it does not appear to us that any of the Monitor’s substantive recommendations would be materially deficient or problematic.

***Retaliation Report (Letter to Deputy Superintendent Westbrook, July 30, 2014)***

OIPM’s July 2014 report on retaliation is an example of strong, well-supported, objective, and fair police monitoring. It addresses the important issue of retaliation against individuals who allege that NOPD personnel have engaged in misconduct.

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OIPM’s July 2014 report on retaliation is an example of strong, well-supported, objective, and fair police monitoring.

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The report describes the potential scope of the issue using multiple methods. It inventories how many complaints in NOPD’s internal officer performance database, IAPro, appeared to involve retaliation as part of the complaint in the studied time period (January 2011 through December 2013).<sup>114</sup> It illustrates that the number of retaliation complaints in IAPro has increased, with the report “commend[ing] the NOPD for doing a better job at tracking” such complaints.<sup>115</sup> Subsequently, the report details the number of reports involving retaliation that OIPM, rather than NOPD, has taken or about which the Monitor otherwise fielded inquiry. It also explores the number of internal “whistleblower” complaints involving retaliation had been received by OIPM.

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<sup>113</sup> Stop & Frisk Report at 24.

<sup>114</sup> Susan Hutson, Letter to Deputy Superintendent Westbrook re: OIPM # 2012-850; NOPD Retaliation Policy, Pattern and Practice (July 30, 2014) [hereinafter “Retaliation Report”] at 5.

<sup>115</sup> Retaliation Report at 5.

The report then describes on NOPD’s current retaliation policy. It cogently identifies that the core retaliation policy referenced “protected activity” but no NOPD policy defined or clarified what “protected activity” in fact entails.<sup>116</sup> It proceeds to conduct similar analysis on related NOPD policies – describing the existing policy and outlining concerns.

Finally, the report makes specific recommendations for improving existing policies and practices. Importantly, it situates these recommendations in terms of “Consent Decrees, retaliation policies, general department policies, and publications from over ten Police Departments, law journals, and law enforcement publications.”<sup>117</sup> Situating specific suggestions for reform in terms of other resources and the experiences of other police departments as they have attempted to address similar issues is a strong technique and lends substantial credibility to OIPM’s substantive recommendations.

The report on retaliation also is careful to give NOPD credit for the prior “adoption of an initial set of retaliation policies,” which, to OIPM, “shows that the NOPD leadership understands the risks that retaliation presents.”<sup>118</sup> The conclusion sees OIPM “offer[ing] its assistance in the further development and implementation of retaliation policies to mitigate this risk.”<sup>119</sup> In doing so, the Monitor is fairly recognizing improvements, progress, and positive reforms that have taken hold within NOPD while challenging the Department to do better, go further, and challenge itself yet more to bridge issues associated with “public distrust of the department.”<sup>120</sup>

We note that OIPM effectively situates its policy recommendations in terms of data from the Department and the Monitor’s own information about complaints that OIPM receives. Although the data is simply reported, the report does not merely provide numbers of the sake of providing numbers. Instead, breaking down the number of complaints by the type of retaliatory actions alleged, the race and gender of the complainant, rank and characteristics of the implicated officers or employees is an objective means of illustrating the scope and nature of the retaliation issue.

Finally, OIPM nimbly addresses the intersecting nexus of stakeholders involved in the issue – including “the NOPD Consent Decree Court, the Department of Justice (DOJ), or the Federal Monitor Team . . . .”<sup>121</sup> Positioning OIPM as one of many actors working hard on the retaliation issue in the context of systemic police reform also lends significant credibility to the report’s recommendation – and does so in a way that allows the other stakeholders to adopt and embrace OIPM’s recommendations more readily. This report elsewhere details more specific observations about OIPM’s performance with respect to partnering with other city, community, and police oversight stakeholders.

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<sup>116</sup> *Id.* at 15.

<sup>117</sup> *Id.* at 18; see also *id.* at 2 (describing reviewed materials from other jurisdictions and resources).

<sup>118</sup> *Id.* at 24.

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> *Id.* at 1.

*Wendell Allen Report (Letter from Susan Hutson to Deputy Superintendent Arlinda Westbrook, August 4, 2015)*

OIPM prepared a report on NOPD's investigation of a 2012 police raid that ended in the death of Wendell Allen, who was unarmed when he was shot at the top of a flight of stairs. The police interaction with Mr. Allen stemmed from execution of a warrant in a marijuana-related case. The officer who shot Mr. Allen pled guilty to manslaughter in 2013 and was sentenced to four years in prison. The report was released on the day before the officer was scheduled to appear in court to seek a reduction of that sentence.

*Factual Summary*

Because PARC did not have access to original case files, this report cannot address whether OIPM's recitation or portrayal of factual material was fair, thorough, and objective. Although we are aware that some have characterized OIPM's reports as suffering from "confirmation bias" and lacking sufficient objectivity,<sup>122</sup> the scope of our engagement was not to re-investigate cases based on detailed review of original investigatory materials. Instead, this report's focus is on the quality of the work product and the extent to which OIPM adhered to its own policies and to best practices.

We do, however, note that the "factual summary" is relatively short, at two pages, and relatively minimalistic. Likewise, citations are included only when particular language is lifted from investigatory materials – but not to provide support for other elements of the narrative.

Expanded reference to and citation of specific sources for various assertions would increase the credibility of OIPM reports.

The National Monitoring Guidelines observes that "[a] monitor's report is generally more akin to a newspaper article and is sparing in the use of footnotes and end notes"; however, "[l]ike a law review article or scientific paper, each assertion must be grounded in a demonstrable fact, a citation to a reputable source or to other proof."<sup>123</sup> Although we have no independent grounds for knowing whether the factual summary is accurate, the expanded reference to and citation of specific sources for various assertions would increase the credibility of the summary.

*Findings*

The report's second finding embarks on analyzing NOPD's investigation and administrative review of the Allen incident in terms of whether it complied with the requirements and objectives of the federal Consent Decree. It was not clear to us that this was a necessary element of OIPM's analysis. For one thing, the Consent Decree has its own Monitor, Jonathan Aronic of the law firm of Sheppard Mullin, who serves as an agent for Judge Morgan for purposes of overseeing implementation of the Decree. Although the Decree expressly preserved the authority for OIPM to continue its oversight work, the Decree did not provide OIPM with the charge of becoming a parallel or duplicative Monitor of consent decree compliance. Likewise, OIPM's legislative charge does not extend to certifying compliance under the Decree but is, rather, focused on evaluating the quality of the Department's performance and functions (including critical incident investigation). Finally, the Consent

<sup>122</sup> See, e.g., Andy Grimm, "Police Group Defends NOPD Probe of Wendell Allen's Shooting," New Orleans Times-Picayune (Aug. 6, 2015), [http://www.nola.com/crime/index.ssf/2015/08/police\\_group\\_defends\\_nopd\\_wend.html](http://www.nola.com/crime/index.ssf/2015/08/police_group_defends_nopd_wend.html).

<sup>123</sup> National Monitoring Guidelines at 71.

Decree-related discussion is inconsistent with the report’s stated standard of review, which “was compliance with NOPD policy, NOPD training, state constitutional law and federal constitutional law” and “the basic standards of a thorough, timely and fair investigation”<sup>124</sup> – not the Consent Decree.

In our experience, a better course of action would have been for the report to observe that, as a result of the substantive issues raised, there may be implications for Consent Decree compliance – and provide Mr. Aronie, Judge Morgan, the Department of Justice, or others involved in enforcement of that Decree to invite additional discussion with the OIPM on the implications of its findings for compliance-related issues.

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OIPM does not always entertain alternative interpretations, additional perspectives, or arguments tending to point against OIPM’s findings.

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Across all findings, our review noted that plausible alternative interpretations, additional perspectives, or arguments tending to point against OIPM’s findings were not routinely entertained. Although it is not clear to us whether OIPM “present[ed] drafts of [the] report[] to . . . the monitored agency for review and comment before publication,”<sup>125</sup> it would have lent additional credibility to the report to inventory NOPD’s various responses to the findings or, as appropriate, the Department’s or its investigators differing interpretations of some of the cited factual interpretations and assumptions. The conversations regarding a draft of the report could have served as an “opportunit[y] to teach, inform, and articulate common goals . . . .”<sup>126</sup>

### *Recommendations*

OIPM’s numbered recommendations in the Allen report are consistent with the express charge given to it by its enabling ordinance and, indeed, consistent with best practices, which compel oversight professionals not merely to critique a monitored agency but to “provide advice [on] how to design a better system or improved a flawed one” so that the agency becomes “capable of reproducing just and fair results in the future substantially independent of the monitor or personalities at the helm at any given time.”<sup>127</sup>

With some exceptions, the recommendations generally flow from the factual discussion and investigatory findings that OIPM sets forth in the report. Likewise, the recommendations are specific proposals for action rather than summary instructions to remedy a problem. For instance, rather than merely recommend that NOPD “improve its surveillance procedures and search warrant service,” it recommends that NOPD “create and require officers to use explicit checklists in its surveillance procedures and search warrant service.”<sup>128</sup> By situating recommendations in terms of more particularized reforms that can be quickly operationalized, OIPM is adhering to best practices in oversight generally and in civilian oversight of police more specifically.

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<sup>124</sup> Letter from Susan Hutson to Deputy Superintendent Arlinda Westbrook, August 4, 2015 [hereinafter “Wendell Allen Report”] at 3.

