



Monitoring Team Review of PIB Administrative Investigations Processes

21 June 2023

DOJ Finding 7 (March 2011)

- “NOPD’s system for receiving, investigating, and resolving misconduct complaints despite many strengths and recent improvements, does not function as an effective accountability measure. Policies and practices for complaint intake do not ensure that complaints are complete and accurate, systematically exclude investigation of certain types of misconduct, and fail to track allegations of discriminatory policing”
- “Discipline and corrective action are meted out inconsistently and, too often, without sufficient consideration of the seriousness of the offense and its impact on the policy-community relationship”

Executive Summary

- The Monitoring Team undertook this review to evaluate the durability of PIB's reforms in the context of a high-profile investigation
- Our review identified multiple violations of the Consent Decree:
 - Failure to include and investigate all allegations
 - Failure to consider circumstantial evidence and apply the correct legal standard
 - Failure to make reasonable credibility determinations
 - Failure to understand and comply with certain requirements
- Our review also suggested the appearance of favoritism within PIB, which has been a common complaint from NOPD officers over the years
- We are concerned that if PIB cannot get it right on such a high-profile, public investigation conducted by its most experienced personnel then perhaps it is not getting it right on other investigations as well
- Further, NOPD's refusal to address the Monitor's concerns raises serious questions about its commitment to full and effective implementation of the Consent Decree

Agenda

- PIB Violations

- NOPD violated CD ¶399
- NOPD violated CD ¶415
- NOPD violated CD ¶414
- NOPD violated CD ¶413
- NOPD violated CD ¶454
- NOPD violated CD ¶¶470, 472
- NOPD violated CD ¶¶409, 419
- NOPD violated CD ¶¶306, 313

- Policy/Procedure Recommendations
- Witness Interviews
- Officer Reassignments
- Conclusion

Background





Consent Decree Violation 1

NOPD Violated CD ¶399

Summary

- PIB received complaints from multiple sources alleging payroll fraud by Officer Vappie
- PIB did not include the payroll fraud allegation in its intake paperwork
- The failure to include the allegation in the intake paperwork led to an overly narrow analysis and prejudiced PIB's investigation and findings

Operative CD Paragraphs

- 390. **NOPD agrees to accept all misconduct complaints**, including anonymous and third-party complaints, for review and investigation. Complaints may be made in writing or verbally, in person or by mail, telephone (or TDD), facsimile, or electronic mail. . . .
- 399. NOPD agrees to develop and implement a complaint classification protocol **that is allegation-based rather than anticipated outcome-based** to guide PIB in determining where a complaint should be assigned. . . .

Fox8 Email Complaint Raised A Wide Range Of Issues Relating to Officer Vappie

- “We have 45 days of surveillance footage. Mayor Cantrell spent a total of 4 days, 16 hours, and 36 minutes during those 45 days. Of those days, the minimum time Officer Vappie was there was 1 hour and 1 minute (9/10) and the maximum was 10 hours and 47 minutes (8/9).
- Officer Vappie was the only member of Mayor Cantrell's security team that we saw enter the Upper Pontalba Apartments. during the 45 days.
- On August 9, Officer Vappie wasn't listed as being a part of Mayor Cantrell's security team (according to her calendar). He arrived at 7:55 am with a bag of groceries and a case of bottled water. He was there until 3:09 pm. He returned at 8:36 pm and left at 12:42 am. According to city documents, he was on the clock for the NOPD from 8am-8pm that day.
- On August 16, he arrived at 7:55 am and left with Mayor Cantrell in workout clothes at 8:40 AM. He returned at 10:00 am and stayed in the apartment until 2:16 pm. He was assigned to her detail that day and worked from 9am-9pm.”

Media request from Fox 8 News.

Gregory A. Joseph
 Director of Communications
 Office of Mayor LaToya Cantrell
 City of New Orleans | 1300 Poydras Street | Suite 2804 | New Orleans, LA 70112
 Phone: (504) 586-4074 | Fax: (504) 586-4074 | Email: gajoseph@no.gov

City of New Orleans
 Mayor LaToya Cantrell

From: Lisa Zurk-Vicioria [mailto:lzurk@fox8.com]
 Sent: Tuesday, November 3, 2022 10:33 AM
 To: Mayor's Communications Team <communications@no.gov>
 Subject: WFOV Request

EMAIL FROM EXTERNAL SENDER: DO NOT click links, or open attachments. If sender is unknown, or the message seems suspicious in any way, DO NOT provide your user ID or password. If you believe that this is a phishing attempt, use the reporting tool in your Outlook to send this message to Security.

We are preparing a story for television and the Internet that, based on surveillance footage from a public camera outside the Upper Pontalba Apartments, will focus on Mayor Cantrell and Officer Jeffrey Vappie.

We want to provide you with an opportunity to respond or clarify, so we are reaching out. These are some of the points that might be made in the story:

- We have 45 days of surveillance footage. Mayor Cantrell spent a total of 4 days, 16 hours, and 36 minutes during those 45 days. Of those days, the minimum time Officer Vappie was there was 1 hour and 1 minute (9/10) and the maximum was 10 hours and 47 minutes (8/9).
- Officer Vappie was the only member of Mayor Cantrell's security team that we saw enter the Upper Pontalba Apartments during the 45 days.
- On August 9, Officer Vappie wasn't listed as being a part of Mayor Cantrell's security team (according to her calendar). He arrived at 7:55 am with a bag of groceries and a case of bottled water. He was there until 3:09 pm. He returned at 8:36 pm and left at 12:42 am. According to city documents, he was on the clock for the NOPD from 8am-8pm that day.
- On August 16, he arrived at 7:55 am and left with Mayor Cantrell in workout clothes at 8:40 AM. He returned at 10:00 am and stayed in the apartment until 2:16 pm. He was assigned to her detail that day and worked from 9am-9pm.
- There are more days like the two above, but we wanted to give you a snapshot of some of the footage that might be mentioned in our story.
- Officer Vappie started working details for Mayor Cantrell in May 2021.

Do you have any questions about the above information? If so, please email me at gajoseph@no.gov or call me at (504) 586-4074. I will be happy to answer your questions.

Thank you,
 Gregory A. Joseph
 Director of Communications
 Office of Mayor LaToya Cantrell

EXHIBIT
 10-24-2022-1054
 Bounce LOCAL FIRST

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Complaint (continued)

- “There are more days like the two above, but we wanted to give you a snapshot of some of the findings that might be mentioned in our story.
- Office Vappie started working details for Mayor Cantrell in May 2021.
- Mayor Cantrell appointed Office Vappie to the HANO Board. He attended the first meeting in March 2022. On at least three occasions, he attended a HANO meeting while also being on the NOPD clock.
- He has made more in overtime this year than the other members of Mayor Cantrell's security team.
- He is the only member of Mayor Cantrell's, security team that flew first class with her - on a trip to San Francisco.
- During the 27 days at the apartment, he spent more than an hour there 33 different times, often visiting more than once in a day.”

Media request from Fox 8 News.

Gregory A. Joseph
Director of Communications
Office of Mayor LaToya Cantrell
City of New Orleans | 1300 Perdido Street | Suite 2604 | New Orleans, LA 70112
Phone: (504) 658-4074 | Fax: (504) 658-4074 | Email: gajoseph@no.gov

City of New Orleans
Mayor LaToya Cantrell

From: Lisa Zurk <lzurk@nbc4.com>
Sent: Tuesday, November 8, 2022 10:33 AM
To: Mayor's Communications Team <communications@no.gov>
Subject: WFOV request

EMAIL FROM EXTERNAL SENDER: DO NOT click links, or open attachments. If sender is unknown, or the message seems suspicious in any way, DO NOT provide your user ID or password. If you believe that this is a phishing attempt, use the reporting tool in your Outlook to send this message to Security.

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We want to provide you with an opportunity to respond or clarify, so we are reaching out. These are some of the points that might be made in the story:

- We have 45 days of surveillance footage. Mayor Cantrell spent a total of 4 days, 16 hours, and 36 minutes during those 45 days. Of those days, the minimum time Office Vappie was there was 1 hour and 3 minutes (8/25) and the maximum was 30 hours and 47 minutes (8/26).
- Office Vappie was the only member of Mayor Cantrell's security team that we saw enter the Upper Pontalba Apartments during the 45 days.
- On August 5, Office Vappie's search found a bag of groceries and a case of bottled water. He was there until 5:29 pm. He returned at 8:26 pm and left at 12:42 am. According to city documents, he was on the clock for the NOPD from 8 am that day.
- On August 16, he arrived at 7:55 am and left with Mayor Cantrell in a work-out clothes at 8:40 AM. He returned at 10:00 am and stayed in the apartment until 2:16 pm. He was assigned to her detail that day and worked from 8 am to 11 am.
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- Office Vappie started working details for Mayor Cantrell in May 2021.

