



**Report of the Consent Decree Monitor  
For the Third and Fourth Quarters of 2015  
Issued February 26, 2016**

**Office of the Consent Decree Monitor**  
**New Orleans, Louisiana**  
Sheppard Mullin Richter & Hampton, LLP  
Appointed By Order Of The U.S. District Court For The Eastern District Of Louisiana



**Office of the  
 Consent Decree  
 Monitor**

**February 26, 2016**

## WHAT'S IN THIS REPORT?

### WHAT WE DID THIS PERIOD

- The Monitoring Team continued to review policies, procedures, and training. We also performed a review of NOPD's compliance with its domestic violence and sex crimes investigation obligations. In addition, the Monitoring Team conducted assessments of Body Worn Camera usage, uses of force, use of force record keeping, custodial interrogations, and, importantly, the Academy. We also worked with NOPD and the DOJ to support the development of a new policy promoting the prompt, voluntary public release of critical incident BWC videos.

### WHAT WE FOUND

- With the support of the DOJ and the Monitoring Team, NOPD developed an excellent policy promoting the voluntary public release of critical incident BWC video recordings.
- NOPD drafted several excellent new policies, which were approved by the Monitoring Team and the DOJ.
- The Police Academy continues to need the close attention of NOPD management. While recent progress has been made, during this reporting period the Monitoring Team identified significant ongoing weaknesses.
- As widely reported in the press, some officers' use of the "unfounded" code to classify calls that should have been classified as "gone on arrival" masked an important consequence of the Department's poor response times.
- NOPD has many tools within its control to free up officers to (a) answer calls for service, (b) engage in community and problem-oriented policing, and (c) be more proactive in their communities. An officer-led working group identified many such tools, which the Monitoring Team has recommended be implemented as soon as possible.
- The Department's plan to redeploy 94 officers to patrol duties from other functions within the Department reflects a thoughtful efforts to counteract the City's crime and officer response time problems. The plan, however, has potential risks that must be dealt with before the redeployment is fully implemented.

### NEXT PERIOD'S ACTIVITIES

- Audit BWC videos and Field Investigation Cards to assess NOPD's compliance with its stop/search/arrest obligations.
- Continue to focus closely on all aspects of the Academy.
- Audit NOPD's Use of Force reports relating to "resisting arrest" and "battery to a police officer" charges.
- Continue reviewing the development of new policies and training.
- Assess the impact of NOPD's proposed redeployment of officers to patrol.
- Finalize objective compliance measurements for each Consent Decree paragraph and initiate CD-required "Outcome Assessments."

Office of the Consent Decree Monitor

Appointed By Order Of The U.S. District Court For The Eastern District of Louisiana



## I. CONSENT DECREE AUTHORITY

“The Monitor shall file with the Court quarterly written, public reports covering the reporting period that shall include:

- a) A description of the work conducted by the Monitoring Team during the reporting period;
- b) A listing of each [Consent Decree] requirement indicating which requirements have been: (1) incorporated into implemented policy; (2) the subject of sufficient training for all relevant NOPD officers and employees; (3) reviewed or audited by the Monitoring Team in determining whether they have been fully implemented in actual practice, including the date of the review or audit; and (4) found by the Monitoring Team to have been fully implemented in practice;
- c) The methodology and specific findings for each audit or review conducted, redacted as necessary for privacy concerns. An unredacted version shall be filed under seal with the Court and provided to the Parties. The underlying data for each audit or review shall not be publicly available but shall be retained by the Monitoring Team and provided to either or both Parties upon request;
- d) For any requirements that were reviewed or audited and found not to have been fully implemented in practice, the Monitor’s recommendations regarding necessary steps to achieve compliance;
- e) The methodology and specific findings for each outcome assessment conducted; and
- f) A projection of the work to be completed during the upcoming reporting period and any anticipated challenges or concerns related to implementation of the [Consent Decree].”

**Consent Decree Paragraph 457**

Page 4 of 100  
February 26, 2016  
www.consentdecreemonitor.com



## II. NOTES

“The Monitor shall be subject to the supervision and orders of the [United States District Court for the Eastern District of Louisiana], consistent with [the Consent Decree]. The Monitoring Team shall only have the duties, responsibilities, and authority conferred by [the Consent Decree]. The Monitoring Team shall not, and is not intended to, replace or assume the role and duties of the City and NOPD, including the Superintendent.”

**Consent Decree Paragraph 455**



**III. TABLE OF CONTENTS**

- I. Consent Decree Authority ..... 3
- II. Notes ..... 4
- III. Table of Contents ..... 5
- IV. Glossary of Acronyms ..... 8
- V. Introduction to Quarterly Report ..... 10
- VI. Summary of Monitoring Activities ..... 15
- VII. POLICIES ..... 20
- VIII. USE OF FORCE ..... 22
  - A. Use of Force Generally ..... 22
  - B. Use of Force Review Board ..... 24
- IX. CRISIS INTERVENTION TEAM ..... 27
- X. Custodial Interrogations ..... 28
- XI. Photographic Lineups ..... 30
- XII. POLICING FREE OF GENDER BIAS ..... 31
  - A. Special Victims Section Assessment ..... 31
    - 1. Introduction ..... 31
    - 2. Overview ..... 31
    - 3. Findings ..... 32
    - 4. Conclusion ..... 41
  - B. Domestic Violence Unit Assessment ..... 42
    - 1. Methodology ..... 42
    - 2. Findings ..... 42
    - 3. Conclusion ..... 49
  - C. Domestic Violence Uniform Patrol Assessment ..... 50
    - 1. Methodology ..... 50
    - 2. Overview Findings From The May 2015 Review ..... 51