<sup>125</sup> National Guidelines for Monitors at 41.

<sup>126</sup> *Id.*

<sup>127</sup> *Id.* at 77.

<sup>128</sup> Wendell Allen Report at 26 (text converted to sentence case).

For example, the Department took exception to OIPM’s “rely[ing] on a video as the basis for [an]” assumption that officers failed to give a warning before entering the home where Allen was when “the video footage does not contain any visual images of the door being breached” and “[m]ultiple officers . . . provided statements that verbal warnings were given before the door was breached.”<sup>129</sup> It would have benefited OIPM’s report, and relationship with the Department, if this issue had been addressed when the report was in draft form. Even if no resolution to the issue could be reached, OIPM could include the Department’s viewpoint in its report – greatly increasing its integrity, thoroughness, and credibility. Other areas where the Department took contrary views to factual assertions or to the interpretation of those facts were ultimately set out in a response to the

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OIPM should take greater care to ensure that its conclusions are not overly sweeping or substantially unaddressed in the report.

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OIPM’s report.

Elsewhere in the Allen report, however, OIPM reaches some conclusions that are overly sweeping and substantially unaddressed throughout much of the report. Specifically, the report asserts that “[a]ggressive and violent raids for non-violent marijuana offences undermine community trust in the police and seriously damage the NOPD’s credibility . . . .” That could be, but the report both only spends a short, conclusory paragraph discussing the issue in the body of the report and advances several other, more well-supported recommendations for reform that could be argued to be just as foundational.<sup>130</sup> In other words, the conclusion summarily adds a new and unsupported area of comment – rather than emphasize the important recommendations and opportunities for reform previously discussed with a sufficient level of detail.

### *Timeliness*

According to information provided to PARC by the Inspector General, NOPD’s Public Integrity Bureau concluded their investigation of the Allen incident on June 24, 2014. The report that we have reviewed is dated August 4, 2015. Some argue that the more than one year necessary for OIPM to complete its investigation and issue its report deprived the public of a timely review.

The Allen incident occurred on March 7, 2012. The involved officer pled guilty to manslaughter charges on August 16, 2013. The Inspector General reported to us that OIPM released its report on June 29, 2015, but we conclude, based on independent media reports and the date on the report, that the Allen report was made public on August 4, 2015.<sup>131</sup>

Whether the final report was released 12 or 14 months after the administrative investigation concluded, we observe that no standard timeframe exists for conducting an independent evaluation of a law enforcement agency’s internal investigation. In part, this is because a monitor’s goals are twofold: first, evaluating the facts and circumstances associated with the underlying incident and, second, evaluating the quality and integrity of

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<sup>129</sup> Jim Mustian & John Simerman, “New Report Faults NOPD Investigation of Fatal Police Shooting that Killed Unarmed Man,” *New Orleans Advocate* (Aug. 4, 2015), <http://www.theneworleansadvocate.com/news/crime/13090484-172/new-report-faults-nopd-investigation>.

<sup>130</sup> Wendell Allen Report at 16.

<sup>131</sup> Andy Cunningham & Juan Sanchez, “Independent Police Monitor Releases Final Report in 2013 Fatal Shooting of Wendell Allen,” *WDSU.com* (Aug. 4, 2015), <http://www.wdsu.com/news/local-news/new-orleans/independent-police-monitor-to-release-final-report-in-wendell-allen-case/34526432>.

the Department's investigation of that incident.<sup>132</sup> These are not inconsequential or insignificant responsibilities.

Without pouring over all OIPM schedules and timesheets and reaching granular, independent conclusions as to day-to-day workloads, this report cannot be in a position to say, one way or another, whether OIPM took too long to complete the Allen report. We do observe, however, that this line of critique focuses on process to the detriment of the substantive discussion and reforms that the Allen report advance.

Likewise, some individuals raise significant questions about the timing of the Allen report's release just one day prior to a scheduled sentence reduction hearing for the involved officer. They argue that this created the appearance that the report was released just ahead of the hearing in order to influence the outcome, pointing to the fact that the hearing was ultimately postponed as evidence of the Monitor's impropriety.

Lacking subpoena power to access internal OIPM communications, PARC cannot say one way or another whether the report was released on August 4, 2015 because that is when it was complete, because it was the day before the involved officer's sentence reduction hearing, or because of some combination of those or other factors. At the least, OIPM knew or should have known about the involve officer's sentencing hearing – and the Monitor could have ensured greater focus on the substance of the report rather than on its timing by either delaying or accelerating release so that, at minimum, the appearance of partiality could be minimized.

Nonetheless, it does the New Orleans community a disservice to focus on when the report was released rather than on what the report says. It could be that the Department, the community, or both discount all or some OIPM's findings, recommendations, and conclusions on their merits – or agree on the problems but want to seek alternative solutions. Nonetheless, NOPD and the New Orleans community would no doubt benefit from engaging in a conversation about how policing is conducted going forward – not in why a particular report was released on a specific date.

### ***Hurricane Katrina: The Remaining Legacy***

OIPM prepared what it called “a story of uninvestigated police shootings and human rights deprivations” as “a response to the United Nations Committee Against Torture Periodic Report of the United States of America.”<sup>133</sup> The report indicates that it was intended to “provide updated information on investigations into alleged ill-treatment perpetrated by law enforcement personnel in the aftermath of Hurricane Katrina” in response to a request of the U.S. Government by the U.N. Committee Against Torture.<sup>134</sup>

The report makes two primary recommendations. The first is that a 2006 investigation conducted by the U.S. Senate's Committee on Homeland Security and Governmental Affairs reopen its investigation into the law enforcement and emergency response to Hurricane Katrina. The reason provided is that “many [officer-

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<sup>132</sup> See National Police Guidelines at 79.

<sup>133</sup> Office of the Independent Monitor, “Hurricane Katrina: The Remaining Legacy” at 1 [hereinafter “Hurricane Katrina Report”], [available at http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/USA/INT\\_CAT\\_CSS\\_USA\\_18551\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/USA/INT_CAT_CSS_USA_18551_E.pdf) (changed to sentence case).

<sup>134</sup> *Id.* at 15.

involved shootings] which allegedly took place during Katrina . . . have come to light since the U.S. Senate published its report.”<sup>135</sup> The report summarizes nine “unresolved civilian deaths,”<sup>136</sup> which it indicates were “ignored an uninvestigated” and “impede[] any attempt at meaningful reform of the NOPD,”<sup>137</sup> in a series of medium-length paragraphs.<sup>138</sup>

The second recommendation is that some entity, organization, individual, or other actor – which is not clearly specified – “[a]dequately fund police monitoring by both local agencies and by the DOJ Civil Rights Division, on a regular basis and during national emergencies, respectively.”<sup>139</sup>

The report indicates that OIPM lacks “sufficient resources” to operate in the manner that it believes that it should.<sup>140</sup> It indicates that the Department of Justice should, just as it “sen[t] representatives down to Ferguson, Missouri after the police shooting of Michael Brown,” it should have adequate resources to do the same when any other “national emergency [is] unfolding.”<sup>141</sup>

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Good monitors describe facts and circumstances in a fair and impartial manner that acknowledges points of factual dispute or uncertainty and “show their work” by leading the reader to understand the basis for a conclusion or recommendation.

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The report was “endorsed by” several community organizations and groups.<sup>142</sup> We wondered if a different designation would have been more advisable – and if the tone and scope of the piece could

have been more tailored and objective. At minimum, the synopses of cases are insufficiently specific and too broadly described to “be viewed as impartial by all parties and stakeholders.”<sup>143</sup> Facts are sometimes presented in a sequential, logical, or thematic manner within those synopses. An insufficient array of information is supported by citations or quotations to source material.

We do not suggest that a police monitor may not have strong opinions or cannot articulate the need for reform with urgency. To the contrary, good monitors do develop strong opinions – but describe, to the best of their ability, facts and circumstances in a fair and impartial manner that acknowledges points of factual dispute or uncertainty and “show their work” by leading the reader to understand the basis for a conclusion, recommendation, opinion, or assertion.

The report on Hurricane Katrina certainly addresses important issues and highlights important concerns. It is hard to disagree that community concerns about police conduct during the period of Hurricane Katrina has set the occasion for mistrust among some communities in New Orleans. However, the report – “endorsed” as it is by other groups – too easily more as a piece of advocacy rather than a measured, impartial report from a neutral body.

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<sup>135</sup> *Id.* at 5.

<sup>136</sup> *Id.* at 10.

<sup>137</sup> *Id.* at 5.

<sup>138</sup> We understand that some take issue with the categorization of listed incidents as “unresolved,” observing that many were purportedly investigated and prosecuted. The resolution of specific factual claims made in this report is outside the scope of the present inquiry.

<sup>139</sup> *Id.* at 13.

<sup>140</sup> *Id.*

<sup>141</sup> *Id.* at 15.

<sup>142</sup> *Id.* at 1.

<sup>143</sup> *Id.* at 24.

Further, the wisdom of producing a report that makes recommendations, and specifically responds, to bodies well outside New Orleans, is unclear. Although the municipal ordinance establishing OIPM contemplates that “[a]dditional reports relating to policy and training recommendations, matters of significant public interest, or other concerns may be issued,” it requires that such reports “be submitted to . . . the City Council of New Orleans and simultaneously released to the public.”<sup>144</sup> With the city government and New Orleans residents as the intended audience for OIPM reports, producing a report to the United Nations and urging action by the U.S. Senate and U.S. Department of Justice at the least muddles the charge of the Monitor – making OIPM appear to be more advocate than arbiter. Here, again, OIPM does not explain how this report fits in with its general role and overall set of responsibilities.