He attended the first meeting in March 2022. He attended a HANO meeting while also being on the trip more than an hour there 33 different times, often visiting more than once in a day.

He has made more in overtime this year than the other members of Mayor Cantrell's security team.

He is the only member of Mayor Cantrell's, security team that flew first class with her - on a trip to San Francisco.

During the 27 days at the apartment, he spent more than an hour there 33 different times, often visiting more than once in a day.

Investigative Reporter
Lisa Zurk
NBC 4 News
5125

EXHIBIT
NO. 2024-0044

from 10:00 am - 1:00 pm. That day, Officer Vappie: 7:00 am - 1:00 pm.

We have questions on a few more, but I think that gives it. Details in a follow up on Tuesday, November 8.

Thank,
Lisa

Lisa Zurk
Investigative Reporter
NBC 4 News
5125 South Normal, C. LaSalle Bldg
New Orleans, LA 70112
or 504-458-5144

1. Sunday, September 13, 2021 - According to city records, Officer Vappie did not attend a trip to San Francisco with Mayor Cantrell. That calendar, Vappie's other responses for 7 hours of work. That calendar after she returned, is listed for 11 hours of work.

2. Sunday, October 17, 2021 - Mayor Cantrell had three responses for 7 hours of work. That calendar after she returned, is listed for 11 hours of work that calendar. From 7:00 am - 1:00 pm. The day before (October 16), she had two events. One at 8:00 am and the other at 1:00 pm.

3. Sunday, September 13, 2021 - According to Mayor Cantrell's calendar, she was at 8:00 am. Office Vappie was not there until 10:00 am. She did not leave until 1:00 pm.

4. That day, Office Vappie's other responses for 7 hours of work. That calendar after she returned, is listed for 11 hours of work that calendar. From 7:00 am - 1:00 pm. The day before (September 16), she had two events. One at 8:00 am and the other at 1:00 pm.

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The Subsequent Story Raised The Payroll Fraud Allegation Even More Clearly



By [Lee Zurik](#) and [Dannah Sauer](#)

Updated: Nov. 9, 2022 at 11:05 PM EST



NEW ORLEANS (WVUE) - Newly-obtained surveillance video has led to more questions about how Mayor LaToya Cantrell is spending her time and taxpayer dollars.

While investigating whether [Mayor Cantrell was living at the city-owned Upper Pontalba Apartments](#), FOX 8 obtained 45 days of [surveillance video](#) from a French Market Corporation camera outside the building. That video showed Cantrell spent many hours inside the apartment, often during the workday, and sometimes stayed overnight.

The head of the Metropolitan Crime Commission, Rafael Goyeneche, said that could be a violation of a city policy that states city property is for work-related purposes and not personal benefit.

As FOX 8 looked into more of the surveillance video, we found the videos show Mayor Cantrell is also spending hours there with one member of her security team, leading to questions about what work is being done as the two collect taxpayer-funded paychecks.

A Citizen Whistleblower Then Re-Confirmed

From: C JG <gallagher.dr@gmail.com>
Sent: Monday, November 14, 2022 5:17:49 PM (UTC)
To: eFile-Morgan <eFile-Morgan@laed.uscourts.gov>
Subject: Continued Payroll Fraud at the NOPD

CAUTION - EXTERNAL:

As can be seen in recent Lee Zurick pieces, payroll fraud is alive and well and extends into the upper ranks of the NOPD as well as the Mayors own security detail. As I have mentioned to the OIG, the IPM, the Mayor, the City Council, Jonathan Aronic and to the NOPD itself, an independent audit of the NOPD must be conducted. The response to this request has been deafening in its silence. The result is that I am the only person examining these payroll fraud allegations and must initiate each investigation through a direct request or by providing the press with the relevant records.

While I am certainly encouraged by the NOPD's action with respect to Officer Richardson, she remains an anomaly and officers who have far worse payroll fraud issues continue in their current

As can be seen in recent Lee Zurick pieces, payroll fraud is alive and well and extends into the upper ranks of the NOPD as well as the Mayors own security detail. As I have mentioned to the OIG, the

effort covering for officers payroll fraud allegations, in suspensions of the officers activity and really should be officer of PIB, Sabrina Ric only NOPD officer to have officers I was easily able to fraud.

- 1) They know th
- 2) Officers lack
- 3) They lack the
- 4) They are encc fraud
- 5) Inability to operate or even understand spreadsheets
- 6) Intense pressure from the administration and ranking officers to intentionally do a poor job

To date I have identified 10 ways in which NOPD officers are engaged in payroll fraud and an additional 9 methods officers use to inflate their paychecks which violate NOPD's own internal policies. As a result of my work on this issue I have been followed by NOPD officers after interviews with the press, my building on UNO's campus has been surrounded by NOPD officers and friends and family have been approached by uniformed NOPD officers in some attempt to apply pressure to myself.

In speaking with two honest PIB officers these issues are so severe that honest officers are concerned for their own jobs and their promotion prospects if they were to conduct a rigorous examination of any payroll fraud allegations. The demotion of Capt. Gernon stands as a stark example to all those in PIB who might produce a thorough report.

The Monitoring Team Made Sure PIB Was Aware Of The Whistleblower's Complaint

Re: Continued Payroll Fraud at the NOPD



Jonathan Aronie

To Keith A. Sanchez

Cc Anne Perry; David Douglass; Scot Huntsberry

Reply Reply All Forward

Thu 12/8/2022 10:28 AM

If there are problems with how this message is displayed, click here to view it in a web browser.

Keith,

Some of this may be helpful re the ongoing Vappie investigation. Some also might go beyond Vappie. The material that goes beyond Vappie I assume you will treat as a new public complaint/allegation.

Let us know if you want to discuss anything. Scot has extensive experience working with Skip and his data.

Thanks!

-Jonathan

Jonathan Aronie
Sheppard Mullin LLP
Washington, DC
202.747.1902 (w)
202.302.4855 (c)
Jaronie@sheppardmullin.com

Yet PIB Excluded the Payroll Fraud Allegation From Its Intake Form

INITIATION OF A FORMAL DISCIPLINARY INVESTIGATION

CONTROL NUMBER: 2022-0513-R DATE COMPLAINT RECEIVED: 11/08/2022
DATE FORM 230 RECEIVED BY PIB: 11/09/2022 DATE INITIATION FORM COMPLETED: 11/11/2022

DOMESTIC INCIDENT: ___ SEXUAL HARASSMENT: ___

| | | |
|--|---|--|
| <input checked="" type="checkbox"/> Public Complaint | <input type="checkbox"/> <u>Source</u> NOPD Supervisor | <input type="checkbox"/> NOPD Employee |
|--|---|--|

| | |
|--------------------------------------|---|
| Violation Observed ___ In Person ___ | <u>How Complaint Received</u> Telephone ___ Correspondence ___ Investigation <input checked="" type="checkbox"/> |
|--------------------------------------|---|

Investigator Initiating Complaint: Sergeant Lawrence Jones

Alleged Rule Violation/s (State Specific Rule):

V1: Rule 4 Performance of Duty; Paragraph 4 Neglect of Duty C6 Failing to comply with instructions, oral or written, from any authoritative source to wit: N.O.P.D. Chapter 22.08 Police Secondary Employment Paragraph 32 which states: No member, including Reserve officers, shall work more than more than 16 hours and 35 minutes (16.58 hours) within a 24-hour period.

Complaint Occurred:

| | | |
|---|---------------|---|
| Duty Status: On Duty <input checked="" type="checkbox"/> / Off ___ Detail ___ 1 st <input checked="" type="checkbox"/> / 2 nd ___ / 3 rd ___ | Shift: | Clothing: Regular Uniform ___ Task Force Uniform ___ Plainclothes <input checked="" type="checkbox"/> |
|---|---------------|---|