3.	Overview Findings From The August 2015 Review.....	52
4.	Specific Aggregated Findings From May and August .....	53
5.	Risk Assessment .....	56
6.	Primary Aggressor .....	57
7.	Discouraging Victim.....	58
8.	Preservation of Document Evidence .....	58
9.	Professional Response.....	59
D.	Assessment of Unfounded Domestic Violence Calls .....	60
1.	May Findings.....	60
2.	August Findings .....	61
3.	May/August Conclusions .....	62
XIII.	RECRUITMENT.....	64
XIV.	ACADEMY AND IN-SERVICE TRAINING.....	66
A.	Academy and Training Generally.....	66
B.	Community Oriented Policing Training .....	68
C.	FTO Academy Training .....	69
1.	Adult Learning and Problem Solving.....	69
2.	Every Officer A Leader.....	70
D.	FTO Program.....	71
1.	Paragraph 275.....	71
2.	Paragraph 276.....	71
3.	Paragraph 277.....	71
4.	Paragraph 278.....	72
5.	Paragraph 279.....	72
6.	Paragraph 280.....	73
7.	Paragraph 281.....	73
8.	Paragraph 282.....	74
E.	In-Service Training.....	74
1.	Paragraph 283.....	74
2.	Paragraph 284.....	75



3. Paragraph 285.....	75
XV. OFFICER ASSISTANCE AND SUPPORT.....	76
XVI. Supervision.....	78
A. Supervision Generally.....	78
B. Video and Audio Documentation of Police Activities.....	79
1. BWC Deployment.....	80
2. BWC Use.....	81
3. BWC Discipline.....	82
XVII. MISCONDUCT COMPLAINT INTAKE, INVESTIGATION, AND ADJUDICATION.....	85
XVIII. AGREEMENT IMPLEMENTATION AND ENFORCEMENT.....	86
A. Outcome Assessments.....	86
B. Monitor Recommendations and Technical Assistance.....	86
C. Comprehensive Re-Assessment.....	87
D. Coordination with IPM.....	87
E. NOPD Consent Decree Implementation Unit.....	87
XIX. Transparency and Oversight.....	89
XX. ATTACHMENTS.....	91
ATTACHMENT 1.....	92
ATTACHMENT 2.....	94
ATTACHMENT 3.....	96
ATTACHMENT 4.....	98



#### IV. GLOSSARY OF ACRONYMS

"ASU"	Administrative Services Unit
"AUSA"	Assistant United States Attorney
"AVL"	Automatic Vehicle Locator
"BWC"	Body Worn Cameras
"CCMS"	Criminal Case Management System
"CD"	Consent Decree
"CIT"	Crisis Intervention Team
"CODIS"	Combined DNA Index System
"ComStat"	Computer Statistics
"CPI"	California Psychological Inventory
"CSC"	Civil Service Commission
"CUC"	Citizens United for Change
"DA"	District Attorney
"DI-1"	Disciplinary Investigation Form
"DOJ"	Department of Justice
"DVU"	Domestic Violence Unit
"ECW"	Electronic Control Weapon
"EWS"	Early Warning System
"FBI"	Federal Bureau of Investigation
"FIT"	Force Investigation Team
"FOB"	Field Operations Bureau
"FTO"	Field Training Officer
"IACP"	International Association of Chiefs of Police
"ICO"	Integrity Control Officers
"IPM"	Independent Police Monitor
"KSA"	Knowledge, Skill and Ability
"LEP"	Limited English Proficiency
"LGBT"	Lesbian, Gay, Bi-sexual, and Transgender
"MMPT"	Minnesota Multiphasic Personality Inventory
"MOU"	Memorandum of Understanding
"NNDDA"	National Narcotics Detection Dog Association
"NOFJC"	New Orleans Family Justice Center
"NOPD"	New Orleans Police Department

Office of the Consent Decree Monitor

Appointed By Order Of The U.S. District Court For The Eastern District of Louisiana



Page 9 of 100  
February 26, 2016  
www.consentdecreemonitor.com



"NPCA"	National Police Canine Association
"OCDM"	Office of Consent Decree Monitor
"OIG"	Office of Inspector General
"OPSE"	Office of Public Secondary Employment
"PIB"	Public Integrity Bureau
"POST"	Police Officer Standards Training Counsel
"PsyQ"	Psychological History Questionnaire
"RFP"	Request for Proposal
"SART"	Sexual Assault Response Team
"SOD"	Special Operations Division
"SRC"	Survey Research Center
"SUNO"	Southern University of New Orleans
"SVS"	Special Victims Section
"UNO"	University of New Orleans
"USAO"	United States Attorney's Office for the Eastern District of New Orleans
"VAW"	Violence Against Women



## V. INTRODUCTION TO QUARTERLY REPORT

Law enforcement is one of the most highly regulated professions in the U.S. We use the term “profession” here intentionally. Police officers are part counselor, part lawyer, part doctor, part family therapist, part social worker, and part soldier. They are professionals in every sense of the word. And like all professions with great responsibility, its members are subject to great oversight. As consumers of the services these professionals provide, citizens<sup>1</sup> should want it no other way.

The New Orleans Police Department has been operating under a Consent Decree since January 2013. While some within the City, the Department, and the community no doubt bemoan the imposition of the Consent Decree as a curse, and a small subset even blames the Consent Decree for everything from increased crime to slower response times to hiring difficulties, the truth is there is very little about the Consent Decree that a rational person fairly can take issue with.

At its core, the Consent Decree promotes six simple, unassailable principles:

- First, the Consent Decree recognizes the citizens of New Orleans and the members of the NOPD want and deserve *clear, sensible policies* that protect the rights of the citizens and help ensure officers return safely to their families at the end of each day.
- Second, the Consent Decree ensures officers receive *effective training* that actually teaches them how to do their jobs in a safe, effective, and non-biased manner.
- Third, the Consent Decree promotes *fair, unbiased, constitutional, and respectful policing*, which is the right of every individual regardless of race, gender identity, ethnicity, gender, citizenship, religion, immigration status, or sexual orientation.
- Fourth, the Consent Decree promotes *close and effective supervision* that ensures less experienced officers are supervised by more experienced officers for the protection of the citizens and, importantly, for the protection of the officers themselves. Good supervision ensures the lessons of the quality policies and effective training actually are finding their way onto the street.

---

<sup>1</sup> This report uses the term “citizen” in the broadest possible sense to refer to *all* of the many communities that make up New Orleans. We certainly do not mean to refer only to citizens of the United States.