Finally, a report that focused more on what immediate stakeholders<sup>145</sup> might be able to do going forward, rather than distant national or international bodies, to address the extent to which “questions [that] remain” regarding

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The wisdom of producing a report that makes recommendations, and specifically responds, to bodies well outside New Orleans is unclear.

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the officer-involved shootings described “have eroded public trust.”<sup>146</sup> OIPM might have outlined a call to action for city government officials, community and civic organizations, NOPD leadership, and other local entities and individuals to engage in a localized conflict resolution, truth and reconciliation, or other community-based process that might simultaneously address prior allegations and focus on recalibrating police and community relationships going forward.<sup>147</sup> Recommendations aimed at local stakeholders taking the lead in confronting past distrust and determining, for themselves, how to come together to reset and renew the relationship between NOPD and communities that distrust the Department would have been more consistent with a police monitor’s charge to focus its efforts on “outreach and relationships with stakeholders” in order to “[e]ducate and learn from the community.”<sup>148</sup> Recommendations that do not squarely address or challenge the local community make reform seem like something that happens somewhere else – rather than something that New Orleans must do for itself by involving the community in all of its forms.

## B. Other Criticisms of OIPM’s Performance

### 1. Criticisms Regarding Purported Lack of Professionalism & Poor Judgment

During the course of our discussions with individuals, organizational representatives, and various stakeholders in New Orleans, we have inventoried numerous charges made against the current Independent Monitor that,

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<sup>144</sup> Code of City of New Orleans § 2-1121(16).

<sup>145</sup> See National Guidelines for Police Monitors at 21 (defining “stakeholders” as “individuals, groups, or organizations” that “have an interest or stake in the issues” that a monitor addresses, including but not limited to “police rank and file, responsible community and civic organizations, elected and appointed officials, police unions, the press and electronic media, and civil rights and civil liberties organizations”).

<sup>146</sup> Hurricane Katrina Report at 3.

<sup>147</sup> See, e.g., Oliver Ramsbotham, et al, *Contemporary Conflict Resolution* (3d Ed. 2011); Morton Deutsch et al, *The Handbook of Conflict Resolution: Theory & Practice* (2006); Paul van Zyl, “Dilemmas of Transitional Justice: The Case of South Africa’s Truth and Reconciliation Commission,” 52 J. Int’l Affairs (1999), available at <http://center.theparentscircle.org/images/d96de38c44bc4080be6d8ffe2a172ccc.pdf>; James L. Gibson & Amanda Gouws, “Truth and Reconciliation in South Africa: Attributions of Blame and the Struggle over Apartheid,” 93 *Am. Pol. Sci. R.* 501 (1999).

<sup>148</sup> NACOLE Code of Ethics at 2.

at heart, seem to focus on discontent with her purported lack of professionalism or her exhibiting poor judgment.

Some allegations appeared more trivial, were unlikely to have much merit, or seemed of relatively low importance after a cursory examination. For instance, the Police Monitor held an educational event for New Orleans citizens entitled “Know Your Rights & Responsibilities When Encountering the Police” on March 11, 2015 (similar to an ongoing series of educational presentations in which OIPM has participated in New Orleans in 2015).

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Some allegations involving OIPM's purported lack of professionalism appeared more trivial, were unlikely to have much merits, or seemed of relatively low importance after a cursory examination.

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Some stakeholders expressed concern that an informational poster for the event depicted a raised fist that could be interpreted as serving as an icon for “black power,” which they felt would be inappropriate for a government office that serves all the people of New Orleans. Although the raised fist has been such a symbol, versions of the symbol have been by several other groups, including the AFL-CIO,<sup>149</sup> Jewish Defense League, the United Farm Workers, and Women’s Liberation, among others.<sup>150</sup> OIPM may have been wise to use a more neutral or boilerplate image that aimed to position the educational program as inclusive and community-driven, but it would not necessarily appear that this image on an informational poster was egregiously unprofessional.

Others expressed concern about that same event was co-sponsored by a group called SEE, a US-Russia Social Expertise Exchange, which some suggested to us amounted to OIPM forming an alliance with a foreign organization that could be a front for a foreign government or criminal organization.

It is beyond the scope of this review to fully vet the Social Expertise Exchange program. We note only that a proficient internet user can readily identify that SEE is “implemented by the Eurasia Foundation”<sup>151</sup> The Eurasia Foundation’s Advisory Council includes Former Secretary of State James A. Baker III; Former Secretary of State Madeline Albright; Former United States Senator Bill Bradley; and Former Senator and Vice Chairman of the 9/11 Commission Lee H. Hamilton, among others. The Foundation’s Board of Trustees include representatives of the Brooking Institution, Exxon Mobil, Adobe, and Georgetown University.

It slightly unclear to us why SEE was a preferred organization to partner with OIPM on a community education event, but, unless the previously identified and relatively esteemed group of dignitaries and professionals have nefarious motivations, it would seem unlikely that OIPM partnered with a foreign adversary to conduct its work.

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<sup>149</sup> File: Stand With Wisconsin Raised Fist.pdf, [https://en.wikipedia.org/wiki/File:Stand\\_With\\_Wisconsin\\_Raised\\_Fist.pdf](https://en.wikipedia.org/wiki/File:Stand_With_Wisconsin_Raised_Fist.pdf) (last visited Dec. 30, 2015).

<sup>150</sup> Raised Fist, Wikipedia, [https://en.wikipedia.org/wiki/Raised\\_fist](https://en.wikipedia.org/wiki/Raised_fist) (last visited Dec. 30, 2015).

<sup>151</sup> SEE US-Russia Social Expertise Exchange, About, <http://www.usrussiasocialexpertise.org/#about> (last visited Dec. 30, 2015).

We heard some criticisms about the Monitor’s views of a high-profile use of force incident that occurred in Ferguson, Missouri in 2014. Specifically, some questioned her discussion of the case on November 25, 2014 in which she expressed, among other things, the view that the involved officer “should have used other . . . [r]easonable force.”<sup>152</sup> The argument we heard was that the Monitor in New Orleans should not comment on matters in other jurisdictions in which the Monitor may not have complete knowledge of the facts. The reasonableness or propriety of the Monitor’s views is beyond the scope of this report. However, we observe that police oversight professionals are routinely called on by the media to discuss issues related to law enforcement and to the accountability field. Indeed, PARC itself is frequently contacted by media outlets,

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Police oversight professionals are routinely called on by the media to discuss issues related to law enforcement and to the accountability field. Engaging with the community is appropriate if a monitor’s comments are appropriate and non-speculative.

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lawyers, academics, and others soliciting our opinions on a topic generally or on an incident in the news generally. PARC and its agents comment where it believes its comments are appropriate and non-speculative – and, if not all facts are known, make disclaimers to this effect.

Some have likewise questioned OIPM positioning some of its comments to the media about events happening in New Orleans in the recent context of enhanced scrutiny of some incidents involving police around the country. They point to one member of OIPM’s staff justifying its early comment on a police shooting by noting that “in light of what’s going on nationwide, we want to be more transparent” as inappropriately conflating New Orleans with Ferguson.<sup>153</sup> However, because one of the chief tasks of a monitor is to make complicated, unfolding issues within the community “easy to understand,” situating events in a context that members of the community will readily identify is an appropriate communication technique. So, too, in this way do police monitors – often compelled to make qualitative assessments based on emerging events – differ from accountants or auditors tasked only with ensuring that the dollars and cents add up and memorializing their findings in reports that receive little public or media attention.

Some anecdotes or examples raised did suggest some room for improvement with respect to public clarity on the role of the OIPM. Specifically, some of OIPM’s public statements could give the impression that the Monitor is solely, and exclusively, an advocate and institutionalized opposition to the NOPD – which is inconsistent with the roles expressly defined for the Monitor in the enabling ordinance.

For instance, in May 2015, the Deputy Police Monitor indicated that OIPM was “concerned” about a use of force that had happened just the night before she made her comments.<sup>154</sup> Some in the community and within NOPD believed that the comments proved that OIPM was pre-judging the incident before all facts were available and an investigation could be completed. Others believed that it was appropriate for OIPM to identify issues or concerns based on its initial knowledge of the facts of the incident.

Commenting on particular incidents is not necessarily inconsistent with relevant professional standards. Neither the National Guidelines for Police Monitors nor the NACOLE Code of Ethics prohibit interaction with

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<sup>152</sup> Ringside Politics, WGSCO 990 (Nov. 25, 2014).

<sup>153</sup> Rob Masson, “Independent Monitor Reveals Initial Findings in Fatal Police Shooting” FOX8.com (May 1, 2015).