Total Number of Accused Officers: 1

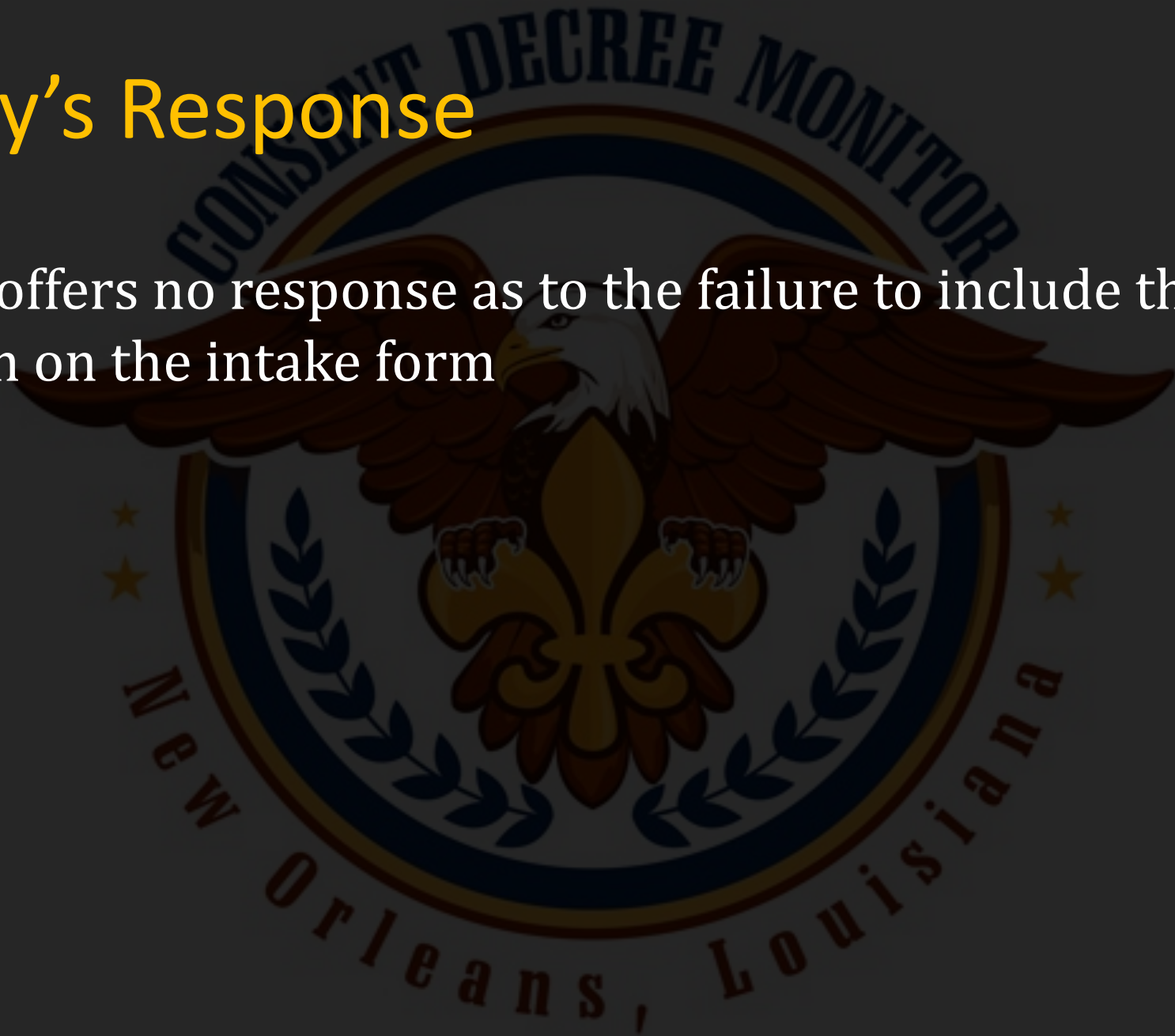
Accused Member: Rank, Name, Race, Sex, Employee #, Assignment
Senior Police Officer Jeffery Vappie, B, M, Emp. ID# 08913, ISB/ Executive Protection

Suspended: ___

Reassigned:

The City's Response

- The City offers no response as to the failure to include the allegation on the intake form



In Short

- The CD requires all complaints to be broadly construed, accurately recorded, and fully investigated
- PIB erroneously truncated the scope of the complaints related to Officer Vappie
- That decision significantly prejudiced the investigation, analysis, and discipline
- That decision also feeds a longstanding narrative of favoritism and nepotism within PIB



Consent Decree Violation 2

NOPD Violated CD ¶415

Summary

- Perhaps because it did not include the payroll fraud allegation on the intake form, PIB never analyzed and identified a disposition for the payroll fraud allegation
- The Consent Decree is explicit : Every allegation of misconduct shall receive one of four dispositions
- This is to prevent allegations from not being addressed
- As DOJ found in 2011: “Policies and practices for complaint intake do not ensure that complaints are complete and accurate,[and] systematically exclude investigation of certain types of misconduct...”

The City's Response

- “...After ten years of monitoring PIB investigations, the Monitor must be aware of how PIB writes its disciplinary investigation reports. PIB does not detail all the allegations it considered but ultimately determined were unsupported by the evidence...”

- City's Response at 25

flatly untrue.¹⁹ The lead investigator noted the highly questionable conduct of the Monitor's team in pushing for a specific political outcome, and their refusal to comply seems to be the source of the Monitor's attack.

Further troubling is that the Monitor cites the PIB investigation memorandum to support the charge that the PIB investigators did not actually conduct this investigation because their report does not address that claim. This is misleading, as the lead investigator's sworn statement makes clear.²⁰ After ten years of monitoring PIB investigations, the Monitor must be aware of how PIB writes its disciplinary investigation reports. PIB does not detail all the allegations it considered but ultimately determined were unsupported by the evidence.²¹ In other words, PIB does not write its investigation reports to appease the unique interest of the Monitor, the City Council, or the media.

PIB investigates and prepares its reports according to NOPD policy – policy approved by the DOJ and the Monitor.²² This method has never been challenged by the Monitor or DOJ until now. The Monitor effectively criticizes the investigators for not treating the investigation of Officer Vappie differently than every other “time card misconduct” case – i.e., as an “investigation of the Mayor.”²³ As the lead

¹⁹ Affidavit of Captain Kendrick Allen, at Ex. 3.

²⁰ Affidavit of Captain Kendrick Allen, at Ex. 3.

²¹ Affidavit of Captain Kendrick Allen, at Ex. 3.

²² New Orleans Police Department Operations Manual Chapter: 52.1.1 and 52.1.2 at <http://nola.gov/nosp/policies>.

²³ Attachment A to the Monitor's June 8, 2023, letter to the Court, attached here as Ex. 1.

Operative CD Paragraphs

- 415. The misconduct investigator **shall explicitly identify and recommend one of the following dispositions** for each allegation of misconduct in an administrative investigation:
 - A) Unfounded...
 - B) Sustained...
 - C) Not Sustained...
 - D) Exonerated...

Operative Paragraphs (continued)

- NOPD Policy 52.1.1
- Paragraph 91. The misconduct investigator shall explicitly identify and recommend one of the following dispositions for each allegation of misconduct in an administrative investigation:
 - Unfounded ...
 - Sustained ...
 - Not sustained ...
 - Exonerated ...
 - Resigned Under Investigation (RUI) ...
 - Retired Under Investigation (RUI) ...

The PIB Report Is Silent As To The Apartment-Related Payroll Fraud Allegation

- PIB did not analyze the evidence
 - Indeed, the PIB report includes no analysis
 - As described later in this presentation, PIB did not weigh any circumstantial evidence
 - PIB failed to identify one of the required dispositions

In Short

- Either
 - PIB failed to analyze the facts relating to the payroll fraud implications of the time Officer Vappie spent in the Pontalba apartment, as the PIB report shows
- Or
 - PIB simply chose not to “detail all the allegations it considered but ultimately determined were unsupported by the evidence . . .,” as the City argues
- In either case, PIB violated paragraph 415 of the Consent Decree
- **This is a material violation. Only through accurate complaint intake and transparent analyses and dispositions can the public – and NOPD officers – trust the PIB process.**



Consent Decree Violation 3

NOPD Violated CD ¶414

Summary

- The Consent Decree & NOPD policy requires PIB findings to be “by a preponderance of the evidence”
 - This means the facts must show the alleged action/inaction was “more likely than not” to have occurred
 - The standard is significantly less strict than “beyond a reasonable doubt”
- PIB recommended a sustain on three counts, but failed to apply the correct legal standard

Operative Paragraphs

- CD 414: “The resolution of any misconduct complaint must be based upon the **preponderance of the evidence**....”
- NOPD Policy 51.1.2: Misconduct investigators must “reach a conclusion supported by the **preponderance of the evidence** and prepare a written recommendation”
- NOPD Policy 26.2: “**Preponderance of the evidence**—Such evidence that when considered and compared with that opposed to it has more convincing force and produces in one’s mind the belief that what is sought to be proven is more likely true than not true.”

First 'Sustain' Properly Applied Standard

2022-0513-R
Page 37 of 42

Disciplinary Recommendations

Senior Police Officer Jeffery Vappie

Rule 4: Performance of Duty: Paragraph 2: Instructions from an authoritative source; to wit
N.O.P.D. Chapter 22.08 Police Secondary Employment Paragraph 32.....**SUSTAINED**

No member, including Reserve officers, shall work more than 16 hours and 35 minutes (16.58 hours) within a 24-hour period. (The 24-period begins the first time the member reports for either regular duty or police secondary employment.) These hours are cumulative and include normal scheduled work hours, overtime, court time, off-duty police secondary employment, or outside employment

Captain Kendrick Allen proved beyond a preponderance of evidence that Senior Police Officer Jeffery Vappie violated this rule when on, on September 28, 2022, Officer Vappie worked for 18 hours within a 24 hour period. The remarks indicate that Officer Vappie was assigned to the Consultant Chief Fausto B. Pichardo and not his normal Executive Protection assignment.