- Fifth, the Consent Decree requires *meaningful discipline* that holds officers -- and, importantly, their managers -- accountable for their actions in a fair, transparent, and non-biased manner.
- And sixth, the Consent Decree demands *transparency* so the citizens of New Orleans and the members of the NOPD themselves can (a) understand what steps their police department is taking to protect them, (b) see what is working and what is not, and (c) make their own assessment of whether the Department is worthy of their trust.

While there certainly are a multitude of other terms and conditions among the 492 paragraphs of the Consent Decree, most are encompassed by these six core principles.

While past Monitoring Reports have discussed the Department's slow progress during the first year of the Consent Decree, over the past year, and continuing into the most recent quarters, the Monitoring Team has seen real, substantive progress in many areas. For example:

- An effective and well-staffed Compliance Bureau has been in place for over a year now, and has played a lead role in moving NOPD toward compliance with its obligations under the Consent Decree.
- New and revised policies are being rolled out that reflect forward-thinking concepts, national best practices, and a constitutional balance between public safety and civil rights.
- An impressive Crisis Intervention Team modeled after a highly successful program in Memphis is in place, and the first two classes of energetic CIT officers have graduated and are on the streets.
- An effective Force Investigation Team is in place and is conducting quality investigations of officer uses of force, as well as uses of force against officers.
- A robust body worn camera program is in place and, indeed, was implemented by NOPD on its own in advance of the Consent Decree.
- A fully operational and successful Office of Police Secondary Employment was stood up not long ago.

And there have been other successes as well.

In other areas, however, the Department's progress has been frustratingly slow and continues to give the Monitoring Team cause for concern.



- The Academy, for example, still needs significant attention. The curriculum, lesson plans, instructor evaluations, and even its 2016 master training plan all need work. But we are seeing some progress. Courses are being updated; instructors are about to be evaluated; lesson plans, where there remarkably weren't any in the past, are being prepared and evaluated; thanks to the help of the NOLA business community, the Academy now is in a new location; and, most recently, a new Deputy Chief was installed to oversee the reformation of the Academy.
- The NOPD likewise needs to spend more time focusing on ensuring its officers receive close and effective supervision. While our prior reviews have demonstrated to us most supervisors want to provide the sort of supervision required by the Consent Decree, many do not do so. Some do not provide adequate supervision because they lack the skill and/or training to do so, but more simply lack the time. Fortunately, Superintendent Harrison and his team are working on finding ways to give supervisors more time to actually supervise. Until then, however, this area will remain a significant concern of ours.
- The NOPD Officer Assistance and Support program was rolled out much later than it should have been, and still has work to do to provide the support officers need and deserve. But we are seeing progress here too. NOPD brought in an outsider to lead the program who has impressed the Monitoring Team with her ideas, energy, and commitment.
- The Department's strategy to promote community and problem-oriented policing remains immature. Meaningful community and problem-oriented policing requires a "redefinition of the relationship between the police and the community, so that the two collaborate to identify and solve community problems."<sup>2</sup> In this context, some have described the community as a "co-producer" of public safety.<sup>3</sup> A meaningful community and problem-oriented policing program, however, requires a Department-wide strategy, the involvement of officers and managers at all levels, and, of course, the community.
- The way the Department selects its new officers still has a long way to go to be effective. But even here, some notable progress has been made recently. Thanks

<sup>2</sup> The Department of Justice and other entities have prepared and made available to the public numerous reports and texts describing the theories behind and components of community policing and problem-oriented policing. See, e.g., *Community and Problem-oriented Policing*, Department of Justice Office of Juvenile Justice and Delinquency Program (Oct. 2010).

<sup>3</sup> *Id.*



to the New Orleans business community, local Human Resources professionals now sit alongside NOPD supervisors to interview recruits. And, as reflected in our last report, NOPD is in the process of restructuring the entire selection process, including rewriting its outdated multiple choice and written exams, and reformulating its overly-structured interview process.

While the forgoing comments reflect our concerns as well as our optimism, no one should mistake the Monitoring Team's optimism for naïveté. The gaps identified above reflect critically important issues that must be fixed in a meaningful way. But the Monitoring Team remains optimistic we will continue seeing progress being made.

Four things fuel the Monitoring Team's optimism.

- First, as noted in our prior Report, the Monitoring Team has witnessed a transformation in the attitude and commitment of NOPD management toward change. The past year has been marked by commitment and cooperation throughout the Department. While NOPD leadership and the Monitoring Team certainly disagree on substantive matters from time to time, Superintendent Harrison has not given us a single reason to question his or his leadership team's commitment to transforming the NOPD into a premier law enforcement agency.
- Second, the Monitoring Team's work over the past two years has revealed a genuine desire among most rank and file officers to follow the rules, protect their communities, and restore honor to the NOPD brand. The members of the Monitoring Team have spoken to and ridden with hundreds of officers since August 2013, and by far, most want to do the right thing.
- Third, the support and resources the Department receives from the community is impressive. Local business organizations, community groups, civil rights groups, and the citizens who make their voices heard through our public meetings and other venues, continue to make their time, resources, and ideas (both positive and negative) available to the NOPD. Whether those voices are supportive or critical, the involvement and dedication has been and will continue to be invaluable.
- Fourth, is the unmistakable resilience of the New Orleans community, the loyalty of that community to the City, and the persistence with which community members have fought for a better police department over the past many years.

These facts fuel our optimism, but they do not cause us to "go easy" on the NOPD or to overlook the significant gaps that still stand between the Department and its emergence from the Consent Decree.

Page 14 of 100

February 26, 2016

www.consentdecreemonitor.com



Superintendent Harrison recently brought in a number of policing experts from across the country to discuss ways in which the Department could better serve community members and officers alike. Toward the end of this meeting, one deputy police chief from Maryland who had been through a Consent Decree of his own, turned to the Superintendent and offered the following observation. He said, “Chief, you are in an enviable position. You can make the New Orleans Police Department into whatever you want it to be. How many of us ever have that opportunity?”