<sup>154</sup> Jonathan Bullington, “Police Monitor ‘Concerned’ with NOPD Use of Force that Hospitalized Man Tuesday Night,” *New Orleans Times-Picayune* (May 27, 2015).

the press. Instead, both contemplate that monitors use sound judgment in determining how to interact with the media, with the National Guidelines noting that “[t]here is a risk that in speaking with the press, the monitor may become an advocate for himself and his point of view or be put in a defensive position.”<sup>155</sup>

However, the issue would appear to be that OIPM indeed was commenting on a very recent case without benefit of evaluating NOPD’s full investigation – which can be seen, even if not intended as such, as a failure to conduct OIPM’s activities “in a fair and impartial manner.”<sup>156</sup> Generally:

Monitors must avoid situations that could lead reasonable third parties with knowledge of the facts and circumstances to conclude that the monitors are not able to maintain independence and thus are not capable of exercising objective and impartial judgment on all issues associated with their monitoring tasks.<sup>157</sup>

For OIPM, like any police monitor, to be effective, all stakeholders – whether civilians or NOPD officers, city government officials or NOPD command staff – must see the monitor as tough but fair and exacting but objective. Comments that lead some stakeholders to believe that the monitor is pre-judging a case before all facts are known run counter to this imperative. Going forward, it may be useful for OIPM to have an express, written policy or protocol addressing how it does and does not address various elements of its work in the media.<sup>158</sup>

More fundamentally, however, OIPM needs to ensure that the monitor is not viewed as a kind of institutionalized opposition to NOPD that advocates for some within the community but not others or that consistently critiques the Department without recognizing areas of reform or progress. Although it is a lofty professional standard, OIPM must continually recommit to “[d]emonstrat[ing] the highest standards of personal integrity, commitment, truthfulness, and fortitude in order to inspire trust among . . . stakeholders.”<sup>159</sup>

To this end, PARC heard a great deal about the OIPM’s July 1, 2015 release of a surveillance video related to a misconduct investigation.<sup>160</sup> Pursuant to a meeting in which some characterized the Monitor’s demeanor as “combative” and the Judge overseeing the Consent Decree as calling OIPM’s release of the video “inappropriate,” OIPM’s access to video of incidents has been restricted to “view only” in order to foreclose any future release of videos.<sup>161</sup> Others claim that the Monitor’s demeanor was cooperative and that the “view only” access was amenable to all stakeholders present at the meeting.

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<sup>155</sup> National Guidelines for Police Monitors at 75.

<sup>156</sup> NACOLE Code of Ethics at 1.

<sup>157</sup> National Guidelines for Police Monitors at 24.

<sup>158</sup> *Id.* at 58 (“The monitor should have protocols for dealing with the media.”).

<sup>159</sup> NACOLE Code of Ethics at 1.

<sup>160</sup> “Surveillance Video Shows NOPD Officer Hitting Teen Girl,” WGNO.com (July 1, 2015), <http://wgno.com/2015/07/01/surveillance-video-shows-nopd-officer-hitting-teen-girl-raw-video/>.

<sup>161</sup> Ken Daley, “Inspector General Releases Letter Calling for Police Monitor’s Filing, Argues ‘Ethical Misconduct,’” *New Orleans Times-Picayune* (Sep. 29, 2015), <http://www.nola.com/crime/index.ssf/2015/09/inspector-general-releases-let.html>.

Because PARC’s role is to comment on OIPM’s role, practices, and procedures, this report declines here, as in other instances, to re-investigate or re-litigate underlying incidents – which includes the circumstances surrounding the July 2015 video release. However, we do question the utility of OIPM’s release of the video without, at minimum, having a series of sustained conversations with other city, federal, and reform stakeholders about doing so. The release of the video has done little to “cultivate a reputation for credibility . . . in the jurisdiction to which a monitor is assigned” and suggests some room for growth with respect to OIPM serving as “a skilled negotiator and mediator.”<sup>162</sup> It is unlikely that the value to the public of one video’s release outweighed the significant deterioration of good will between OIPM and at least some stakeholders. To the extent that OIPM is continued to be viewed as not cooperating with a federal judge’s directive or a workings stakeholder agreement on information release, it would expand the Monitor’s credibility and strengthen OIPM’s working relationships if a clear understanding was reached about how OIPM fit into that information release scheme.

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At minimum, we question the utility of OIPM’s release of a video related to a misconduct investigation without appearing to have a series of sustained conversations with other city, federal, and reform stakeholders.

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Some have argued that the “view only” access of incident video has crippled the ability of the OIPM to do its job going forward and that any restrictions on access effectuates a material inability of the Monitor to fulfill its duties. However, the National Guidelines for Police Monitors observes that good monitors “should be amenable to reasonable safeguards to protect such information which do not unduly restrict the monitor’s access.”<sup>163</sup> The Monitor going to the Department to view video, rather than accessing it remotely from OIPM offices, is not an unreasonably burdensome or inappropriate access requirement.

A final area of criticism touching on professionalism or judgment about which some stakeholders talked to us to great length is the intersection of OIPM’s activities with that of the District Attorney. Specifically, they indicate that, in some instances, OIPM have interviewed witnesses, gathered evidence, or otherwise received information about incidents involving NOPD personnel in which a criminal investigation is still pending or criminal action is contemplated – but that OIPM has failed to provide that information or evidence to the District Attorney. Because OIPM is an office of the city, it is a state actor, and the District Attorney maintains that it has obligations to discover (and to potentially provide to a criminal defendant) any and all evidence relating to a criminal investigation. The District Attorney’s Office maintains that there have been problems with OIPM regularly providing it with all information that it has received about a pending matter.

We decline to mount an investigation on the merits of the District Attorney’s claims here. However, we do note that it is by no means unusual for information discovered by an administrative or internal investigation of officer performance to be provided to criminal investigators.<sup>164</sup> Indeed, it is typically required. OIPM does not sacrifice its independence by providing what it discovers to prosecutors. Instead, its credibility, fairness, and objectivity are enhanced.

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<sup>162</sup> National Guidelines for Police Monitors at 22.

<sup>163</sup> *Id.* at 24.

<sup>164</sup> See Community Oriented Policing Services, “Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice” at 24-25 (2008), <http://static1.squarespace.com/static/5498b74ce4b01fe317ef2575/t/54affb83e4b066a5a28ad527/1420819331714/cops-p164-pub.pdf>.

More generally, as one federal agent summarized, OIPM is not seen by all partners in law enforcement – including judges, the police, federal agencies, the IG, and the ethics committee – as collaborative. Roadblocks to information-sharing with partner agencies need to be torn down or addressed in a collaborative manner so that all major stakeholders can meaningfully carry out their duties.

## 2. Criticisms Regarding Scope of OIPM's Activities

Many specific criticisms and concerns about the OIPM that we heard can be summarized in terms of a global concern about OIPM somehow not doing what it is supposed to do. This report concludes that a good part of this confusion stems from differences between what various stakeholders believe that a police monitor should do and the scope of authority that the ordinance creating OIPM established.

As this report describes elsewhere, the municipal ordinance that established OIPM provided it with a broad charge. It both receives and reviews the investigation of misconduct complaints and conducts general oversight and monitoring over significant areas and broad issues within NOPD, including discipline, use of force, in-custody deaths, data collection, risk management, NOPD's "early warning system," supervision, training, discipline, and "other tasks to ensure New Orleans Police Department accountability, transparency, and responsiveness to the community it serves."<sup>165</sup> The ordinance also requires that OIPM conduct community outreach and engage with community members.<sup>166</sup>

It is difficult, given the scope of its legislative charge, to identify clear instances where OIPM has demonstrably and materially stepped beyond the authority granted to it. To the extent that the charge of this report was to, in part, review the breadth and limitations of OIPM's authority and determine whether OIPM has operated within any such limits, this report finds that – because the legislation grants OIPM an expansive charge and few limits – the Monitor and her Office have consistently acted, when it comes to the nature of their activities, in a manner consistent with its legislative mandate.

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The New Orleans City Council created a hybrid police accountability mechanism when it created the OIPM. As such, OIPM has a broad charge – even if there appears to be some confusion about that fact.

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The New Orleans City Council created a hybrid police accountability mechanism when it created OIPM – combining elements of a quality control body focused on misconduct complaints with a systemic, evaluative monitor. As such, OIPM does indeed have a broad charge.

Despite the expansive nature of the issues and areas that OIPM may monitor, there appears some confusion about precisely what the Monitor can do. Part of the confusion about OIPM's role seems so stem from OIPM's own failure to articulate to outside stakeholders precisely how its activities conform to its core mission and expressly assigned legislative duties.

For instance, some with whom we spoke argued that the Monitor lacked legal authority to conduct a review or investigation of a Louisiana State Patrol investigation into misconduct allegations involving a Deputy

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<sup>165</sup> Code of City of New Orleans § 2-1121(4).

<sup>166</sup> § 2-1121(12).

Superintendent, who was then NOPD's second-highest ranking officer. PARC assumes that, because the subject of the misconduct investigation was such a senior member of the command staff, that an outside agency was called to conduct the misconduct investigation in an effort to avoid the appearance of or actual conflicts of interest.

Regardless of the reasons for an outside agency conducting the investigation, however, the municipal ordinance creating the OIPM does not preclude the Monitor from exploring misconduct investigations involving NOPD that the Department has elected to have investigated by an external entity. Again, the ordinance provides that "[t]he independent police monitor shall monitor the Police Department, particularly in the areas of: civilian and internally-generated complaints; internal investigations; discipline; use of force; and in-custody deaths."<sup>167</sup> Indeed, the Monitor must conduct "other tasks to ensure New Orleans Police Department accountability, transparency, and responsiveness to the community it serves."<sup>168</sup>

Certainly, the quality and integrity of investigation into a high-ranking NOPD officer relating to serious allegations, if substantiated, bears significantly on core issues of accountability, transparency, and community confidence.<sup>169</sup> Put differently, if the Department instituted a new policy tomorrow dictating that all of its internal investigation functions would be outsourced to another agency or entity, OIPM would need to review the integrity of those investigations to fulfill its legislative charge. Doing so in one instance is consistent with its mission, the authority given to it by the enabling ordinance, and good practice.