Second 'Sustain' Uses Incorrect Language

OTHER SUSTAINED VIOLATIONS

Rule 3: Professional Conduct, Paragraph 1: Professionalism..... SUSTAINED

Employees shall conduct themselves in a professional manner with the utmost concern for the dignity of the individual with whom they are interacting. Employees shall not unnecessarily inconvenience or demean any individual or otherwise act in a manner which brings discredit to the employee or the New Orleans Police Department.

Senior Police Officer Vappie may have violated this rule when Officer Vappie spent numerous hours alone with the Protectee outside of his regular tour of duty goes against the training and ethics of an Executive Protection member. So much so, that Deputy Charles Ellis and Louis Martinez, brought his behavior to his attention and requested that he stop.

Third 'Sustain' Uses Incorrect Language

Rule 4: Performance of Duty, Paragraph 3: Devoting Entire Time to Duty..... SUSTAINED

Employees shall not read, play games, watch television/movies, or otherwise engage in entertainment while on duty, except as may be required in the performance of duty, or by authority of their respective Bureau Chief. They shall not engage in activities or personal business which would cause them to neglect or be inattentive to duty.

Senior Police Officer Vappie was not attentive to his duty as an Executive Protection member when he attended the HANO Board Meeting on two separate occasions, March 29, 2022 and August 30, 2022, while still on duty with the New Orleans Police Department.

The City's Response

- “...There was not sufficient evidence that Officer Vappie was not performing his duties while in the Mayor’s apartment to support – by a preponderance of evidence – that he was engaged in payroll fraud....”
 - City Response at 31

The City Does Not Dispute The Underlying Violation

- The City does not disagree PIB applied the incorrect legal standard when it documented a “may have violated” finding on the professionalism allegation
- Beyond that, the City’s response is nothing more than outside counsel’s after-the-fact argument as to what PIB *could* have concluded
- But PIB didn’t reach these conclusions because PIB never analyzed the evidence

In Short

- The Consent Decree and NOPD policy require administrative findings to be evaluated using a “preponderance of the evidence” standard
- PIB failed to apply the proper legal standard even though the evidence supported sustaining the allegations using the proper legal standard
- PIB’s actions violated NOPD policy and the Consent Decree
- This sort of failure increases risk of decisions being overturned on an appeal



Consent Decree Violation 4

NOPD Violated CD ¶413

Summary

- The CD and NOPD policy require PIB investigators to consider all direct, physical, *and circumstantial* evidence
- The investigative report demonstrates PIB did not consider all circumstantial evidence
- The failure to consider circumstantial evidence may have caused PIB to fail to hold Officer Vappie fully accountable for his actions/inactions

Operative Paragraphs

- CD 413: “In each investigation, NOPD shall consider all relevant evidence, *including circumstantial*, direct, and physical evidence, as appropriate, and make credibility determinations based upon that evidence....”
- Policy 52.1.1, ¶80: “80. In each investigation, NOPD shall consider all relevant evidence, *including circumstantial*, direct, and physical evidence, as appropriate, and make credibility determinations based upon that evidence....”

The City's Response

- “There is speculation of what Officer Vappie was doing, and the Monitor is unusually focused on the speculation it calls circumstantial evidence....”
 - City's Response at 31.

Circumstantial Evidence Defined

- “Circumstantial evidence is indirect evidence that does not, on its face, prove a fact in issue *but gives rise to a logical inference that the fact exists*. Circumstantial evidence requires drawing additional reasonable inferences in order to support the claim.”
 - Cornell Law School LII
- Circumstantial evidence is used by courts and juries all the time. Circumstantial evidence IS EVIDENCE.

Circumstantial Evidence Suggesting Possible Payroll Fraud *Not Dealt With In PIB Report*

- Officer Vappie spent many hours in the City's Upper Pontalba apartment.
- Officer Vappie was the only officer among the executive protection team who spent any time in the Upper Pontalba apartment. All other officers stayed outside the apartment while protecting the Mayor. Had the time in the Upper Pontalba apartment truly been work time, other officers presumably would have taken their turn doing the same.
- Officer Vappie changed clothes, used the shower, and undertook various non-security tasks while in the apartment with and without the Mayor.
- Officer Vappie spent time in the Upper Pontalba apartment both on and off duty.
- Even when Officer Vappie left the Upper Pontalba apartment late at night after spending several hours in the apartment, the Mayor often walked alone to her car in the French Quarter without any security, strongly suggesting Officer Vappie was not spending time in the apartment because of any credible threat to the Mayor's safety.
- The news story about the time Officer Vappie spent in the Upper Pontalba apartment led to a prompt divorce filing from Officer's Vappie wife, an unlikely reaction to an actual, transparent executive protection detail.
- No officer spent time inside the Mayor's residence, which would have been the case had there been a credible threat to the Mayor's safety.
- Multiple other members of the Mayor's Executive Protection team testified during the PIB investigation to the unprofessional nature of Officer Vappie's actions, which, they felt, brought discredit to the NOPD.
- The one other witness who could have corroborated Officer Vappie's statement, the Mayor, refused to be interviewed by PIB.

In Short

- The Consent Decree and NOPD policy require PIB investigators to consider circumstantial evidence
- Circumstantial evidence was not adequately considered or documented
- Consequently, the payroll fraud allegation was not given a disposition as required by NOPD policy and the Consent Decree
- **Circumstantial evidence are FACTS, NOT speculation**
- **The failure to consider all evidence, direct and indirect, creates risk to ALL PIB investigations**



Consent Decree Violation 5

NOPD Violated CD ¶413

Summary

- The Consent Decree and NOPD Policy require PIB to assess the credibility of all witnesses based upon the totality of the evidence
- PIB assessed and documented the credibility of all witnesses *except for Officer Vappie*
- The failure to assess credibility can tarnish an investigation and can create the appearance of favoritism toward a witnesses

Operative Paragraphs

- CD ¶ 413: “In each investigation, NOPD shall consider all relevant evidence, including circumstantial, direct, and physical evidence, as appropriate, and make credibility determinations based upon that evidence.”
- NOPD Policy 52.1.2: “In each investigation, the investigator shall consider all relevant evidence, including circumstantial, direct, and physical evidence, as appropriate, and make credibility determinations based upon that evidence. . . . ”