That Deputy Chief was right. While it may not feel like it now, NOPD has a unique opportunity to decide who it wants to be. The citizens of New Orleans already have spoken regarding what they want NOPD to be. The Monitoring Team will remain vigilant to ensure they get it.



## VI. SUMMARY OF MONITORING ACTIVITIES

This report covers the third and fourth quarters of 2015, which were busy months for NOPD – and for the Monitoring Team. Among other things, the Monitoring Team undertook the following activities between July and December 2015.

- We spent significant time reviewing and working with the NOPD and the Department of Justice to revise and finalize policies. Among the policies that took substantial time during this period was NOPD’s immigration policy. In addition to working closely with NOPD and the Department of Justice, the Team also met with the New Orleans Workers Center for Racial Justice and key thought-leader on immigration-related issues.
- We spent significant time focusing on the NOPD Academy, including observing classes, reviewing lesson plans, and meeting with Academy instructors and management. We also participated in the Academy’s conduct of a “gap analysis” designed to identify gaps in the Academy’s current course offerings, analyzed and provided significant feedback on the Academy’s draft “2016 Master Training Plan,” and provided feedback on key structural issues, including reorganizing the Academy’s current management structure.
- We initiated a study of juvenile arrests, the data from which are being analyzed by the Monitoring Team to ensure bias-free policing with respect to this unique group of citizens.
- We reviewed random samples of BWC videos to assess compliance with various Consent Decree requirements, including those relating to Stops, Searches, and Arrests.
- We reviewed the videos being used by the Academy in conjunction with recruit and in-service training and identified those videos that did not promote the fundamental tenets of the Consent Decree.
- We continued our ongoing review of how PIB codes complaints, and especially those complaints alleging racial profiling. The Monitoring Team has entered the second phase of our analysis. In the meantime, we have shared key recommendations with the PIB so important enhancements can be made immediately, even before the completion of our analysis.
- We initiated an analysis of NOPD response time and the use of the “unfounded” classification by officers where “gone on arrival” would have been the correct classification.





- As described more fully below, we recommended the creation of (and participated in) a working group of patrol officers charged with identifying ways to free up officer time so they can more quickly (a) answer calls for service, (b) engage in community and problem-oriented policing, and (c) be more proactive in their communities.
- We continued monitoring the misconduct review, investigation, and disciplinary process to ensure fairness, effectiveness, and compliance with the Consent Decree.
- Most recently, we analyzed NOPD's plans to redeploy 94 officers to patrol duties from other functions within the Department. While we applauded the Superintendent's thoughtful efforts to counteract the City's crime and officer response time problems, we also recognized significant potential risks in the plan that must be dealt with before the redeployment is fully implemented. For example, among other things, the Monitoring Team expressed concern over the potential negative impact on the Department's still-inadequate community policing principles.

We also, as we always do, continued riding with officers and supervisors to ensure we have a first-hand look at how NOPD's new policies, procedures, and training are being translated into practice on the street.

In addition to the foregoing, the Monitoring Team also spent significant time this quarter meeting with and listening to citizens, community leaders, and officers regarding the police department, the consent decree, and police reform generally. While we cannot recount all the questions, suggestions, and concerns we have fielded over these months, the following questions asked at the Monitoring Team's most recent Quarterly Public Meeting are illustrative of others we have received previously.

***Question/Comment.** What is the Monitoring Team doing to make police officers more respectful when they pull people over for a traffic stop?*

#### **Monitoring Team Response.**

Citizens unquestionably deserve to be treated with respect in all their interactions with police officers. Common sense demands it and the Consent Decree requires it. Section VIII of the Consent Decree specifically obligates NOPD to deliver police services that are equitable, *respectful*, and bias-free in a manner that promotes broad community engagement and





confidence in the Department.<sup>4</sup> When officers fail to show respect to citizens in the context of traffic stops they not only leave the citizen with a negative impression of the officer, but of the police department generally. This frustrates the Department's efforts to promote trust among community members and decreases the cooperation between citizens and officers.

That the NOPD still has a ways to go to shed its prior image of a disrespectful department was borne out by the Monitoring Team's community survey, conducted in December, 2014. When asked about the traits police officers should exhibit, citizens overwhelmingly listed "treat people with respect" among their answers. Unfortunately, more than 47% of respondents still did not believe NOPD officers acted professionally. Obviously, this issue – whether based upon reality, perception, or a little of both – needs to be remedied.

The Monitoring Team assesses the level of NOPD respectfulness in several ways. First and foremost, we ensure the concepts of respect, equality, and dignity are embedded in all courses taught at the Academy. We do this by reviewing the lesson plans, monitoring classes, and ensuring NOPD lives up to its other teaching commitments (like having lesson plans reviewed by its Training Advisory Committee as well as by relevant experts outside NOPD). Second, we review officer BWC camera videos and bring instances of unprofessional conduct immediately to the attention of the NOPD. Third, we ride along with officers and supervisors frequently to observe their interactions with citizens and with one another.

***Question/Comment.** I read in the paper the police associations are blaming the Consent Decree for NOPD's poor response times. Is this true?*

### **Monitoring Team Response.**

On October 27, 2015, the *New Orleans Advocate* correctly reported a story criticizing NOPD's slow responses to citizen calls for service.<sup>5</sup> According to the *Advocate's* data, the average time NOPD takes to respond to an incident "has more than tripled since 2010." *Fox News* and *NOLA.com* have published similar findings. The data come as no surprise to the citizens of New Orleans or to the Monitoring Team, which has raised the issue of backlogged calls and response times with the Department on prior occasions.

In response to the media stories regarding response times, one local police association was quoted as blaming the Consent Decree for much of the problem. While the Monitoring

<sup>4</sup> The concepts of dignity, respect, and procedural fairness often collectively are described as "procedural justice." The concept, while not novel or surprising, "describes the idea that how individuals regard the justice system is tied more to the perceived fairness of the process and how they were treated rather than to the perceived fairness of the outcome." *The Case For Procedural Justice: Fairness as a Crime Prevention Tool*, Community Policing Dispatch 6:9 (Sept. 2013).