In yet other instances, OIPM has seemed to engage in activities that would appear, at least on their face, to be somewhat attenuated from its core mission and, consequently, significantly muddle among city stakeholders, the NOPD, and the New Orleans community precisely what the Monitor does.

For example, a few individuals recounted to us that OIPM staff were present when the City's Health Department removed a homeless encampment. Undoubtedly, law enforcement must frequently respond to the homeless, mentally ill, and other vulnerable populations. New Orleans, like jurisdictions around the country, asks its police officers to step in and address significant social issues when other networks of service providers and health professionals have broken down or been ineffective. Indeed, the federal Consent Decree's requirements in the area of crisis intervention recognize that NOPD personnel frequently interact with individuals experiencing behavioral crisis.<sup>170</sup>

Nonetheless, if OIPM believes that it has a role to oversee a municipal agency other than or beyond NOPD, it would be useful if other stakeholders and the general public understood the reason for OIPM's participation or attention to the area.

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<sup>167</sup> § 2-1121(3).

<sup>168</sup> *Id.*

<sup>169</sup> See Brendan McCarthy, "NOPD's No. 2 Cop Marlon Defillo Retires From Force," *New Orleans Times-Picayune* (July 21, 2011), [http://www.nola.com/crime/index.ssf/2011/07/marlon\\_defillo\\_resigns\\_from\\_ne.html](http://www.nola.com/crime/index.ssf/2011/07/marlon_defillo_resigns_from_ne.html).

<sup>170</sup> Consent Decree ¶¶ 111–121.

We also note here again that OIPM has, at times, focused disproportionately on its role in the receipt of misconduct complaints and the oversight of the investigation of such complaints. This role is certainly important, and several individuals from both within and outside the department have indicated that they believe that having an entity outside NOPD take complaints about officer conduct is an important element of resetting the relationship between the Department and the community.

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OIPM has, at times, focused disproportionately on its role in the receipt of misconduct complaints and the oversight of the investigation of such complaints. Doing so artificially cabins the nature of the Monitor's charge.

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Nonetheless, restricting the Office's activities solely to misconduct complaints artificially cabins the nature of the Monitor's charge.<sup>171</sup>

It prevents New Orleans from fully benefitting from other modes of oversight that address not just individual incidents on a case-by-case basis but tackle "systemic problems of police culture and procedure."<sup>172</sup> In other jurisdictions, such as Los Angeles and New York, inspectors general or full-time institutionalized police monitors provide ongoing, systemic evaluations across all aspects of police operations and functions. There, reform advocates have argued that "[i]t is one thing to achieve a fair result in a given investigation; it is far more powerful . . . to change police culture in general by requiring strict accountability."<sup>173</sup>

At its best, such as in its 2014 report regarding NOPD's retaliation policies, OIPM provides this kind of systemic, evaluative oversight pegged not merely to the investigation and adjudication of complaints but to the NOPD's performance generally. Too often, however, its public statements and areas of focus in its reports focus on complaints. Understandably, several stakeholders told us that they have come to view OIPM as solely, or at least primarily, a complaint oversight mechanism. Again, although the enabling legislation contemplated that OIPM would have a significant role in the receipt and oversight of the investigation of misconduct complaints, it contemplated that the Monitor would do much more.

The newly-independent OIPM should ensure going forward that, unlike in the past and "[t]o reduce potential misunderstandings, resentment, or misplaced expectations, the parties, stakeholders, and the general public should be quickly and clearly informed . . . of the role and responsibilities of the monitor."<sup>174</sup> The Monitor must "set forth the nature and scope of the monitor's role and what the monitor will and will not do."<sup>175</sup> The setting forth of what OIPM does *not* do is, indeed, arguably more important than the articulation of what the Monitor does. To have credibility with NOPD, the City, other reform stakeholders, community organizations, and community members, OIPM must rigorously adhere to promising what it can deliver – and delivering what it promises. It must simultaneously guard against mission creep, taking on too much at the risk of accomplishing too little, and unduly restricting its activities and oversight to reactive, quality control tasks rather than affirmative, systemic accountability functions.

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<sup>171</sup> Portions of this paragraph are adapted from a forthcoming discussion of civilian oversight of the Seattle Police Department.

<sup>172</sup> Review of National Police Oversight Models at 21.

<sup>173</sup> *Id.*

<sup>174</sup> National Guidelines for Police Monitors at 53.

<sup>175</sup> *Id.*

## C. OIPM's Relationship with Stakeholders

### 1. NOPD

Many of the issues and concerns outlined in other sections of this report were either advanced or shared by NOPD personnel. We heard that the OIPM has a pattern of bias against the NOPD. We heard that OIPM fails to address one of its primary duties, that of bridging the gap between the police and the community; rather, the OIPM seems to foster resentment and mistrust between the two groups. We heard that OIPM and its staff are quick to pre-judge incidents and reflexively credit the allegations or statements of civilians as more truthful than those of NOPD officers.

This report need not inventory all of NOPD's complaints, concerns, and issues about OIPM and its performance – because monitoring is “most effective” where there is mutual trust between the monitor” and involved stakeholders:<sup>176</sup>

The establishment of a trusting relationship does not necessarily mean that monitors will always agree with parties. Indeed, it should be anticipated that the monitor and parties will encounter disagreements. Disagreements, however, should not be allowed to undermine good professional relations. Trust is maintained by open lines of communication and transparency of operation.<sup>177</sup>

Monitoring police agencies is challenging work. No entity, or individual, particularly likes having someone “stand over their shoulder” and evaluate what they are doing. Police executives rarely relish outsiders telling them how to run their department, and police officers are often highly skeptical of outsiders – especially those who have never been a police officer – telling them what to do.

Unlike a litigation-initiated monitor, a monitor established by municipal action, like OIPM, usually does “not have recourse to the courts” to resolve issues or address conflicts.<sup>178</sup> Instead, such a monitor must use an array of tools to negotiate, compel, and cajole stakeholders to adopt her recommendations, respond to her critiques, and to make changes in response to issues that she has identified:

The monitor therefore must have the skill and ability to function in a highly challenging environment. It is here that a monitor's negotiating and facilitating abilities come to the fore. A firm but friendly manner is an asset, as is an ability to stay focused on the job at hand and to resist reacting personally and emotionally. A good monitor demonstrates that he or she means business and cannot be pushed around, while contemporaneously cultivating professional relationships with the monitored agency and its chief officers. A good monitor uses opportunities to teach, inform, and articulate common goals; similarly, the

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<sup>176</sup> *Id.* at 41 (addressing litigation-initiated monitors but noting that “[t]he same is true for municipal action monitors in their relationship with a monitoring agency”).

<sup>177</sup> *Id.* (addressing litigation-initiated monitors but noting that “[t]he same is true for municipal action monitors in their relationship with a monitoring agency”).

<sup>178</sup> *Id.* at 42.

monitor must be open to being taught and informed by others. A monitor must not be afraid to show honest humility or ignorance.<sup>179</sup>

The Independent Monitor in New Orleans, like any police oversight professional, must be seen as objective. As the United States General Accountability Office Generally-Accepted Auditing Standards (“GAGAS”) provides, objectivity connotes professional skepticism, which it defines as follows:

[A]n attitude that includes a questioning mind and a critical assessment of evidence. [Monitors] use the knowledge, skills, and experience called for by their profession to diligently perform, in good faith and with integrity, the gathering of evidence and the objective evaluation of the sufficiency, competency, and relevancy of evidence. Since evidence is gathered and evaluated throughout the assignment, professional skepticism should be exercised throughout the assignment.<sup>180</sup>

Professional skepticism requires that monitors neither assume honesty and good faith nor dishonesty and bad faith. On this front, there is at least the perception among some of the NOPD rank-and-file that OIPM reflexively assumes that police officers engaged in misconduct or harbor bad or criminal intentions.

Perceptions matter in policing, and they matter in professional oversight of police. Earning the respect and trust of NOPD is equally important as earning the same from other city stakeholders, community organizations,

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Perceptions matter in policing, and they matter in police oversight. Earning the respect and trust of NOPD is equally important as earning the same from other stakeholders and members of the public.

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or members of the public. Ultimately, police departments change because the men and women who work there change their performance, behavior, and expectations on a minute-by-minute, hour-by-hour, and date-by-day basis.

The type of cultural change often necessary for renewed relationships between law enforcement agencies and the communities that they serve must, to at least some critical extent, be bottom-up rather than top-down. The best policies, processes, and procedures imaginable will not produce meaningful change that individuals can feel across New Orleans’ communities unless officers embrace and adopt them.

As such, the OIPM must, going forward, commit itself to always listening to the men and women of NOPD – to giving differing points of view a full and fair hearing, to working with and collaborating with the Department when possible, and not bristling at the possibility of compromise or accommodation when it promotes collectively advantageous goals.

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<sup>179</sup> *Id.*

<sup>180</sup> United States General Accountability Office Generally-Accepted Auditing Standards (“GAGAS”) 3.36.