PIB Failed To Assess and Document Officer Vappie's Credibility

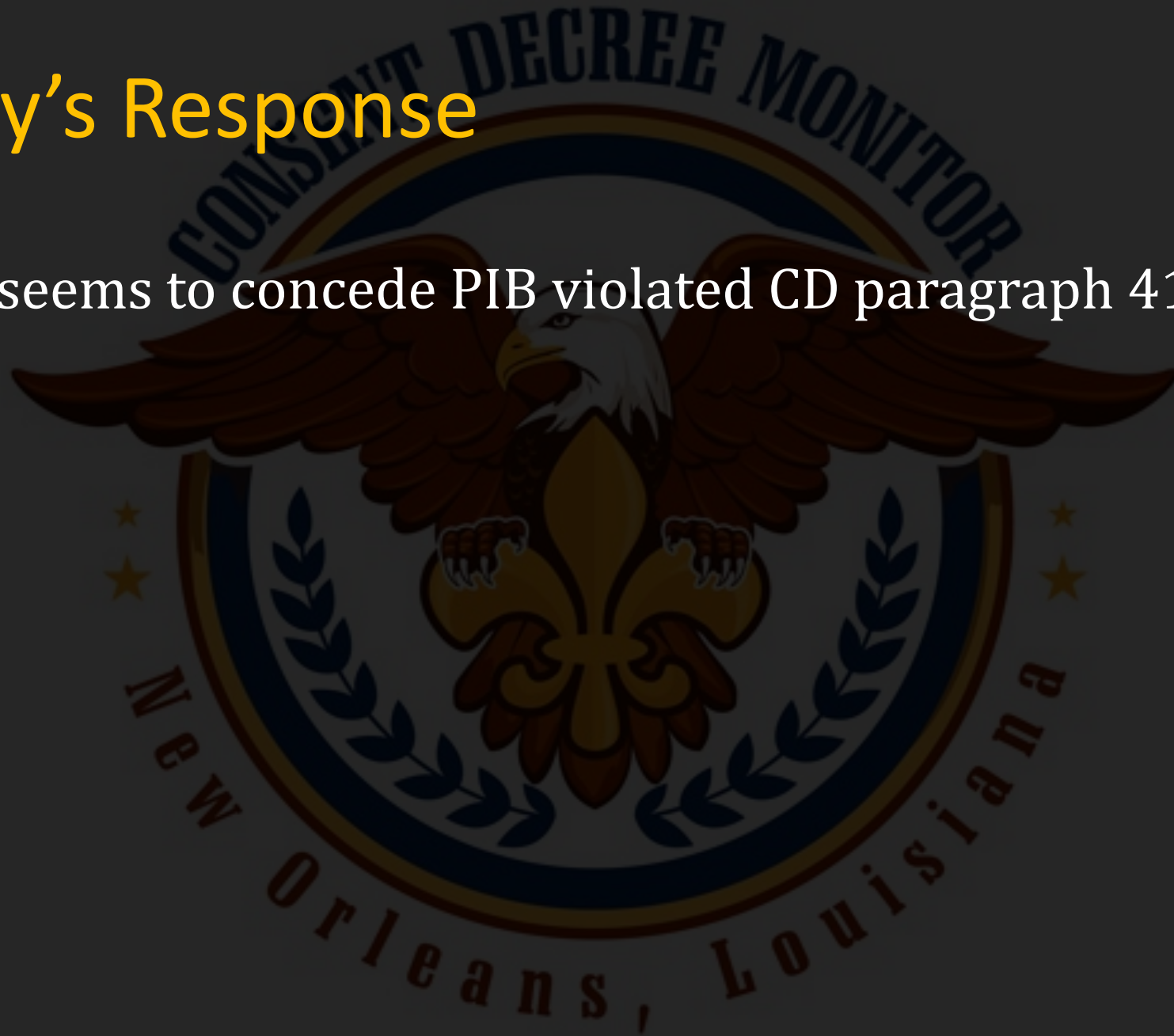
- All witnesses were found credible and findings were clearly documented (e.g., “Officer X was found credible”)
- Officer Vappie was not found credible or non-credible
 - “After comparing Officer Vappie administrative statement with the evidence reviewed during this investigation, **the investigators were unable to confidently assess his credibility. . . .**”

2022-0513-R
Page 31 of 42

Senior Police Officer Jeffery Vappie – After comparing Officer Vappie administrative statement with the evidence reviewed during this investigation, the investigators were unable to confidently assess his credibility. During his interview Officer Vappie seemed confused about his work schedule rotation, antagonistic regarding his tactical positioning while dining with his Protectee and unable to articulate some of his duties when he was not with the Protectee. However, the investigator does not have any evidence that Officer Vappie made any attempt to willfully misled or was untruthful in any statement that was given during this administrative investigation. During the interview, related to the 16:35 coverage, Officer Vappie stated several times that “It’s always been that way” when dealing with overtime. However, the investigators observed when Sergeant Wondell Smith was embedded in the executive protection team he would move the teams time to adjust for the Protectee schedule, if a late event occurred. This in fact is not a blemish on Officer Vappie credibility but rather a paradigm shift in how the executive protection team time was managed after a removal of a supervisor and the lack of a policy governing this unit.

The City's Response

- The City seems to concede PIB violated CD paragraph 413.



In Short

- Assessing credibility is not always an easy task
- But the complexity of the analysis does not relieve NOPD of the obligation to make the assessment
- Saying “we were unable to assess his credibility” is simply another way of saying we did not do what is required of us with regard to credibility assessments



Consent Decree Violation 6

NOPD Violated CD ¶ 454

Operative CD Paragraph

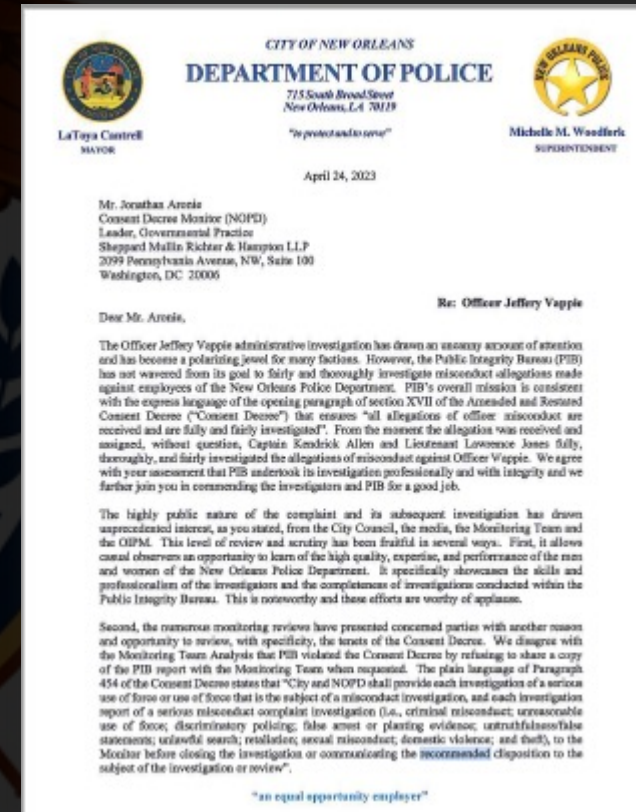
- CD 454: “City and NOPD shall provide each . . . investigation report of a serious misconduct complaint investigation (i.e., criminal misconduct; unreasonable use of force; discriminatory policing; false arrest or planting evidence; **untruthfulness/false statements**; unlawful search; retaliation; sexual misconduct; domestic violence; and **theft**), **to the Monitor before closing the investigation** or communicating the recommended disposition to the subject of the investigation or review. **The Monitor shall review each . . . serious misconduct complaint investigation and recommend for further investigation any . . . misconduct complaint investigations that the Monitor determines to be incomplete or for which the findings are not supported by a preponderance of the evidence.** The Monitor shall provide written instructions for completing any investigation determined to be incomplete or inadequately supported by the evidence. The Superintendent shall determine whether the additional investigation or modification recommended by the Monitor should be carried out. Where the Superintendent determines not to order the recommended additional investigation or modification, the Superintendent will set out the reasons for this determination in writing. . . .”

CD Paragraph 454 (simplified)

- NOPD shall provide each serious misconduct complaint investigation to the Monitor before closing the investigation
- A “serious misconduct investigation” includes any investigation involving
 - Untruthfulness
 - False Statements
 - Theft
- The Monitor reviews and provides instructions to fix shortcomings
- *The Superintendent* accepts or rejects *with a written explanation*

NOPD's Response


- “No allegation of misconduct by Officer Vappie was described, suggested, hinted at or articulated as conduct that requires the release of the investigation pursuant to Paragraph 454....”
 - Letter from Michelle Woodfork to Jonathan Aronie (April 24, 2023) at 4.



Initial Complaint Alleged Payroll Fraud

Media request from Fox 8 News.

Gregory A. Joseph
Director of Communications
Office of Mayor LaToya Cantrell
City of New Orleans | 1300 Perdido Street | Suite 2E041 New Orleans, LA 70112
Gregory.joseph@nola.gov 504.658.4924 (o) | 504.409.1492 (c) | 504.658.4938 (f)



City of New Orleans
Mayor LaToya Cantrell

From: Lee Zurik <lee.zurik@gray.tv>
Sent: Tuesday, November 1, 2022 10:31 AM
To: Mayor's Communications Team <communications@nola.gov>
Subject: WVUE Request

EMAIL FROM EXTERNAL SENDER: DO NOT click links, or open attachments, if sender is unknown, or

the HANO Board. He attended the first meeting in
attended a HANO meeting while also being on the
in the other members of Mayor Cantrell's security
security team that flew first class with her -- on a trip
ent more than an hour there 33 different times, often
tion, or want someone to do it on your behalf,
mber 2.

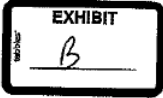
ions@nola.gov>
links, or open attachments, if sender is unknown, or
NOT provide your user ID or password. If you believe
g tool in your Outlook to send this message to
ntrell. We have questions about some of them:
urned at 5:24 CST. That day, nothing was on Mayor

at day, Officer Vappie billed taxpayers for 18 hours of work -- from
but I think that gives you an idea of what we are asking about. Our
vember 8.
Chief Investigative Reporter
zurik.com

“On August 9, Officer Vappie wasn’t listed as being a part of Mayor Cantrell’s security team (according to her calendar). He arrived at 7:55 am with a bag of groceries and a case of bottled water. He was there until 3:09 pm. He returned at 8:36 pm and left at 12:42 am. According to city documents, he was on the clock for the NOPD from 8am-8pm that day.”

“There are more days like the . . . above, but we wanted to give you a snapshot of some of the findings that might be mentioned in our story. . . .”

