

**Judge Susie Morgan’s Excerpted Closing Remarks
Regarding NOPD’s Stop, Search, and Arrest Presentation**

March 21, 2024

Thank you all for the very informative presentation today. While it has taken us a while to get here, it is wonderful to see how far we have come.

In its 2011 investigation of the NOPD, the Department of Justice found “reasonable cause to believe that NOPD officers were engaging in a pattern of stops, searches, and arrests that violated the Fourth Amendment” of the United States Constitution. DOJ went on to conclude that “detentions without reasonable suspicion are routine, and lead to unwarranted searches and arrests without probable cause.” DOJ further concluded that “a significant portion reflected on their face apparent constitutional violations, in that officers failed to articulate sufficient facts to justify stops, searches, and arrests.” The full DOJ investigation is on the record in this action as Document 1-1.

Since that time, I am well aware of how much work – by the NOPD, the DOJ, and the Monitoring Team – went into remedying the patterns and practices identified by DOJ. Today’s presentation by the NOPD shows the results of that work.

A lot of information was shared today. And the supporting or backup information is even more voluminous. Consistent with the requirements of the Consent Decree, the NOPD makes mounds of data available to the community so the public can reach its own conclusions regarding NOPD’s efforts. Indeed, there is so much information – policies, training, audits, inspections, spot checks, reports, and more – I suspect it might be hard for those who do not live this case day to day, as many in this courtroom do, to make sense of it all.

To help with that, I'd like to share a few of my observations regarding what I heard today – and, not coincidentally, what I have seen previously during a multitude of non-public conferences with the Parties and the Monitoring Team. Here are my “Top 10” take-aways from today’s status conference.

1. There Has Been A Focused Effort to Address This Issue

NOPD has undertaken a disciplined, focused effort to remedy the patterns and practices that led to the entry of the Consent Decree. Its success is confirmation of something the Monitoring Team and this Court have been saying for years: You can manage what you measure.

2. NOPD Has In Place Meaningful Internal Controls

NOPD has implemented meaningful internal controls that uncover problem areas, provide individualized training, and lead to discipline in appropriate cases. The “FOB Inspection Process” we heard about today is one such example.

FOB stands for “Field Operations Bureau,” which is made up of the Department’s patrol officers and their supervisors. The FOB leaders make decisions regarding deployment of officers and supervise the officers. The “FOB Inspection Process,” which is a relatively new development, focuses on multiple tasks performed by the patrol officers in the FOB. For example, the inspection process requires sergeants, the patrol officers’ first line supervisors, to evaluate the patrol officers’ performance by asking questions such as:

- Was the stop based on all available evidence?
- Did the officer have probable cause?

- Did the officers identify themselves?

The FOB inspection process developed by NOPD, working closely with DOJ and the Monitoring Team, is a well-thought-out process.

Obviously, supervisors cannot review every police interaction every time, but through this FOB inspection process they do review a significant number of police interactions on a random basis. By charging platoon and other sergeants with responsibility for such regular reviews, the process allows NOPD to quickly identify officers in need of additional training, counseling, or discipline without having to wait for the results of an audit. As a result, NOPD corrects deficiencies more quickly.

3. The Field Interview Card Review Process Is Working

Officers are required to complete Field Interview Cards to document stops and other discretionary interactions with the public. The information included in an FIC includes such things as date and time of stop, location of stop, officer name and badge number, information regarding the individual stopped, the reason for the stop, and more.

When we began this journey, FICs were not used consistently and often were not complete.

To target and resolve these problems, the NOPD Professional Standards and Accountability Bureau now reviews *every* FIC completed by an NOPD officer. This is a huge amount of work, but it gives NOPD the benefit of identifying problems early and providing what I believe some call “micro-trainings,” which supervisors provide to individual officers. It also gives NOPD the benefit of quickly referring more serious cases to PIB. Further, the review process helps ensure that FICs are actually being filled out when they are required to be.

The data shared with us today make a compelling case that the FIC review process is working. Since July 2023, NOPD has not had a month where more than 11% of FICs had issues. And, importantly, almost all of the issues identified were *relatively* minor, including things like missing documentation rather than a serious issue. Additionally, in the 8,000 FICs reviewed to date, NOPD reports that only 4 involved a serious issue that required Public Integrity Bureau action.

From our and the community's viewpoint, the FIC process is an important tool for evaluating bias and ensuring that stops that do not result in an arrest are consistent with NOPD policy, the law, and the Consent Decree. The FIC review process furthers that important goal.

4. The NOPD is using its BWC process effectively.

NOPD and the community clearly have benefited from the Department's early adoption of body worn cameras. Supervisors at all levels collectively review hundreds of BWC videos each month as part of their ongoing supervision tasks. Further, the FOB inspection team and the PSAB Field Interview Card reviewer also review body worn camera footage. In short, there are many, many reviews of officer body worn camera videos – some random, some not. This shows that NOPD is using the information available to it from body worn cameras as extensively and effectively as it can. This is important because supervisors cannot be everywhere.

Body worn camera reviews allow for close and effective supervision even when a supervisor is not on a scene.

And, of course, the Monitoring Team reviews body worn camera footage as well. Such reviews give added credibility to NOPD's audit finding that material stop, search and arrest violations have gone down significantly over the years.

5. NOPD's Supervisory Feedback Logs are Being Used Consistently and Effectively

One of the early gaps identified by the DOJ was NOPD's failure to consistently document and track non-disciplinary matters like counseling and redirections.