## 2. New Orleans Community

The NACOLE Code of Ethics observes that a police oversight professional has a “primary obligation to the community.”<sup>181</sup> Indeed, “[i]ndependent outside monitoring of police agencies usually occurs in communities where policy-community relations have eroded considerably.”<sup>182</sup> A monitor must be “credible and trusted by the wider community,” with municipal action monitors (like OIPM) finding it useful, to that end, “to establish alternative dispute resolution mechanisms, including mediation, negotiation, dialogue, and restorative justice techniques to strengthen police-community relationships and engender trust among all segments of a community.”<sup>183</sup>

We spoke with a number of community leaders and members from across New Orleans’ communities. In the view of many, OIPM does very good work in several areas, including the maintenance of community outreach, appearance at the site of officer-involved shootings, and its creation of mediation program. OIPM’s mediation program has been the subject of special praise from the State of Louisiana Bar:

In 2014, the New Orleans Office of the Independent Police Monitor launched its Community-Police Mediation Program as a strategy to strengthen community trust in police and to build stronger relationships between the community and police. In its first year of operation, the program has become a national model to improve community and police relationships and build mutual understanding. The program exemplifies the essential principles and standards of community mediation. Every case is co-mediated with two of the 30 community-police mediators who match the age, race and gender demographics of the officer and civilian. Each mediator has more than 50 hours of specialized training in community-police mediation. The mediations take place in private rooms in community spaces such as public libraries, community centers and schools near where the civilian or officer live or work rather than government buildings.<sup>184</sup>

The establishment and continuance of the New Orleans Community-Police Mediation Program is vital to the City of New Orleans. The evaluation data and findings from the program offer a model to other cities where the lack of public trust in the police department may have an impact on the capacity to reduce the rate of violent crime. For example, the stories, number of cases successfully resolved, and the data reflecting the level of confidence increased through mediation will be valuable tools for other departments facing similar problems in public trust and seeking processes to develop mutual understanding and improved community and police relationships.<sup>185</sup>

This report has elsewhere described other of the Monitor’s community outreach and engagement activities, including educational events, community fora, and a steady schedule of meetings with community stakeholders,

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<sup>181</sup> NACOLE Code of Ethics at 2.

<sup>182</sup> National Guidelines for Police Monitors at 37.

<sup>183</sup> *Id.* at 39.

<sup>184</sup> Lou Furman and Alison R. McCrary, Community-Police Mediation in New Orleans, 63 *Louisiana State Bar Journal* 192. It should be noted that the authors of this journal article are involved in the New Orleans Mediation Project.

<sup>185</sup> *Id.* at 194.

which OIPM's annual reports regularly inventory. Even the federal Consent Decree Monitor has "recognize[d] the respect the organization has within the New Orleans community."<sup>186</sup>

Several members of the community with whom we spoke are passionate when they describe OIPM as giving the community a voice in the police reform and accountability that they had not enjoyed previously and otherwise would not have. Those individuals tended to believe that criticism of the Monitor and of her office was a sign that she had the independence from the NOPD and city that provided important segments of the New Orleans community with greater confidence that OIPM is truly independent. Although other community stakeholders disagreed, it was clear that what some individuals view as deficiencies or a lack of effectiveness, others view as, in fact, evidence of impartiality and a willingness to press stakeholders for greater accountability and reform.

Finally, we observe again that OIPM must come to embrace the NOPD itself, and all of its officers and sub-communities within the Department, as part of the fabric of the community. It remains just as important to be seen as impartial and fair by officers as it is by members of communities that have historically been mistrustful of the police. Building authentic relationships with one community does not foreclose doing the same with the other.

### 3. *Office of the Inspector General*

Part of PARC's charge was to review OIPM's work product and performance and to evaluate whether the work has been conducted in a manner consistent with nationally accepted standards. In doing so, this report comments on whether OIPM's practices, to date, have reflected best practices and current thinking on civilian oversight. For the whole of the time period studied, OIPM functioned as an arm of the Office of Inspector General ("OIG"). Accordingly, OIPM's ability or inability to effectively function in that context has to be a part of any systematic, peer review. Any effort to avoid situating OIPM's work product, performance, and adherence to policies or practices in the context of its formal organizational position within city government would indeed be disingenuous, at best.

We approach the subject of OIPM and OIG's relationship with some reluctance. Throughout our discussions with individuals about how well OIPM has or has not fulfilled its charge, conformed to best practices, and served the New Orleans community, the subject of the current Monitor and current Inspector General's professional relationship, or lack thereof, was repeatedly raised, discussed at great length, and dissected in often microscopic detail.

Just since our engagement by the City to conduct the present inquiry, the IG called on the Ethics Board to fire the Monitor. A letter to the Board argued that the Monitor had not submitted the Wendell Allen report, described above, to the IG for approval, which the IG believed was required.<sup>187</sup> The letter criticized OIPM's

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Throughout our discussions with individuals about OIPM, the subject of the current Monitor and current Inspector General's professional relationship, or lack thereof, was repeatedly raised.

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<sup>186</sup> Report on the Consent Decree Monitor for the New Orleans Police Department Consent Decree 79 (April 2015).

<sup>187</sup> See Jim Mustin & Matt Sledge, "New Orleans Inspector General Moves to Fire Independent Police Monitor as They Wage Political Warfare," *New Orleans Advocate* (Sep. 25, 2015), *available at*

release of a video showing an NOPD using force on a shackled, teenage inmate.<sup>188</sup> It also criticized as unethical comments made by the Monitor on television regarding police “downgrading” crimes in the French Quarter.<sup>189</sup> In October 2015, the Monitor asserted that the Inspector General’s conduct was “unethical, harassing, unprofessional and . . . retaliatory.”<sup>190</sup> She asserted that the IG obstructed multiple of OIPM’s reports – those on warrant and search and seizure practices – and has mistreated black and female employees.<sup>191</sup>

Such recent history comes on the heels of what has been described as a “long-contentious relationship” that has culminated in the Monitor and IG “refusing to say hello in the hallway of their shared office.”<sup>192</sup> This report need not inventory or litigate these or other specifics. It will only note that several individuals with whom we spoke called on “Quatrevaux and Huston . . . to find a way to mend fences and co-exist”<sup>193</sup> without the “heated discourse between the two offices”<sup>194</sup> that appears to have become standard. Our inquiry tended to underscore the wisdom in that advice.

The Inspectors General’s *Green Book* requires that “inspectors general regard their offices as a public trust, and their prime duty as serving the public interest.”<sup>195</sup> Such public trust “is best served by inspectors general when they follow the basic principles of,” among other things, “professionalism” and “respect for others and themselves.”<sup>196</sup> Engaging in a continually and publicly contentious relationship with another member of one’s own office and creating a dynamic in which the assertion that even simple pleasantries were not extended when OIPM was part of the OIG would even be plausible is not – at least based on our experience working in law enforcement oversight in nearly 35 communities for some 25 years – consistent with the sort of professional, respectful relationships necessary for rigorous pursuit of the public interest.

The NACOLE Code of Ethics requires civilian oversight professionals to have “open, candid, and non-defensive dialogue with □ stakeholders.”<sup>197</sup> The National Guidelines for Police Monitors indicate that monitors must

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[http://www.theneworleansadvocate.com/news/13542629-55/new-orleans-inspector-general-moves;](http://www.theneworleansadvocate.com/news/13542629-55/new-orleans-inspector-general-moves;_accord) accord Brentin Mock, “When Independent Police Oversight Becomes Too Independent,” *Atlantic CityLab* (Sep. 30, 2015), <http://www.citylab.com/design/2015/09/when-independent-police-oversight-becomes-too-independent/407290/>.

<sup>188</sup> See Jim Mustin & Matt Sledge, “New Orleans Inspector General Moves to Fire Independent Police Monitor as They Wage Political Warfare,” *New Orleans Advocate* (Sep. 25, 2015), available at <http://www.theneworleansadvocate.com/news/13542629-55/new-orleans-inspector-general-moves>.

<sup>189</sup> *Id.*

<sup>190</sup> Letter of Susan Hutson to Ethics Review Board re: Recommendation to Terminate My Employment (Oct. 1, 2015) at 1, available at [https://www.dropbox.com/s/z8vu8850uzoggsg/Response%20to%20Quatrevaux%20Letter%2093015%20FINAL%20\(2\).pdf?dl=0](https://www.dropbox.com/s/z8vu8850uzoggsg/Response%20to%20Quatrevaux%20Letter%2093015%20FINAL%20(2).pdf?dl=0).

<sup>191</sup> *Id.*

<sup>192</sup> Matt Sledge, “Relationship Between New Orleans Watchdog Agencies Fragile, ‘Divorce’ of Departments Would Need Voter Approval,” *New Orleans Advocate* (May 6, 2015), <http://www.theneworleansadvocate.com/news/12303285-171/new-orleans-watchdog-agencies-talk>.

<sup>193</sup> Jarvis DeBerry, “If Ed Quatrevaux Brings Down Susan Hutson, Will the Next Police Monitor Be Trusted?” *New Orleans Times-Picayune* (Oct. 9, 2015), [http://www.nola.com/crime/index.ssf/2015/10/ed\\_quatrevaux\\_susan\\_hutson.html](http://www.nola.com/crime/index.ssf/2015/10/ed_quatrevaux_susan_hutson.html).

<sup>194</sup> Alex Woodward, “New Orleanians to Vote on Separation of Inspector General and Independent Police Monitor Offices on April 9,” *Best of New Orleans.com* (Oct. 27, 2015), <http://www.bestofneworleans.com/gambit/voters-to-decide-ipm-ig-fate/Content?oid=2796084>.

<sup>195</sup> *Green Book* at 3.

<sup>196</sup> *Id.*

<sup>197</sup> National Associate for Civilian Oversight of Law Enforcement, Code of Ethics (Aug. 12, 2015), <https://nacole.org/wp-content/uploads/NACOLE-Code-of-Ethics-8.12.2015.pdf>.