- There are more days like the two above, but we wanted to give you a snapshot of some of the findings that might be mentioned in our story.
- Office Vappie started working details for Mayor Cantrell in May 2021.



billed taxpayers for 19 hours of work that Sunday -- from
ber 16), she had two events. One at 9:00 am the other

The Story That Followed Raised The Payroll Fraud Question Even More Clearly



By [Lee Zurik](#) and [Dannah Sauer](#)

Updated: Nov. 9, 2022 at 11:05 PM EST



NEW ORLEANS (WVUE) - Newly-obtained surveillance video has led to more questions about how Mayor LaToya Cantrell is spending her time and taxpayer dollars.

While investigating whether [Mayor Cantrell was living at the city-owned Upper Pontalba Apartments](#), FOX 8 obtained 45 days of [surveillance video](#) from a French Market Corporation camera outside the building. That video showed Cantrell spent many hours inside the apartment, often during the workday, and sometimes stayed overnight.

The head of the Metropolitan Crime Commission, Rafael Goyeneche, said that could be a violation of a city policy that states city property is for work-related purposes and not personal benefit.

As FOX 8 looked into more of the surveillance video, we found the videos show Mayor Cantrell is also spending hours there with one member of her security team, leading to questions about what work is being done as the two collect taxpayer-funded paychecks.

A Citizen Whistleblower Then Re-Confirmed

From: C JG <gallagher.dr@gmail.com>
Sent: Monday, November 14, 2022 5:17:49 PM (UTC-5)
To: eFile-Morgan <eFile-Morgan@laed.uscourts.gov>
Subject: Continued Payroll Fraud at the NOPD

CAUTION - EXTERNAL

As can be seen in recent Lee Zurick pieces, payroll fraud is alive and well and extends into the upper ranks of the NOPD as well as the Mayors own security detail. As I have mentioned to the OIG, the IPM, the Mayor, the City Council, Jonathan Aronic and to the NOPD itself, an independent audit of the NOPD must be conducted. The response to this request has been deafening in its silence. The result is that I am the only person examining these payroll fraud allegations and must initiate each investigation through a direct request or by providing the press with the relevant records.

While I am certainly encouraged by the NOPD's action with respect to Officer Richardson, she remains an anomaly and officers who have far worse payroll fraud issues continue in their current

As can be seen in recent Lee Zurick pieces, payroll fraud is alive and well and extends into the upper ranks of the NOPD as well as the Mayors own security detail. As I have mentioned to the OIG, the

effort covering for officers payroll fraud allegations, in suspensions of the officers activity and really should be officer of PIB, Sabrina Ric only NOPD officer to have officers I was easily able to fraud.

- 1) They know th
- 2) Officers lack
- 3) They lack the
- 4) They are encc
- 5) Inability to operate or even understand spreadsheets
- 6) Intense pressure from the administration and ranking officers to intentionally do a poor job

To date I have identified 10 ways in which NOPD officers are engaged in payroll fraud and an additional 9 methods officers use to inflate their paychecks which violate NOPD's own internal policies. As a result of my work on this issue I have been followed by NOPD officers after interviews with the press, my building on UNO's campus has been surrounded by NOPD officers and friends and family have been approached by uniformed NOPD officers in some attempt to apply pressure to myself.

In speaking with two honest PIB officers these issues are so severe that honest officers are concerned for their own jobs and their promotion prospects if they were to conduct a rigorous examination of any payroll fraud allegations. The demotion of Capt. Gernon stands as a stark example to all those in PIB who might produce a thorough report.

The Monitoring Team Made Sure PIB Was Aware Of The Whistleblower's Complaint

Re: Continued Payroll Fraud at the NOPD



Jonathan Aronie

To Keith A. Sanchez

Cc Anne Perry; David Douglass; Scot Huntsberry

Reply

Reply All

Forward

Thu 12/8/2022 10:28 AM

If there are problems with how this message is displayed, click here to view it in a web browser.

Keith,

Some of this may be helpful re the ongoing Vappie investigation. Some also might go beyond Vappie. The material that goes beyond Vappie I assume you will treat as a new public complaint/allegation.

Let us know if you want to discuss anything. Scot has extensive experience working with Skip and his data.

Thanks!

-Jonathan

Jonathan Aronie
Sheppard Mullin LLP
Washington, DC
202.747.1902 (w)
202.302.4855 (c)
Jaronie@sheppardmullin.com

Weighing The Evidence

The Facts

- The Fox8 allegation suggested potential payroll fraud
- The Fox8 stories clearly alleged potential payroll fraud
- PIB repeatedly confirmed to the Monitoring Team that it was investigating the payroll fraud allegations
- A subsequent citizen complainant reiterated the payroll fraud allegation
- **The City's filing concedes "payroll fraud was investigated" (p 24)**

Interim Superintendent's Letter

- "No allegation of misconduct by Officer Vappie was described, suggested, hinted at or articulated as conduct that requires the release of the investigation pursuant to Paragraph 454...."

The City's Further Response

- “...The charges against Officer Vappie are serious, as are all charges investigated by PIB. They are not, however, of the nature NOPD has ever treated as a “serious misconduct complaint” as used by Paragraph 454....”
 - City's Response at 26.

Is Payroll Fraud “Serious Misconduct”?

- Yes. Alleged payroll fraud is most definitely “serious misconduct”
- Payroll fraud is covered by three separate elements of the definition of “serious misconduct”:
 - Untruthfulness
 - False Statement
 - Theft
- Each clearly covers payroll fraud, and each is explicitly listed in paragraph 454 of the Consent Decree

In Short

- Fox8 raised allegations of payroll fraud
- A whistleblower reiterated the payroll fraud allegation
- OCDM & IPM raised the payroll fraud allegation
- PIB consistently confirmed to OCDM & IPM its investigation would cover payroll fraud
- The City concedes PIB investigated the payroll fraud allegation
- **Despite all this, the PIB investigative report did not include any analysis of the payroll fraud allegation**
- **NOPD and the City use the absence of the analysis to argue the investigation was not of “serious misconduct”**



Consent Decree Violation 7

NOPD Violated CD ¶ 470, 472

Operative CD Paragraphs

- “The Monitor shall have access to all necessary individuals, facilities, **and documents**, which shall include access to Agreement related trainings, meetings, and reviews, such as critical incident reviews, use of force review boards, and disciplinary hearings.”
 - Consent Decree ¶470
- The Monitoring Team shall have “**full and direct access to City and NOPD documents** that the Monitoring reasonably deems necessary to carry out the duties assigned to the Monitor”
 - Consent Decree ¶472

OCDM Made Multiple Requests For The PIB Report

Jan-Feb
2023
OCDM and
IPM
requested
copies of
PIB report
multiple
times

3/27/23
OCDM
reiterated
request
for report
in writing

3/29/23
OCDM
reiterated
request,
citing to
¶454

4/3/23
OCDM
reiterated
request

4/3/23
PIB finally
shared
invest.
report

3/10/23
PIB
concluded
invest.
and sent
to Dep.
Chief

3/27/23
OCDM
reiterated
request,
citing to
CD ¶¶ 470
and 472

3/31/23
OCDM
reiterated
request

4/3/23
OCDM
called
Interim
Super.

The City's Response

- NOPD concedes it did not provide the requested report, but argues it was not required to provide the report because payroll fraud does not constitute serious misconduct.
 - PIB 4/24/23 Response at 1.
- NOPD confuses ¶454 with ¶¶470 and 472

Under ¶¶ 470 and 472, the Monitoring Team is entitled to “full and direct access” to all documents it “reasonably deems necessary” to carry out its duties.

