



**Prepared Public Remarks of Jonathan Aronie and David Douglass,
Federal Monitors, NOPD Consent Decree
Before U.S. District Court Judge Susie Morgan
August 17, 2022¹**

[Jonathan Aronie]

Thank you Your Honor.

As you know, my team and I have been at this for quite a while. Since we began this journey in August 2013, we have been single-mindedly focused on one thing: *ensuring that police services are delivered to the people of New Orleans in a manner consistent with the Consent Decree the Department and City agreed to in 2012.* To do this, we

- analyze data;
- review policies and practices;
- assess practices;
- monitor training; and
- meet with officers and the public.

We do all this to be able to share current, accurate, and complete information with the Court and the public regarding the state of NOPD's and the City's compliance with their Consent Decree obligations.

To that end, David and I are pleased to be here today to provide you and the public a brief report on the current state of NOPD compliance with its obligations under the Consent Decree.

As we talked about it at the April hearing, I think the right place to start is with Bias Free Policing and Stops, Searches, and Arrests, which David has been taking the lead on for quite some time. David . . .

¹ These are the prepared remarks of the Monitoring Team. The actual remarks made at the Hearing may differ from the prepared remarks due to questions from and responses to the Judge.



[David Douglass]

Thank you Your Honor. Let me start with bias-free policing.

Over the last several years, the Department has adopted policies that expressly prohibit biased conduct throughout the Department. This includes activities related to Stops, Searches, and Arrests, interactions with LGBTQ+ and LEP (Limited English Proficiency) populations, and hiring and retention. They have operationalized these policies through comprehensive and integrated training offered by the NOPD Academy.

In the last year, NOPD has worked with us and the Monitoring Team to develop an audit protocol to test for bias in NOPD's law enforcement activities. NOPD is currently preparing its report on the results of these assessments, which we look forward to reviewing and providing feedback along with DOJ.

Section 5 of the Consent Decree deals with Stops, Searches, and Arrests. We and NOPD have conducted audits of stops, searches, and arrests, since the inception of the consent decree. Following the 2021 audit, in order to facilitate improving the compliance rate, the NOPD Field Operations Bureau developed a process that focused on 6 key areas with identified deficiencies. FOB conducted close to real time review and evaluation of officer performance in these areas to facilitate NOPD's ability to provide timely training and counseling to officers and supervisors as needed. This process is achieving its intended goal. We are currently reviewing NOPD's Stop Searches and Arrests Annual report and we expect to see improved numbers.

I want to especially commend **Lt. Nicole Powell** for leading this effort and share a brief anecdote which speaks broadly to NOPD's commitment to the reform process. At one point, we suggested a change to simplify the way a certain issue was tracked and reported because we didn't need it for our purposes. She responded she could do that but doing so would not give her the information she needed to provide the supervision she needed to provide. Needless to say we didn't make the change but this underscores that the NOPD is really working to institutionalize these reforms to improve their goals for constitutional policing.

Your Honor, I also want to note that Bias-Free policing and Stops, Searches and Arrests are two of the areas about which we have consistently received the most questions from the public. This is understandable because police officers and the public interact daily and the public understandably wants to be assured that those encounters are unbiased as well as constitutional. Because these areas apply to virtually every officer, developing the policies, training, and importantly the data systems necessary to change practices and assess their effectiveness required considerable time and effort.



As with Bias-Free policing, the NOPD has made progress in this area, and we and DOJ are in the process of conducting the compliance audit now. We hope to include our SSA findings into our forthcoming Bias Free hearing once that audit is complete.

I'm going to now turn the lectern back to Jonathan to talk about a few other areas where we are seeing manpower-driven problems.

[Jonathan Aronie]

Your Honor, moving beyond Bias Free and Stops, Searches, and Arrests, I'd like to address a few other areas the Monitoring Team is focusing on at the moment.

Section 16 of the Consent Decree sets out the rules regarding **Officer Secondary Employment**. This is one of the first areas the Court moved into the green many years ago. As you know, however, the City's OPSE program is under great scrutiny right now due to ongoing FBI and PIB investigations into multiple officers alleged to have violated the law and NOPD policy. The Monitoring Team has been working closely with the IPM, PIB, and other agencies and individuals to ensure this matter is investigated fully and all wrongdoers are held accountable.

As we looked into his matter, Your Honor, we identified three different problems:

- First, as in all professions, there are opportunities for individuals intent on doing wrong to take advantage of most any system. The ongoing federal criminal investigations and NOPD administrative investigations into multiple NOPD officers certainly suggests that happened here. No system will catch all wrongdoers, but this is why the Consent Decree spends so much attention on the importance of a fair and effective misconduct investigation and discipline program. That process is running its course right now, and the Monitoring Team is following it closely.
- Second, as we studied the root causes of the OPSE issue, we identified a few systemic shortcomings within the system that contributed to the non-compliances. For example, we found that the NOPD timekeeping system did not talk to the OPSE timekeeping system, which made it very hard for NOPD or OPSE to notice certain types of violations.
- Third, we also identified confusion on the part of some officers and supervisors regarding some of the OPSE rules. While this confusion does not explain the totality of the problems we have seen in the Secondary Employment program, and certain cannot be used as an excuse by those intent on violating the law, it does explain at least some actions by some officers. NOPD already has taken corrective action to provide clear guidance to officers and supervisors where necessary.