“seek to establish credibility and trust with the monitored agency and the branches of local government.”<sup>198</sup> As cited elsewhere in this report, those Guidelines observe that a police monitor “must have the skill and ability to function in a highly challenging environment” and be able to “demonstrate[] that he or she means business and cannot be pushed around, while contemporaneously cultivating cordial professional relationships with the monitored agency and its chief officers.”<sup>199</sup> Focusing public attention on the motivations of another oversight official acting in the public trust while diverting attention away from OIPM’s core mission of oversight of the NOPD is not indicative of the non-defensive, consensus-seeking dialogue and approach that a coalition of other monitors and civilian oversight professionals have identified as being best practice.

In their combined inability to cultivate or sustain a professional, respectful relationship with each other – litigating technocratic or personal disputes before the Ethics Review Board and in the media rather than identifying core issues or coming up with ways of solving critical problems within the Department and New Orleans community – the Monitor and Inspector General both failed to live up to their professional obligations.

It was clear from our time in New Orleans that many within the New Orleans Police Department want a fair, honest, objective, and productive relationship with the Monitor. Many in the community want oversight of the

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New Orleans deserves fair, focused oversight of police functions. What it has tended to receive, to date, has more resembled childish bickering or petty litigation than public stewardship – to the personal fault of both Monitor and Inspector General.

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police that brings problems, successes, and important issues to light and continually commits to improving the quality of police functions and strengthening the relationship between the community and the police who serve it.

New Orleans deserves fair, focused oversight of police functions. What it has tended to receive, to date, has more resembled childish bickering or petty litigation than public stewardship – to the personal fault of both Monitor and Inspector General. To be clear: both the Monitor and Inspector General did not, specifically when it

comes to interacting with each other, manage to comport themselves with anything that any responsible entity applying the relevant professional standards could certify as consistent with good, let alone best, practice. Both the IG and Monitor have been quick to argument, litigation, and standoffs – rather than focusing on collaboration, discussion, and conflict resolution.

The original idea in 2010 of making the OIPM a division of the OIG was a good one. It should be deeply disappointing to the New Orleans community that the head of the OIPM and the Inspector General engaged in scorched-earth tactics against each other such that coexistence became impossible. Partly, it is distressing because there was a good deal that OIPM could have learned from the IG and his staff. The current IG has developed, in many quarters, a good reputation for running a thoroughly professional office with highly qualified individuals who produce superior work product, including investigations and reports on the NOPD.<sup>200</sup>

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<sup>198</sup> National Guidelines for Police Monitors at 41.

<sup>199</sup> *Id.* at 42.

<sup>200</sup> OIG findings in draft reports were sustained overwhelmingly in final reports, and no factual errors or material omissions were identified during the 2010-2014 reporting period. To produce such good outcomes the OIG maintained a high level of excellence within its workforce. The Annual Quality Assurance Review Advisory Committee reports praised the OIG’s extraordinarily productive and “outstanding” record of “very effective and timely interventions . . . .” David A. Marcello, “Ethics Reform in New Orleans: Progress—and Problems Ten Years Post-Katrina,” *Tulane University School of Law Public Law and Legal Theory Working Paper Series*, Working Paper No. 15-13 (July 2015) at 2.

It is equally distressing because the IG could have learned a good deal from the staff on OIPM on translating the sometimes technocratic work of oversight into a program for involving and collaborating with the New Orleans community.

All who live and work in New Orleans can hope that, in the era of OIPM and OIG becoming separate entities, personal conflicts between those offices' principals can give way to a sustained, professional focus on the significant issues facing the NOPD and community. The occasion of OIPM's "independence" can set the occasion for both OIPM, and OIG, to pursue a model of operation – which should have been in place well before the current juncture – in which integrity and collaboration are not viewed as mutually exclusive.

#### 4. *Federal Consent Decree Monitor*

Civilian involvement by OIPM should complement the important work of the federal monitor under the NOPD Consent Decree, an agreement between the United States and the City of New Orleans to address findings that the Department had engaged in a pattern and practice of unconstitutional force.<sup>201</sup> From the inception of the monitoring under that Consent Decree, the federal monitor has expressed appreciation for the OIPM and the IG:

The [federal] Monitoring Team has spent significant time with the Independent Police Monitor ("IPM") and her team and the New Orleans Inspector General ("IG") and his team. Both have been fully cooperative with the entire Monitoring Team and extremely generous with their time. IPM Susan Hutson, Deputy Police Monitor Simone Levine, and Executive Director of Community Relations Ursula Price have provided invaluable information to the Monitoring Team from the very start of the Consent Decree monitoring project. As the Consent Decree contemplates, the Monitoring Team looks forward to coordinating and conferring with the IPM team throughout the life of the Consent Decree.<sup>202</sup>

The federal monitor continues to be supportive of the OIPM, noting in a recent, October 2015 report:

The Consent Decree provides the Monitoring Team shall coordinate and confer with the Independent Police Monitor. As in the past, the Monitoring Team and IPM communicated frequently during this quarter and coordinated their efforts to the extent practicable. The Monitoring Team remains pleased with and grateful for the level of cooperation it receives from the IPM.<sup>203</sup>

Likewise, in April 2015, the federal Monitoring Team noted that it "continues to be impressed by the passion, dedication, and impact of the IMP."<sup>204</sup> As it continues to operate in the context with other police oversight in place, OIPM should be mindful to complement the efforts of the federal monitor to the greatest extent possible.

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<sup>201</sup> The federal Consent Decree Monitor is Jonathan Aronie of the law firm of Sheppard Mullin. He was appointed by Judge Morgan.

<sup>202</sup> First Quarterly Report of the Consent Decree Monitor 20 (2013).

<sup>203</sup> Report of the Consent Decree Monitor for the New Orleans Police Department Consent Decree 75 (Oct. 2015).

<sup>204</sup> Report on the Consent Decree Monitor for the New Orleans Police Department Consent Decree 79 (April 2015).

## D. OIPM's Resources

To be effective, any oversight agency must have “sufficient resources to perform the task and to engage others to assist as necessary.”<sup>205</sup> OIPM argues, as this report has noted elsewhere, that it has insufficient resources to do its work:

The OIPM is made up of three permanently funded staff. Together the OIPM staff monitors over 1100 NOPD officers. Due to the lack of sufficient resources, the OIPM estimates it is unable to perform at least half of its functions as required by its enacting ordinance.<sup>206</sup>

OIPM solicited an independent assessment from a consulting firm in 2014 that describes some ongoing organizational problems. Some of the group's conclusions supported the idea that OIPM needs additional funding:

- OIPM has not been given the resources to stay abreast of internal or external training needs and is significantly deficient in this area. OIPM as an organization would benefit from basic “soft skills” and organizational management training.
- OIPM must begin to increase head count to handle increasing workload with more efficiency and prevent staff burnout. OIPM's current resource levels force the executive leadership to behave in a reactionary manner to both strategic and tactical organizational needs.
- OIPM's lack of resources have caused a blurring of job roles and reduced the efficiency of staff.<sup>207</sup>

On the other hand, the consulting report suggested that it was not clear whether the Office was making the most effective or efficient use of existing resources and whether additional staff would allow them to take on additional work:

- OIPM does not currently have a strategic organizational training or employee development plan.
- OIPM does not clearly define organizational performance expectations pertaining to staff.
- OIPM's lack of resources have caused a blurring of job roles and reduced the efficiency of staff.
- OIPM has not [implemented]... automated organizational processes to ensure quantifiable metrics for organizational and individual staff performance.<sup>208</sup>

<sup>205</sup> National Guidelines for Police Monitors at 44 (“The ordinance, municipal code, or executive order [establishing a monitor] should ensure, to the extent possible, that adequate funding be available in the current and future municipal budgets.”).

<sup>206</sup> Hurricane Katrina Report at 13.

<sup>207</sup> Noral Consulting, Organizational Assessment, January 31, 2014, Tables 2,3, and 4 (paraphrased and condensed).

<sup>208</sup> *Id.*

The consulting report suggests that more staff and resources are needed but that OIPM will need to ensure that any added resources are used in a focused, strategic, and effective manner.

This report declines to do what multiple stakeholders insisted that we should: specifically address whether OIPM's resources were, in fact, deficient in the past or whether budget negotiations leading to the splitting of OIPM from the OIG may have cured any deficiencies. Those considerations were outside the scope of our agreement, which focuses on reviewing OIPM's work product; commenting on whether the Office's performance is consistent with its legislatively defined authority; and to considering the Monitor's mission statement, goals, objectives, policies, and procedures to determine whether they meet nationally-accepted standards and best practices.

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Specific consideration of OIPM's budget was beyond the scope of this report. We observe only that OIPM is an agency with an expansive scope and charge – which must be funded at a level that permits it to conduct superior work.

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Instead, this report will observe only that the New Orleans City Council established a monitoring agency with an expansive scope and charge. To be effective, it must be funded at a level that permits it to conduct superior work – and it must be staffed by people who can generate such work. To this end, OIPM must also demonstrate to all concerned that it is managing public resources appropriately and accounting for them according to best accounting practices, which, in our discussions with primary stakeholders and OIPM, it does not appear that the Office currently embraces in a consistent or uniform manner. To that end, OIPM and the City may find it useful to explore the following reforms:

- Record at an appropriate interval, but no more than a quarter hour, the specific activities engaged in by any person working for or on behalf of OIPM;
- Publish a specific line item budget in all categories of revenue and expenses, including specific salaries and expense reimbursements, for each person working for OIPM and a monthly report of actual compliance with the budget;
- Keep all accounting and books and records according to appropriate accounting standards (GAGAS); and
- Permit the entity responsible for oversight of OIPM to select a nationally recognized accounting firm to prepare an annual publicly available audit of OIPM at OIPM expense.