In Short

- Consent Decree provides for unfettered access to relevant documents
- Monitoring Team made multiple requests, all rebuffed by NOPD
- This is the first time since the outset of the Consent Decree that NOPD has refused to promptly honor document requests
- PIB provided the requested report only well after its investigation had concluded



Consent Decree Violation 8

NOPD Violated CD ¶¶409, 419

Summary

- The CD and NOPD policy require PIB to take significant measures to protect the confidentiality of investigations
- At the outset of the Vappie investigation, the Monitoring Team and the IPM advised PIB to implement special protections
 - The Monitoring Team and the IPM advised PIB to establish a small circle of individuals with authorized access
 - PIB agreed on the importance of confidentiality and agreed that only a small circle within PIB would have access to investigation materials
- PIB's actions unnecessarily compromised the confidentiality of the Vappie investigation

Operative Paragraphs

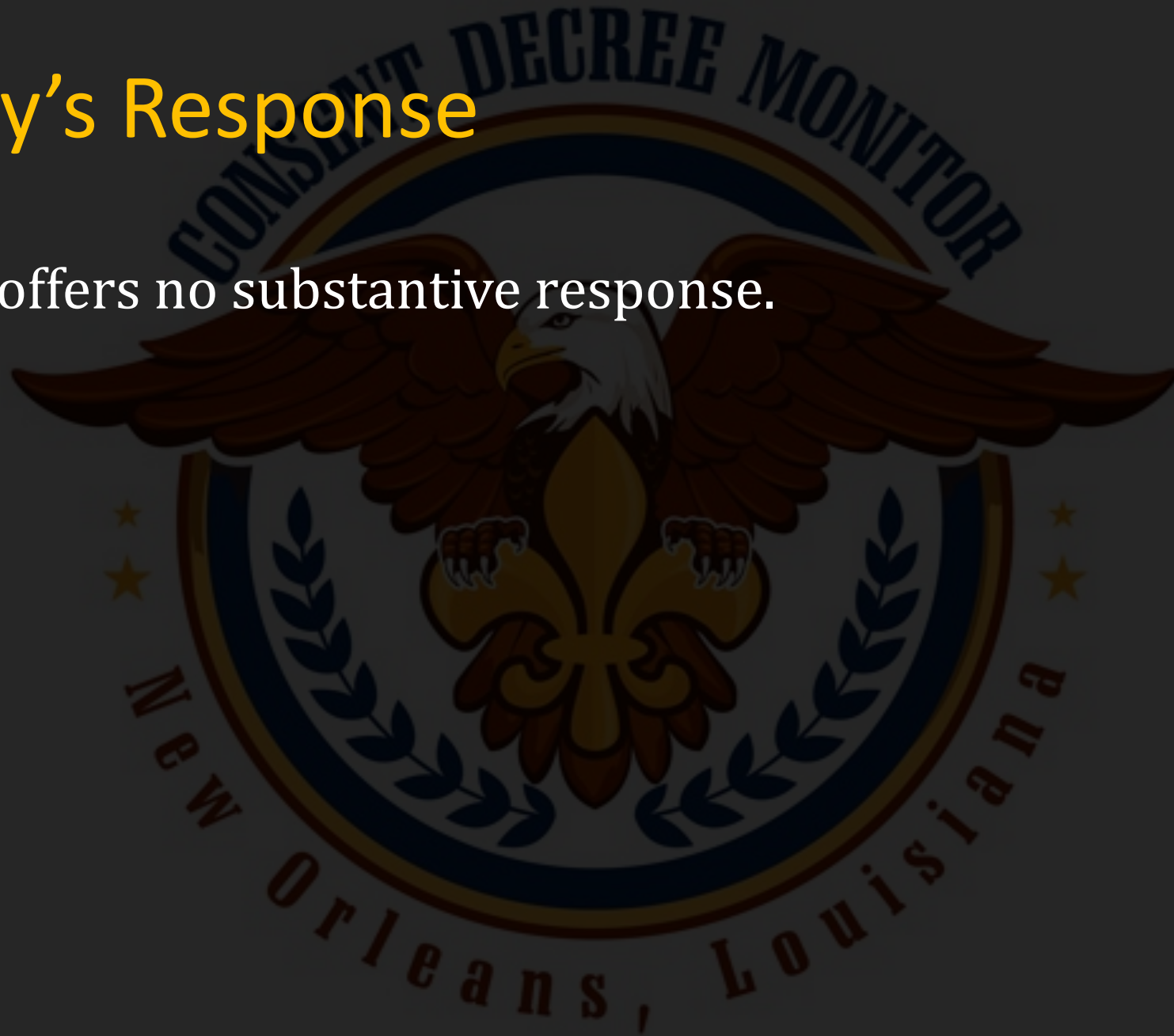
- Consent Decree paragraph 409 requires that “all misconduct investigation interview recordings shall be stored and maintained in a secure location within PIB.”
- Consent Decree paragraph 419 requires that “all investigation reports and related documentation and evidence shall be securely maintained in a central and accessible location”

PIB Took Unnecessary Risks

- PIB shared a copy of witness interview audio recordings with the City Attorney's Office
- The audio recordings shared with the City Attorney's Office apparently were shared on a non-password protected USB drive
- NOPD reassigned the two PIB investigators into the districts during the investigation, which meant they were working on highly confidential matters from outside the confines of PIB

The City's Response

- The City offers no substantive response.



In Short

- The confidentiality of PIB investigations is critical for many reasons, including
 - Ensuring the integrity of the investigation
 - Avoiding improper pressure on the investigation team and the witnesses
 - Avoiding the risk that information from an administrative investigation could contaminate a subsequent criminal investigation
- It is too early to know whether the failure to ensure confidentiality here will lead to these problems



Consent Decree Violation 9

NOPD Violated 306,313

Summary

- The Monitoring Team informed PIB from the outset of the importance of investigating supervisors to evaluate their culpability, if any, in the alleged wrongdoing
- NOPD closed its investigation without looking into the actions/inactions of Officer Vappie's chain of command
- PIB's actions prevented the Department from holding supervisors accountable for their potential failure to provide close and effective supervision

Operative Paragraphs

- Consent Decree paragraph 306: “NOPD supervisors shall be held accountable for providing the close and effective supervision necessary to direct and guide officers.”
- Consent Decree paragraph 313: “NOPD shall hold commanders and supervisors directly accountable for the quality and effectiveness of their supervision, including whether commanders and supervisors identify and effectively respond to misconduct”

The Monitoring Team Reminded PIB To Include Supervisors In Its Investigation

- PIB shared its witness list in early December 2022
- The Monitoring Team recommended a key addition
- PIB failed to interview most supervisors

3. What and where is the evidence?

After the analytical review of the data collected, we will have a clearer understanding of the policies which officer Vappie may be in violation of. After this review we will also be able to determine if any criminal or state ethics violations exist. This review will also be completed by December 9, 2022.

Potential Witnesses

These interviews will be schedule starting the week of December 19, 2022. Captain Allen will have to perform two night watch captain tours the week of December 12 and will not be able to conduct interviews that week.

Carol Johnson (HANO)

Katrina Simmons (Mayor's Office Scheduling person)

All current members of the mayor's executive protection team [Do you plan to interview the deputy on the detail as well?]

Sgt. T Lane. (Payroll entry for executive protection team and listed supervisor)

~~Officer Jeffery Vappie~~

Each supervisor up the chain of command from Lane to the cognizant Deputy Chief (and the Chief if necessary) [It's important we understand who knew what when.]

The City's Response

- The City does not offer a substantive response
- Rather, the City attacks the Monitoring Team for too closely monitoring the PIB investigation, including wanting to review PIB's interview plans and outlines (City Response at 21)

But this is precisely what paragraph 454 calls upon the Monitoring Team to do – provide guidance that can be used by PIB BEFORE it closes its investigation.

In Short

- A thorough investigation includes investigating up the chain of command
- Supervisors must be held accountable for their failure to closely and effectively supervise
 - The Consent Decree requires it
- PIB failed to interview supervisors as part of the Vappie investigation
- This will make it hard to ensure supervisors are held accountable for their actions/inactions

The background features a large, semi-transparent seal. At the top, an arc contains the text "CONSENT DECREE MONITOR". In the center is a bald eagle with its wings spread, perched on a fleur-de-lis. The bottom arc of the seal contains the text "New Orleans, Louisiana" with two stars on either side.

Policy/Procedure Recommendations

Summary

- On February 17, 2022, the Monitoring Team sent PIB an *Immediate Action Recommendation* setting out multiple recommendations
- PIB has not replied to the Monitoring Team's recommendations
- However, PIB is in the process of implementing at least some of the recommendations (including an EP policy, which is under review)

Recommendations

- **Supervision.** Executive protection officers currently receive no meaningful supervision. “NOPD should take immediate action to ensure the members of the Executive Protection detail receive the ‘close and effective supervision’ required by the Consent Decree.”
- **Policy.** No policy currently governs executive protection officers. “NOPD should take immediate action to develop clear policies and procedures governing the operation of Executive Protection detail and the officers assigned to that detail.”
- **Performance Evaluations.** It is unclear how executive protection officers can be meaningfully evaluated. “NOPD should take immediate action to ensure members of the Executive Protection detail are evaluated in the same manner as other NOPD officers.”
- **Efficiency.** Executive protection officers are paid for a full shift even when their proctee is not in town. “NOPD should consider identifying meaningful tasks members of the Executive Protection team can perform while the Mayor is out of town to contribute to the Department’s well-publicized efforts to combat its lack of personnel.”

OCDM Confidential: PIB Immediate Action Recommendations

Jonathan Aronie
To: Keith A. Sanchez
Cc: Donesia Turner; Jonas Geissler (CRT); Michelle Woodfork; David Douglass

Filed to ND

You replied to this message on 3/14/2023 11:56 AM.