<sup>5</sup> <http://www.theneworleansadvocate.com/news/13814189-123/special-report-tripling-of-new>.



Team disagrees with the characterization, we certainly recognize the Consent Decree is a factor. The Consent Decree, like the U.S. Constitution, requires police officers to do certain things to protect the rights of the citizens. These things sometimes take time. Fully investigating sex crimes and domestic violence, reporting uses of force against citizens, reporting stops and searches of citizens, and providing meaningful roll call training all take time, but it is time well worth taking. The simple fact is that, sometimes, doing things right takes a little longer. At the same time, the Consent Decree's requirements reflect accepted best practices by professional police departments across the country.

A number of factors have prolonged response times. The manpower shortage is certainly one, although the Monitoring Team's experts have pointed out that the NOPD's ratio of officers to citizens is in line with peer departments that nevertheless are able to respond to service calls in a timely manner. Additionally, the New Orleans Inspector General identified inefficient deployment of officers as a major cause for long response times. In our monitoring we have observed a number of other factors that divert officers from responding to calls.

To help improve response times, the Monitoring Team recommended the creation of a working group of patrol officers to identify ways to free up officer time so they can more quickly (a) answer calls for service, (b) engage in community and problem-oriented policing, and (c) be more proactive in their communities. To the Department's credit, the Superintendent immediately accepted the Monitoring Team's recommendation and put together a Working Group within days.

In the space of two meetings, the Working Group identified almost twenty actions it believes would allow officers to perform their jobs more efficiently without compromising the rights of the citizens. The Monitoring Team has reviewed the proposed action items and was impressed by the thoughtfulness of the ideas. We have no doubt that, if even part of this list is implemented, it will contribute meaningfully and measurably to improving response times.

***Question/Comment.** Why doesn't the desk officer at my district police station have to wear a Body Worn Camera?*

#### **Monitoring Team Response.**

Since the roll out of the NOPD's Body Worn Camera (BWC) program in 2014, the Department steadily has expanded the scope of the program. Initially, only patrol officers answering calls for service received BWCs, but following discussions with the Monitoring Team, the Department expanded the program to include special operations units, task force officers, and, most recently, sergeants as well. As of our last audit, NOPD had issued BWCs to 100% of its patrol officers, General Assignment officers, Quality of Life officers, and School Resources officers in all eight districts. As most desk officers in district stations are patrol officers, most also should have BWCs assigned to them. To the extent a non-patrol officer (*e.g.*,

Page 19 of 100  
February 26, 2016  
www.consentdecreemonitor.com



an officer on administrative duties) handles desk duties, it is possible that officer may not have been issued a BWC. NOPD continues to expand the scope of its BWC program and the Monitoring Team expects instances where an officer has not been issued a BWC will continue to decline.

*Question/Comment.* Why does the police department not share videos of critical incidents with the public?

### **Monitoring Team Response.**

As police departments across the country roll out BWC programs, they have found themselves struggling with a host of collateral issues, including, among many other things, whether, when, and how to release video recordings to the public. The national news has shown us all the power of video footage in the context of justified and unjustified police shootings. To ensure New Orleans dealt with this issue in a fair, consistent, and compliant manner, in November, U.S. District Court Judge Susie Morgan recommended the NOPD develop a written policy governing the release of NOPD video recordings of critical incidents (*e.g.*, officer involved shootings, in-custody deaths, etc.). Consistent with the Consent Decree's demand that the police department promote transparency, and recognizing that transparency facilitates increased trust between the NOPD and the New Orleans community, Judge Morgan sought a policy that would facilitate the prompt release of video recordings of critical incidents involving the NOPD so long as the release is consistent with the legitimate needs of ongoing law enforcement operations.

In December, the City, the NOPD, the District Attorney's Office, and the Department of Justice worked together to develop a policy consistent with Judge Morgan's recommendation. The Monitoring Team has reviewed the policy and believes it represents a well thought-out approach toward promoting transparency while protecting privacy rights as well as the legitimate interests of law enforcement. The policy will be implemented shortly.

\* \* \*

Finally, as we have done since our appointment, the Monitoring Team spent significant time meeting with, and listening to, the parties to the Consent Decree. The Monitoring Team is in regular contact with the City, the NOPD, and the DOJ. We also continue to meet regularly with the NOPD Compliance Bureau, the PIB, the NOLA OIG, and the members of the Independent Police Monitor's team.



## VII. POLICIES

The NOPD, in close coordination with the DOJ and designated subject-matter experts on the Monitoring Team, continues to review and revise its policies as required by the Consent Decree to ensure policies are not only constitutional, but understandable by NOPD officers. The process entails considering and addressing numerous factors and interests, including evaluating whether the policy:

- (1) Satisfies controlling constitutional and legal principles;
- (2) Effectively communicates accepted law-enforcement practices;
- (3) Is consistent with related policies;
- (4) Appropriately accommodates the needs and interests of related agencies and stakeholders (such as organizations that coordinate with NOPD to support victims of sexual assault and domestic violence or the Officer Assistance Program); and
- (5) Is reasonably understandable so it can serve the purpose of providing meaningful guidance to NOPD's members.

In performing this evaluation, the NOPD and the Monitoring Team work with stakeholder groups from within the New Orleans community. The development of the Department's Crisis Intervention Team ("CIT") policy, for example, relied heavily upon the advice and guidance of the New Orleans mental health community, including the Orleans Parish Coroner's Office, the Orleans Parish Sheriff's Office, the Metropolitan Human Services District, and the City of New Orleans Emergency Medical Services, among others. Similarly, the development of the sexual assault and domestic violence policies benefited immeasurably from a number of community groups including the New Orleans Family Justice Center and the Tulane Law School Domestic Violence Clinic.

Since our last report, the following policies have been through that process and have been approved by the DOJ and the Monitoring Team:

- Prisoner Transportation 9/15/15
- Conducted Electrical Weapons 10/14/15
- Foot Pursuits 10/15/15
- Use of Force Review Board 10/15/15

Page 21 of 100  
February 26, 2016  
www.consentdecreemonitor.com



- Firearms 10/15/15
- Sexual Assault (and Sex Crimes Operating Guidelines) 11/20/15

Additionally, amendments to two policies, Negotiated Settlements and Reporting Use of Force were approved.