### III. Conclusion

Civilian oversight of police is not new. In the United States, formal structures of police oversight date to the early 1900s.<sup>209</sup> However, that does not make the job of monitoring law enforcement any less challenging and complex. All jurisdictions are different. Every police department, in our decentralized system of law enforcement, has developed under different conditions and maintains divergent cultures. Monitoring each of

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<sup>209</sup> Review of National Police Oversight Models at 7-8.

them requires different approaches tailored to those departments and separately responsive to the individual concerns of the communities that the agencies serve.

Discontent, challenges, and issues relating to the accountability of law enforcement in New Orleans are, likewise, not new. Across eras, social conditions, and varying community needs, some within New Orleans believe that they are not heard and that the New Orleans Police Department is not responsive to their needs and the needs of their communities.

The task of resetting and renewing the relationship between the New Orleans community and the New Orleans Police Department now is too significant, and the stakes too high, for those who have been entrusted with the responsibility of monitoring the police department to be mired in personal disputes, seen as an advocate rather than an impartial arbiter, or not provided with the resources necessary to rigorously and fairly oversee all of the everyday functions of the NOPD. As this report has noted, there is much common ground between NOPD personnel and everyday residents of New Orleans – who want for law enforcement and the community to come together and collaborate to solve deeply entrenched, challenging problems.

Although OIPM has sometimes succeeded in fulfilling its charge and, at other instances, fallen short of where it should be, it must ensure, going forward, that it is the primary driver of change both within the Department but with respect to the Department's relationship with the community that it serves. Our evaluation of OIPM gives us confidence that, with a recommitment to best practices and collaboration, its work can set the occasion for a new era of responsive, respectful policing in New Orleans.



# PARC

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OFFICE OF INDEPENDENT POLICE MONITOR  
**CITY OF NEW ORLEANS**

SUSAN HUTSON  
INDEPENDENT POLICE MONITOR

January 29, 2016

Mr. Edouard Quatrevaux  
Office of Inspector General  
525 St. Charles Avenue, Suite 300  
New Orleans, LA 70130

Re: OIPM's response to PARC's "Peer Review of the New Orleans Office of the Independent Police Monitor"

Dear Mr. Quatrevaux:

The Office of the Independent Police Monitor (OIPM) received the "Peer Review of the New Orleans Office of the Independent Police Monitor" by the Police Assessment Resource Center (PARC) dated January 2016. The OIPM has been transparent about its objections to this review process and will reiterate its concerns below. However, we did find this document to contain some helpful suggestions. Likewise, PARC's review seems to have addressed the Office of the Inspector General's (OIG) concerns about the OIPM's internal standards, political relationships and approach to its mandate. The OIPM notes that, in the instances when PARC considered the OIPM's mission statement, its internal procedures, its annual report produced separately from PIB, and its subject matter reports (such as the Wendell Allen report), the PARC review concluded that the OIPM performed well.

Additionally, PARC provided no criticism of the OIPM's Critical Incident Monitoring Process and praised the OIPM's Critical Incident Investigations Review Matrix. The OIG had widely disseminated the suggestion that the work of police monitoring should not involve response to officer-involved shootings. The OIPM expects this report to resolve any issues of the OIG's concern with our mission, mandate, and standards. We look forward to a new chapter of our relationship characterized by mutual respect for each other's mandate and autonomy in execution.

The OIPM would like to make clear from the outset that the OIPM respects the work of the OIG and believes that the OIG performs a vital service for the people of New Orleans.

We similarly respect the important role that PARC has played in our police oversight community. Despite the utility of some of PARC's advice, the OIPM must raise several objections regarding this document and the process through which it was written.



- 1. This is not a “Peer Review”:** Characterizing this document as a “peer review” misrepresents PARC’s actual relationship to the OIPM. PARC is a respected organization in the police oversight community and Merrick Bobb is a respected and experienced member of that community. But there are many forms of civilian oversight, and PARC does not practice nor conduct oversight in the manner that the OIPM does. PARC primarily reviews police departments’ systemic issues, but we do not believe that PARC practices oversight at the monitoring and community level, as the OIPM does. Additionally, PARC is not a permanently established governmental agency charged with police oversight. Instead, PARC is a nonprofit that contracts with cities to perform this function. Contractors, of necessity, have a more cooperative relationship with the cities for which they work than the OIPM’s mission demands. The OIPM mandate requires the OIPM to sometimes take an adversarial position that a contractor would not choose to take. The OIPM ordinance, for instance, demands that the OIPM publish disagreements with the NOPD. A contractor may instead opt to resolve the matter behind closed doors. A true peer review could have been conducted by the National Association for Civilian Oversight of Law Enforcement (NACOLE). Indeed, the OIPM’s plans for such a review were already underway when the OIG engaged PARC at a cost of around \$100,000. The OIPM expects to move forward with peer review by NACOLE in the next year.
- 2. This review was improperly planned:** The OIG determined the scope of the review without a deep understanding of the OIPM’s work and without a consultation process. The review did not use any internal OIPM documents, such as the OIPM’s manual, training records, internal plans, document drafts, or correspondence with NOPD regarding reports. The review relied primarily on what had been posted to the OIPM website, as well as interviews with anonymous “stakeholders” proposed by the OIG and known stakeholders proposed by the OIPM. These stakeholders’ concerns, according to the PARC review, were not independently verified. For example, PARC discusses an instance in which the OIPM allegedly gave local media its opinion on an open PIB investigation just days after the investigation was initiated. In fact, the ethics complaint alleging misconduct in the same media interview had to be withdrawn after a review of the actual news footage confirmed that the allegedly biased statements were not made by any OIPM staff person. To conduct an impartial review without regard to the veracity of the source material or without consideration of the source’s motivation or allegiances is to undermine its impartiality.
- 3. This review did not give sufficient weight to the OIPM’s community stakeholders:** A related issue is PARC’s minimal treatment of “New Orleans Community” stakeholders in the review. The OIPM’s mandate is to work with NOPD and the community. Unlike the



“stakeholders” given great emphasis in this report, the OIPM ordinance specifically demands that the OIPM develop relationships and partnerships with community groups, police associations, and individuals. There is no requirement in the OIPM ordinance that the OIPM invest time in cultivating relationships with other criminal justice system stakeholders. While this may be useful, it is therefore inappropriate to review the OIPM based on principles that are not part of the OIPM’s ordinance and standards. The report marginalizes the community’s perspectives while amplifying the voices of other anonymous “stakeholders”; therefore focusing the review in the wrong direction and in contradiction with OIPM’s true standard – the OIPM ordinance. A fellow monitoring organization with similar responsibilities to the public would recognize the vital importance of community trust. In fact, the OIPM’s relationship with the community it serves has been called “enviable” by the OIPM’s true peers in the National Association for Civilian Oversight of Law Enforcement.

4. **This review’s attempt to critique the OIG/IPM agency heads’ relationship was both superficial and without factual support:** While PARC chides both parties for not overcoming their differences, they cite no evidence of the OIPM agency head acting as an aggressor. In order to conduct a principled and professional review of this matter, PARC needed to consult actual documents and evidence regarding the OIPM’s hostile work environment claim, as well as correspondence between the two parties. PARC never addressed how the OIPM was supposed to defend its mandate inside what it alleged was a hostile environment.

As the OIPM is charting its course for a fully independent 2016, we hope to take advantage of some constructive advice offered by PARC. We appreciate the opportunity to revisit the OIPM’s mission as well as our efforts to fulfill it, and acknowledge some of the areas of improvement suggested by PARC. In particular, now that the OIPM’s organizational budget includes funding for a data analyst, the OIPM looks forward to being able to offer annual reports that make use of our extensive data collection to draw conclusions and make suggestions for improved policing. The OIPM embraces PARC’s reminder that additional resources are best utilized to expand the OIPM’s development of systemic analysis and policy recommendations. Finally, the OIPM recognizes the need for an independent audit. Regrettably, the OIPM’s current budgetary allocation permits only the establishment of a separate office space and additional staffing to conduct previously unfeasible audits, analyses, and reports. Since the OIG has a conflict of interest in conducting an audit of the OIPM itself, we understand PARC’s proposal as a recommendation that the OIG provide additional resources for an audit by an independent CPA. The OIPM requests that the OIG respond to this suggestion.



Mr. Edouard Quatrevaux  
Inspector General  
January 29, 2016  
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Notwithstanding the OIPM's critique of PARC's process and approach, the OIPM remains hopeful that since the OIG commissioned the review, the OIG now possesses the necessary assurances that the OIPM's experience and education have in fact led to informed decision-making when interpreting and applying its mandate. The OIPM specifically requests that this letter be published alongside the release of this review.

In addition, we ask that the stakeholders interviewed as well as any source material used be listed with the report. Since many of our partners in the criminal justice system have not expressed their reported concerns to the OIPM, the publication of this information could stimulate a useful dialogue, as well as allow the public to appropriately weigh the disparate interests of various stakeholders. Finally, we request an appropriate allocation so that our first independent budget can be accompanied by an independent audit. Thank you for your time and attention.

Sincerely,



Susan Hutson  
Independent Police Monitor



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