2023-02-17 PIB Advice re Vappie.pdf
336 KB

Keith,

Attached is a letter setting out a few recommendations flowing out of the PIB investigation we have been monitoring. As the investigation has not concluded yet, we have not included recommendations or comments regarding the substance of the investigation itself. Our recommendations, at this point, are limited to structure/process issues.

As you will see, some of the recommendations would require input and actions from other bureaus/city departments. We understand you will need to involve non-PIB individuals should the Department/City decide to implement those recommendations.

We do not plan to make this letter public at this point. Down the road, however, we likely will incorporate these recommendations — along with NOPD’s corrective actions — into a public report, including, perhaps, into a public report covering PIB more broadly. We will let you know before we do so.

I look forward to discussing these with you at your convenience.

-Jonathan

Jonathan Aronie
Consent Decree Monitor

Recommendations (continued)

- **Legal Conflicts.** The dual role the City Attorney plays can create a conflict when the Mayor is a witness in an investigation. “NOPD should consider engaging outside counsel to advise PIB on matters when the City Attorney’s representation of the City, Mayor’s Office, and PIB could create a real or apparent conflict of interest.”
- **Reassignment Of Officers Under Investigation.** Investigation subjects can be reassigned and assigned back to their original assignments during an investigation. “NOPD should consider revising its policy to prohibit officers reassigned due to a PIB investigation from being assigned back to their previous units until the conclusion of the PIB investigation without the express approval of the PIB Deputy Chief.”
- **PIB Investigators.** PIB investigators can be moved out of PIB (e.g., when they are promoted) in the middle of a significant investigation, as happened in the middle of the Vappie investigation. “NOPD should consider adopting a policy of detailing promoted officers back to PIB for limited timeframes when necessary to complete significant pending investigations.”
- **Initial Investigation Letters.** PIB’s initial letter to Officer Vappie was inexplicably narrowly worded. “NOPD should consider the pros and cons of including a more complete description of the conduct under investigation in its initial letters to investigation subjects.”

The City's Response

What The City Contends

“...The Monitor now calls the letter an “Immediate Action Notice,” but those words are not found anywhere in the document...”

(City Response at 15)

What The Facts Reveal

From: Jonathan Aronie <JAronie@sheppardmullin.com>
Date: February 17, 2023 at 5:04:37 PM EST
To: "Keith A. Sanchez" <kasanchez@nola.gov>
Cc: Donesia Turner <donesia.turner@nola.gov>, "Jonas Geissler (CRT)" <Jonas.Geissler@usdoj.gov>, Michelle Woodfork <mmwoodfork@nola.gov>, David Douglass <ddouglass@sheppardmullin.com>
Subject: OCDM Confidential: PIB Immediate Action Recommendations

Keith,

Attached is a letter setting out a few recommendations flowing out of the PIB investigation we have been monitoring. As the investigation has not concluded yet, we have not included recommendations or comments regarding the substance of the investigation itself. Our recommendations, at this point, are limited to structure/process issues.

As you will see, some of the recommendations would require input and actions from other bureaus/city departments. We understand you will need to involve non-PIB individuals should the Department/City decide to implement those recommendations.

We do not plan to make this letter public at this point. Down the road, however, we likely will incorporate these recommendations — along with NOPD's corrective actions — into a public report, including, perhaps, into a public report covering PIB more broadly. We will let you know before we do so.

I look forward to discussing these with you at your convenience.

-Jonathan

From: Jonathan Aronie <JAronie@sheppardmullin.com>
Date: February 17, 2023 at 5:04:37 PM EST
To: "Keith A. Sanchez" <kasanchez@nola.gov>
Cc: Donesia Turner <donesia.turner@nola.gov>, "Jonas Geissler (CRT)" <Jonas.Geissler@usdoj.gov>, Michelle Woodfork <mmwoodfork@nola.gov>, David Douglass <ddouglass@sheppardmullin.com>
Subject: OCDM Confidential: PIB Immediate Action Recommendations

In Short

- The Monitoring Team believes these recommendations are critical
 - To ensure compliance with the Consent Decree and
 - To ensure the sustainability of the reforms NOPD has made over the years
- While NOPD has taken steps to implement some of these recommendations, PIB has not yet responded to our February 2023 email
- Accordingly, we are not in a position to opine on the meaningfulness of NOPD's corrective actions at this time



Officer Reassignments

Reassignment of Officer Vappie Back to EP During Investigation

- On 12/22, the Monitoring Team was notified by a member of NOPD's leadership team of an effort to reinstate Officer Vappie back to the Mayor's security team in the middle of the PIB investigation
- After many calls from the Monitoring Team questioning the decision, NOPD leadership quashed the effort
- On 3/7, the media asked about the attempted reassignment during a public meeting
 - The Monitoring Team confirmed an effort was made to reinstate Officer Vappie
- In response to a media inquiry, the City issued a nonresponsive statement:
 - "At no time since she was sworn in has Chief Woodfork attempted to reassign Officer Vappie to executive protection."

The City's Response

- “Mr. Aronie fueled such speculation during the investigation with his **erroneous conspiracy theory** about reinstating Officer Vappie to the Mayors EP team....”
 - City Response at 31.

NOPD Document Confirms The Reassignment Attempt

ADMINISTRATIVE RE-ASSIGNMENT NOTIFICATION

RETURN TO FULL DUTY STATUS

CTN# 2022-0513-R

Effective Wednesday, December 21, 2022, at 4:00 am/pm, this Administrative Reassignment of Senior Police Officer Jeffery Vappie is hereby cancelled and you are reinstated to full regular duty. All of the restrictions placed on you during the Administrative Reassignment are removed. Officer Vappie you are further instructed to contact Sergeant Tokishiba Lane, Supervisor of the Executive Protection Section, regarding reporting time to your regular assignment.

Acknowledged:

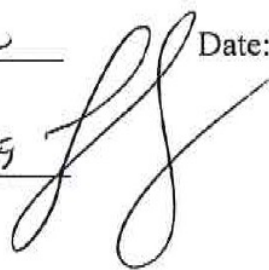


Date:

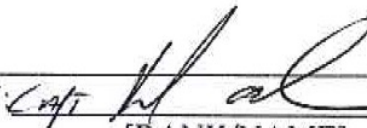
12/21/22

Served by:

SET-LAWRENCE JONES



RETURN APPROVED BY:


[RANK/NAME]

DATE:

12-21-22

Recommendation

- Currently, investigation subjects can be reassigned and assigned back to their original assignments during an investigation.
- “NOPD should consider revising its policy to prohibit officers reassigned due to a PIB investigation from being assigned back to their previous units until the conclusion of the PIB investigation without the express approval of the PIB Deputy Chief.”



Witness Interviews

Summary

- PIB's initial interview plan did not include three material witnesses
 - Mayor Cantrell
 - NOPD Consultant Fausto Pichardo
 - Former Superintendent Shaun Ferguson
- The Monitoring Team recommended adding all three to the witness list
- PIB sent requests to all three, and all three refused

Operative CD Paragraphs

- ¶405. “All witnesses . . . Shall provide a written statement regarding the incident or be interviewed as described below.”
- ¶410. “NOPD agrees to require officers to cooperate with administrative investigations, including appearing for an interview when requested by an NOPD or Inspector General investigator”
- ¶14. “NOPD means the New Orleans Police Department and its agents, officers, supervisors, and employees”
- CD XVII. “NOPD and the City agree to ensure that all allegations of officer misconduct are received and are fully and fairly investigated....”

City and NOPD Leaders Refused To Be Interviewed

- Former Superintendent Ferguson declined to be interviewed, which was his right as a private citizen
- Consultant Pichardo declined to be interviewed, but could have and should have been compelled to do so by his employer, the NOPD
- The Mayor declined to be interviewed, which contravenes the spirit of the Consent Decree and the express term that “NOPD *and the City* agree to ensure that all allegations of officer misconduct are . . . fully and fairly investigated” (CD XVII)

In Short

- The quality of PIB investigations hinges on the cooperation of material witnesses
- Every officer invited to be interviewed, whether current or former, did so
- In contrast, three leaders, including the Mayor, declined
- These refusals suggest a lack of understanding of or respect for the accountability process
- The failure to make Fausto Pichardo available violated the Consent Decree
- NOPD should have explored whether it had other tools available to convince these individuals to participate in such an important process

Conclusion



Conclusion

- NOPD and the City
 - Violated multiple terms of the Consent Decree
 - Failed to conduct a meaningful analysis of Officer Vappie's potential payroll fraud
 - Failed to evaluate supervisor accountability
 - Fed a long-standing narrative that PIB plays favorites
 - Reduced officer and community trust in integrity of accountability process
- **NOPD and the City's actions raise serious questions regarding PIB's ability to conduct a fair, thorough, impartial, and effective misconduct investigations with integrity**

THANK YOU

OCDM Website:

<http://consentdecreemonitor.com/>

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