More recently (and after this reporting period), the Monitoring Team and DOJ approved the Department's Immigration Status policy, Crisis Intervention Team policy, Crisis Intervention Transportation policy, and its Misconduct & Adjudication policy. All three of these efforts required not only significant drafting, but also required a substantive rethinking of the underlying practices. The Monitoring Team recognizes the significant reforms NOPD has embraced through this effort, especially with respect to the Misconduct & Adjudication policy.



## VIII. USE OF FORCE

### A. Use of Force Generally

The Monitoring Team spent significant time in the latter half of 2015 focusing on Use of Force issues. Our work included, among other things, reviewing, revising, and ultimately approving a number of Use of Force policies; evaluating PIB administrative and criminal investigations; working with PIB to improve its internal documentation and templates; overseeing and facilitating the creation of an NOPD Use of Force Review Board; reviewing the process for inputting data into “IAPro,” the Department’s current disciplinary database; providing in-person training to NOPD Force Investigations Team (“FIT”) officers regarding use of force investigation best practices; and reviewing use of force videos and reports.

Over the course of its reviews, the Monitoring Team identified areas in need of improvement and identified specific practices in need of improvement. Among other things, the Monitoring Team found PIB/FIT reports still lack adequate probing by the investigators; specifically asking direct questions for closure on open issues. Additionally, we found in certain cases a lack of follow-up regarding evidence preservation, training issues, and tactical issues. These issues are critically important not only to the investigation, but also to ensure the integrity of future investigations and officer safety.

While we still find problems in some PIB/FIT reports – all of which were brought to the immediate attention of the NOPD PIB – we are seeing *continued improvement* in the work of the NOPD Force Investigations Team. We also have been impressed by the commitment of the new FIT supervisor, Lt. Kevin Burns, who has been making an impressive effort to enhance FIT’s processes and practices.

To assist FIT coming into compliance with the Consent Decree more quickly, the Monitoring Team continued to provide members of FIT with technical assistance so they develop the capacity to conduct a comprehensive review of use of force incidents to identify policy violations, tactical errors, missed de-escalation opportunities, training deficiencies, and/or equipment failures. Further, the Monitoring Team provided a full-training program in January to the members of NOPD FIT and other NOPD staff who have critical roles to play in managing use of force, including members of the Use of Force Review Board, the Academy, the Special Weapons Team Commander and Communications.

In addition to our work on policies, procedures, and practices, the Monitoring Team also continues to review reports, witness statements, and video footage from officer uses of force, including officer involved shootings and in-custody uses of force. Among other incidents we reviewed this period were:





- An internal-NOPD complaint filed by a sergeant who, in reviewing video recordings, witnessed an officer strike the face of a handcuffed prisoner who was shouting racial epithets at the officer. The Monitoring Team has followed this incident carefully, including PIB's initial response, investigation, and disposition of the matter. The matter still is under investigation by PIB.
- An officer-involved-shooting the Monitoring Team had reviewed previously to assess the Department's follow-up investigation. This event occurred in December 2015, and involved a traffic stop for a license plate violation. The officer approached the vehicle and the driver fired a shot at the officer. The officer returned fire, striking the driver who died on the scene.
- An officer-involved-shooting the Monitoring Team had reviewed previously to assess the Department's follow-up investigation. This event occurred in April 2015, and involved an armed robbery and hostage situation at a Dollar General store. The officers discharged firearms at a male as he exited the business with a gun in his hand. The male was struck and died on the scene.
- An officer-involved-shooting that the Monitoring Team had reviewed previously to assess the Department's follow-up investigation. This event involved a male suspected of drug use in a parked car at night who ran from the officer and subsequently shot at the officer during the chase. The officer returned fire, striking and killing the suspect.
- An officer-involved-shooting that the Monitoring Team had reviewed previously to assess the Department's follow-up investigation. The event took place in October 2015, and involved a 911 call about individuals with guns in the front yard of a home with children. When the police pulled up, the subjects fled into a residence and back outside where one of the subjects fired a shot at the officer. The officer returned fire and struck the individual with a non-fatal gunshot.
- An officer-involved-shooting that the Monitoring Team had reviewed previously to assess the Department's follow-up investigation. The event occurred in July 2015, and involved an off-duty officer flagged down by an individual in a neighborhood regarding a domestic disturbance. The individual involved in the domestic disturbance charged toward the officer with a tree branch. He hit the officer in the head and the officer fired his service weapon, striking the individual. The subject died at the scene.



- A high-speed vehicle pursuit in September 2015. This event involved NOPD officers pursuing an out-of-state stolen automobile, and deviated significantly from NOPD policy.

The Monitoring Team continues to review all aspects of all serious uses of force involving NOPD officers on a real-time basis. We personally respond to the scene of the event, monitor the interview of the involved and witness officers, monitor subsequent PIB interviews (as necessary), and review all relevant video footage.

## **B. Use of Force Review Board**

Paragraph 108 of the Consent Decree requires NOPD to “develop and implement a Use of Force Review Board to review all serious uses of force and other FIT investigations.” As detailed in the Consent Decree, NOPD’s Review Board is comprised of the Deputy Superintendent of the Public Integrity Bureau, the Deputy Superintendent of the Field Operations Bureau, the Deputy Superintendent of the Investigations & Support Bureau, and other members.

The Consent Decree spells out the tasks of the Use of Force Review Board, which we summarize here:

- a) Review NOPD use of force investigations to ensure they are complete and that the findings are supported by a preponderance of the evidence.
- b) Hear a case presentation from the lead investigator and discuss the case as necessary with the investigator to gain a full understanding of the facts of the incident.
- c) Order additional investigation when necessary.
- d) Determine whether the force violated NOPD policy, and, if so, refer the matter to PIB for disciplinary action if such action has not already been initiated.
- e) Determine whether the incident raises policy, training, equipment, or tactical concerns, and refer such incidents to the appropriate unit within NOPD to ensure they are resolved.
- f) Direct District supervisors to take and document non-disciplinary corrective action to enable or encourage an officer to improve his or her performance.