In addition to the systemic shortcomings, we also are looking into whether supervision shortcomings on the part of NOPD also may have contributed to the OPSE problems.

Section 13 of the Consent Decree sets out obligations for the NOPD regarding a meaningful *Officer Assistance and Support* program. We found the Department’s program “in the green” some time ago. Since then, however, the attention the Department has given this program has waned. In fact, earlier this year, we learned the Office had lost critical staff members, which only now are being replaced. We also saw indications that the program was not receiving funding commensurate with its importance. National data make clear officers are victims of stress, depression, alcoholism, and suicide well above national averages. An effective Officer Assistance and Support program is a critical resource for officers, and, in turn, a critical benefit to the public.

Speaking of the community, **Section 10** of the Consent Decree requires NOPD “to promote and strengthen **partnerships within the community**, and to engage constructively with the community, to ensure collaborative problem-solving and ethical and bias-free policing, and to increase community confidence in the Department.” In the face of manpower shortages, however, NOPD effort’s in this area also now are coming up short. Not because NOPD’s officers do not want to engage with the community. (They do.) But because they too often don’t have enough time to do so in a meaningful way.

Staying on the topic of Community Policing, Your Honor, I want to publicly thank Chief Ferguson for re-focusing attention on the City’s **Police Community Advisory Board (or PCAB) program**. The purpose of the PCABS are to work collaboratively with the NOPD “to develop and implement public safety strategies that respect and reflect each community’s public safety priorities and concerns about particular police tactics.” I have heard from multiple community stakeholders that they have seen a renewed — and much welcomed — energy by the Department into this important NOPD/community partnership; a partnership, by the way, required by paragraph 437 of the Consent Decree.

Section 17 obligates the Department to maintain a fair, consistent, and unbiased **disciplinary system**. We have been quite complementary of NOPD’s Public Integrity Bureau over the years, and continue to be. However, we keep an eye on PIB just as we do every other Bureau. The Monitoring Team raised concerns about PIB investigation timelines previously, and we currently are looking at the same issue again and working with PIB to better understand the reasons behind the current investigation timelines.

We also have heard complaints from officers about PIB over-discipline. We take those complaints seriously, just as we do complaints from the public, and we looked into this issue as well. We conducted an initial analysis of discipline and saw no systemic patter of over-discipline. Nonetheless, we are well aware of the perception among officers and have increased



our work in this area to ensure, as required by Section 17 of the Consent Decree, that “all allegations of officer misconduct are fully and fairly investigated; that all investigative findings are supported using the preponderance of the evidence standard and documented in writing; and that all officers who commit misconduct are held accountable pursuant to a disciplinary system that is fair and consistent.”

Section 18 of the Consent Decree requires NOPD to maintain a high level of **transparency** with the public, including collecting, maintaining, and publicly reporting significant amounts of data. Unfortunately, because PSAB is understaffed, the Department’s compliance with its reporting obligations has slowed over the past years notwithstanding the Herculean efforts of the current staff. While this may sound like a paperwork exercise, it is not. Public transparency is a core element of the Consent Decree. It is what will empower the community to hold the NOPD accountable long after we are gone. Any reduction in transparency is cause for concern.

There is more, Your Honor, but the additional examples make the same point: NOPD’s current recruiting, retention, and manpower problems are taking a toll on multiple areas of the Consent Decree.

I want to emphasize, though, that the problems we are seeing do not appear to us to be the result of a lack of commitment by the men and women of the NOPD. Indeed, just the opposite. On a daily basis, my team and I have the honor of working alongside a host of bright, energetic, and committed individuals. I want to thank them all — several of whom are in the Court with us today — for their continued commitment to this process, and say to them: *Please do not give up. Thanks to your hard work, the NOPD has accomplished things no one thought possible when we began this journey in 2013. And if we continue working together, we will ensure the people of New Orleans have a department they can be proud of for decades to come.*

I also want to emphasize, Your Honor, that NOPD’s current problems are most certainly not all of its own making. As you noted in your Opening, law enforcement agencies across the U.S. are struggling with these same issues. Recruitment and retention are down everywhere. Professionals are leaving government service in droves. Crime is up across the country. Add to that a global pandemic, an unprecedented City-wide cyber attack, and a horrible hurricane season and you end up with, pardon the pun, a perfect storm.

And, by the way many of these things — most notably COVID — has impacted the Monitoring Team’s ability to conduct on-the-ground audits for the last two years as well.

To help NOPD navigate this perfect storm, you directed us earlier this year to compile observations from our hundreds of meetings with officers into a list of practical recommendations for the NOPD leadership team. You further asked us to meet with the various police associations to solicit their views on how to help NOPD stem the flow of officer departures. We did that in April and provided our recommendations to the NOPD in May. We



also analyzed officer exit interviews to further supplement our analysis and recommendations. We received NOPD's response to our recommendations yesterday, and we look forward to reviewing them shortly.

Your Honor, thank you again for this opportunity to report on the state of NOPD's compliance with the Consent Decree. We plan to host a public meeting in September to give the community and the media the opportunity to make comments and ask us questions regarding these and other matters. We also plan to resume our practice of publishing regular status reports, something that was slowed during COVID.