Since not all mistakes rise to the level of misconduct, NOPD long ago implemented a program for documenting and handling non-disciplinary corrective actions. This program relies upon entries into an electronic Supervisory Feedback Log.

In the SFL, supervisors record non-disciplinary counseling and redirections, as well as when an employee is complimented by a member of the public or the NOPD. PSAB and the Monitoring Team audit and review NOPD's Supervisory Feedback Log to ensure it is being used consistently and as intended.

This program seems to be working well – and, in fact, has become a useful tool in driving better performance evaluations. From what we heard today, the process also has made a positive contribution to the Department's stop, search and arrest improvements.

6. NOPD Conducts Thoughtful Audits

The Monitoring Team reports that NOPD's stops, searches and arrests are being audited in a meaningful manner by the NOPD. PSAB's audits are comprehensive, targeted, and thorough; and they adhere to protocols developed in conjunction with the DOJ and the Monitoring Team. The SSA audit we heard about today is a great example of this. This audit targets multiple areas of the Consent Decree, as well as areas that go beyond the Consent Decree.

It measures compliance in a statistically valid manner and identifies corrective actions to ensure findings are acted upon quickly.

The audit results we saw here today show a positive trend – precisely what we hope to see from a smartly crafted audit program that incorporates corrective action plans. And I’d be remiss if I didn’t again note that NOPD publishes its audit findings. If the community does not believe NOPD’s statements, they can and should spend some time with the wealth of data the Department now makes available to all of us on the NOPD website.

At the same time, of course, the Monitoring Team has conducted countless of its own audits, reviews NOPD audits, and spot checks NOPD’s audit results, which gives this Court even more confidence in the integrity of the results of NOPD’s audits.

7. NOPD Has Meaningful Audit/Inspection Follow Up

NOPD now has a process to take prompt action when audits or inspections identify shortcomings. I was pleased to hear the Department doesn’t just audit to audit. It audits to learn, evaluate, and correct. The “PSS Notify” process described today (PSS stands for the Professional Standards Section), is a formal system that ensures audit issues are shared with supervisors in a timely fashion. And this process also seems to be working as intended.

8. NOPD Has Improved its Coordination with the Orleans Parish District Attorney

An issue that has concerned this Court for some time has been the seeming lack of coordination between the NOPD and the Orleans Parish District Attorney’s Office. As we heard today, however, things have improved significantly in that area. NOPD and the District Attorney’s Office have

implemented enhanced means of sharing information. They meet regularly. Both parties are better trained to provide what the other needs.

And the Monitoring Team has let me know that the feedback from the DA is that, these days, they refuse very few cases from the NOPD based on officer misconduct related to a stop, search, or arrest. The Monitoring Team also has let me know that the improvements in this area have been incorporated into NOPD's standard practices. Thus, as individuals move on, these systems should stay in place.

9. Misconduct Relating to Stops, Searches and Arrests Has Gone Down

While the quality of the new policies, training, supervision, internal controls, and audits is a critical component of meeting the Department's Consent Decree obligations, it is important to step back and look at the forest rather than the trees. When one does that here, one can't help but notice that we do not have the type or frequency of stop, search, and arrest complaints that used to plague NOPD.

Incidents of sustained misconduct findings in PIB investigations related to stops, searches, and arrests have gone down – from 35 in 2016, 46 in 2017, 27 in 2018, 9 in 2022, and 3 in 2023. And since everyone in this Court is guided by a “trust but verify” mindset, the Monitoring Team audits PIB's investigations to ensure the low number of sustained findings is valid.

Likewise, media stories about SSA-related violations have slowed to a trickle. The constitutional problems that marked the beginning of this journey are a far cry from the mostly documentation-related problems we see now.

10. Stop, Search and Arrests Complaints from the Public Are Down

We also are seeing the results of NOPD's focused efforts in the number and nature of the misconduct cases PIB is called upon to investigate. While PIB has, and likely always will have, plenty on its plate, NOPD is fielding fewer and fewer complaints involving serious stop, search, and arrest violations.

NOPD's PIB received 81 in 2016, 91 in 2017, and 95 in 2018 SSA-related misconduct allegations. In 2022 and 2023, PIB fielded only 41 and 40, respectively.

* * *

There obviously is much more one could say. But to me, these are the key points I took away from today's presentation. And I thank you all for giving me the time to summarize my thoughts. I don't often get the chance to do this in Court.

While I'm obviously pleased with today's presentation – and the data upon which it is founded – I have one unsurprising caution to offer. My positive reaction does not blind me to the fact that the NOPD will, and perhaps, like most law enforcement agencies, always will, make mistakes. Nor does it blind me to the fact that some officers will act badly. Indeed, the media have brought some concerns to our attention even recently, including some questions about stop, search and arrest activities during Mardi Gras.

But NOPD's presentation today shows that it has controls in place to minimize these incidents, an accountability system in place for when those controls don't work, and audits in place to evaluate the durability of the entire system over time.

And, as importantly, rather than running away from problems, NOPD now faces them, evaluates them, shares them, and learns from them. PSAB's discussion of its stop, search, and arrest audit findings and how it publicizes and sets about correcting any low scores is a great example of this.

Congratulations to all for a job well done. And Superintendent, thank you for your leadership for making all this possible and for committing to changing the culture of NOPD and making sure the changes will be durable and long-lasting.