The Consent Decree requires that the Review Board document its findings and recommendations in a formal Use of Force Review Board Report within 45 days of receiving the FIT investigation and within 15 days of the case presentation.

NOPD convened its first Use of Force Review Board on Friday, January 22, 2016, with the Monitoring Team in attendance. The Review Board examined three uses of force by NOPD



Page 25 of 100  
February 26, 2016  
www.consentdecreemonitor.com



officers. While clearly outside the period covered by this Quarterly Report, we would be remiss if we did not at least comment on this important event here.

In short, the first Review Board session was handled extremely well. The Review Board's discussion was thoughtful, introspective, and substantive. Newly-appointed Deputy Chief Paul Noel facilitated the session, and was an active participant. Voting members of the Board, including PIB Chief Arlinda Westbrook and ISB Chief Rannie Mushatt, were active participants. Non-voting members, Academy Commander Richard Williams, Fifth District Commander Christopher Goodly, SWAT Commander Bryan Lampard, and the several other participants, also substantively and effectively contributed to the discussion. In the view of the Monitoring Team, all did a great job.

Chief Noel kept the meeting flowing over the course of several hours. He encouraged input from all members, ensured no participant was afraid to speak his/her mind, and actively solicited input from hesitant members when necessary. At one point, one participant complained about the Board's "Monday morning quarterbacking." Chief Noel quickly pointed out that "Monday morning quarterbacking" was exactly what the Board was doing, and exactly what the Board was supposed to do.

In this inaugural session, three use of force cases were presented by the responsible PIB FIT investigator. (The officer who used the force under investigation was not present at the Review Board session.) On the whole, the investigators did a good job with their presentations, presenting the facts in a fair, unbiased, and logical fashion. While the Monitoring Team believes the investigator presentations will improve further once the investigators have a better sense of what issues the Review Board members focus on most, the presentations nonetheless were quite competent, especially for the first session.

As it is our job to be skeptical as we review the Department's activities, the Monitoring Team went into this task with its collective eyes open to make sure the Review Board didn't avoid complicated issues, run away from embarrassing discoveries, or fail to lodge criticism at the NOPD where appropriate. Fortunately, the Review Board did none of these things. The Review Board was open, honest, thoughtful, and self-critical (where appropriate). To share just one example here, the Review Board examined one officer-involved shooting that took place in 2015. While the shooting itself was found to be justified by PIB and the Board (a finding with which the Monitoring Team agreed), the Review Board dove deeply into the actions and tactics of the officers leading up to the shooting.

While, for the reasons noted above, the Monitoring Team was very impressed with the quality of the first Use of Force Review Board session, the key to the body's success rests upon the Department's ability to implement effective and lasting changes where deficiencies are identified. As one pair of researchers writing for a Navy publication commented over a decade

Page 26 of 100  
February 26, 2016  
www.consentdecreemonitor.com



ago, the term “lessons learned” often is inapt in the context of “after-action” reviews because too often deficiencies are identified, but not corrected:

[T]he term “lessons learned” is often a misnomer. Our experience suggests that purported lessons learned are not really learned; many problems and mistakes are repeated in subsequent events. It appears that while review of incidents and the identification of lessons are more readily accomplished, true learning is much more difficult. Reports and lessons are often ignored, and even when they are not, lessons are too often isolated and perishable, rather than generalized and institutionalized.<sup>6</sup>

The Monitoring Team will remain vigilant to ensure the lessons learned from NOPD’s Use of Force Review Board are institutionalized so “true learning” results from the practice. As one initial signal the Department is striving for precisely this sort of “true learning,” the Review Board directed Academy Commander Richard Williams to take prompt follow-up action to implement enhanced training in the Academy, in in-service training, and at roll calls focusing precisely on the issues identified by the Review Board. The Review Board further directed Commander Williams to return to the Review Board with a full report once the corrective actions are implemented.

Starting in April, Use of Force Review Boards will be scheduled for the first Thursday of each month. The Monitoring Team will continue to review the Review Board sessions, as well as the implementation of the corrective actions resulting from those sessions.

---

<sup>6</sup> Donahue, Amy and Tuohy, Robert, *Lessons We Don’t Learn: A Study Of The Lessons Of Disasters, Why We Repeat Them, And How We Can Learn Them*, Homeland Security Affairs (July 2006).

Page 27 of 100  
February 26, 2016  
www.consentdecreemonitor.com



## **IX. CRISIS INTERVENTION TEAM**

In our last report, we commended NOPD for rolling out a top-notch CIT program. Since its initiation, in August 2015, 50 officers have graduated from the program. The next CIT class is scheduled for February, following Mardi Gras. The Department is on its way to meeting its goal (and Consent Decree requirement) of having 20% of its patrol officers CIT-trained by August 2016. (CD 115)

As reported previously, the Monitoring Team reviewed the planning and actual training of the CIT officers, and was impressed by both. We subsequently interviewed officers who went through the CIT training and received near unanimous positive reports regarding the training quality, content, and effectiveness. We also reviewed the two written policies developed by the CIT Planning Committee, both of which have been approved by the Monitoring Team and the Department of Justice, and will be rolled out shortly.

We now are shifting our focus to evaluating how the CIT program is actually working on the street. In other words, we will be looking to see whether CIT officers are being notified of incidents involving mental health consumers; whether they properly are being given responsibility for the scene “and discretion to determine strategies for resolving the event,” as required by the Consent Decree (CD 113); and whether the program is resulting in increased safety for mental health service consumers, citizen bystanders, and officers alike.



## X. CUSTODIAL INTERROGATIONS

Section X of the Consent Decree sets forth NOPD's obligations with respect to conducting custodial interrogations, including when and how such interrogations shall be conducted and what records the Department must maintain to ensure transparency and accountability.

The Monitoring Team regularly reviews a sample of records and videos of custodial interrogations in each police district and in the Department's specialty units (*e.g.*, Homicide). None of the records we reviewed in this period's sample evidenced any inappropriate use of force, intimidation, or threats during a custodial interrogation.<sup>7</sup> Additionally, though not in full compliance in all districts yet, the NOPD showed *significant improvements* with respect to its record keeping obligations relating to Custodial Interrogations. While we did not audit this area during the period covered by this report, the results of our January 2016 audit are worth including here as evidence of this improvement.

- The Seventh District demonstrated 100% compliance with paragraphs 163, 164, 165, 167, and 168 of the Consent Decree. District 7 was in full or substantial compliance with all paragraphs regarding custodial interrogations. This reflects remarkable progress since District 7 had made very little progress during the audit the Monitoring Team conducted nine months ago.
- The Fifth District not only did not have ready access to its files, it also did not exhibit the same level of compliance as the Seventh. The Monitoring Team identified several discrepancies in the files we reviewed. Some people listed as being "interviewed" actually were handcuffed and/or informed of their rights. Consequently, they should have been listed as "interrogations." Some officers noted in the log they did not take notes when the recording provided evidence they did take notes. (Notes, if taken, are required to be in the case file.) With respect to the availability of recordings, the Fifth District demonstrated 81% compliance. The District showed a similar rate of compliance for the remaining custodial interrogation related paragraphs. The District was unable to demonstrate any compliance with paragraph 166.
- The Fourth District demonstrated a level of compliance of 85% for most of the paragraphs in this area.

<sup>7</sup> Obviously, this finding relates only to those files available for the Monitoring Team's review. Some districts still are unable to locate 100% of their custodial interrogation files. (In fact, in our most recent review, 3 of the 5 districts audited were unable to locate 100% of their files.) This remains a significant concern to the Monitoring Team.

Page 29 of 100

February 26, 2016

www.consentdecreemonitor.com



- The Third District showed significant improvement over prior periods. While the District had trouble locating recordings in a timely fashion (it took more than three hours to locate 18 recordings), eventually the District located all but two recordings. (We alerted Department management about the missing two recordings.) With respect to the available recordings, however, the level of compliance was quite high.

The full results of our district-by-district audits of the Custodial Interrogations will be presented in the Monitoring Team's next quarterly report.



## XI. PHOTOGRAPHIC LINEUPS

Section XI of the Consent Decree covers photographic lineups, i.e., the practice of showing a victim or a witness a series of photographs of similar looking individuals to determine whether he/she does or does not recognize the person the police believe is a suspect or the perpetrator. The Consent Decree sets forth the rules and standards for conducting photographic lineups, and the Monitoring Team regularly audits the Department's compliance with those rules and standards in each police district and in the Department's specialty units (e.g., Homicide).

While not in full compliance in all districts yet, the NOPD showed *significant improvements* with respect to its obligations relating to photographic lineups. While we did not audit this area during the period covered by this report, the results of our January 2016 audit are worth including here as evidence of its improvement.

- The Seventh District demonstrated 100% compliance with paragraphs 171, 172, 173, 174, 175, and 176 of the Consent Decree.
- The Fifth District demonstrated 100% compliance with paragraphs 171, 172, 173, 174, and 176 of the Consent Decree. The Fifth District failed to demonstrate full compliance with only paragraph 175 of the Consent Decree, but this was only because a detective failed to include the names of those present during one photo line-up as required.
- The Fourth District demonstrated 100% compliance with paragraphs 171, 172, 173, and 176 of the Consent Decree. With respect to paragraph 174<sup>8</sup> (84% compliance) and paragraph 175<sup>9</sup> (69% compliance), it did less well.
- The Third District likewise showed a high rate of compliance, but failed to achieve 100% in most cases. Nonetheless, its efforts, like the other districts, have borne fruit, and its compliance levels were much higher than in previous periods.

The full results of our district-by-district audits of the Photographic Lineups will be presented in the Monitoring Team's next quarterly report.

<sup>8</sup> Paragraph 174 requires that NOPD keep a complete record of each display procedure and results. The record shall include the time, date, location, identity of the viewing person, photograph numbers, and name of the administrator of the line-up.

<sup>9</sup> Paragraph 175 requires that NOPD documents other information pertinent to the display procedure, including any statements made by the viewing individual and identities of other persons present during the procedure.



## XII. POLICING FREE OF GENDER BIAS

### A. Special Victims Section Assessment

#### 1. Introduction

The Monitoring Team evaluated a representative sample of cases investigated by the sex crimes section of the NOPD Special Victims Section (“SVS”) between May and August, 2015. Our assessment covered 30% of the 111 cases completed during those months, as reported by the NOPD. Our assessment was conducted onsite, in the new NOPD SVS offices, located in the New Orleans Family Justice Center (“NOFJC”). The NOFJC is a partnership of agencies dedicated to ending violence through prevention and coordinated response to victims. The NOFJC provides comprehensive client-centered, empowerment services in a single location. The SVS sexual assault investigators and domestic violence detectives are now co-located in the offices of the NOFJC.

The Monitoring Team randomly selected the 33 cases for review this period. Because one of the originally selected cases was not an SVS case (due to a transposed number), our final assessment included findings in 32 cases. We used a 35-item checklist to conduct the assessment, a copy of which is attached to this report as Attachment 1. The NOPD cooperated fully in our assessment and exhibited a sincere interest in learning from our findings and correcting identified deficiencies.

#### 2. Overview

The SVS continues to adjust to a number of recent changes, including a new NOFJC office location, several newly assigned detectives, a new supervisor, and a number of new practices designed to correct past investigative deficiencies. These changes have been positive, and the Monitoring Team has seen *significant improvements* in the way the SVS conducts its work. For example, an investigator’s “Case File Index” checklist now is included in each case file to guide the investigator throughout the investigation and assist the SVS supervisor in ensuring the case was sufficiently investigated and properly documented. As in most situations involving significant changes, however, it takes time for changes to be firmly institutionalized. Such is the case with SVS. And while progress has been made, much work still needs to be done. For example, though most SVS investigation files included the required Case File Index, in several cases the index was under-utilized and some documentation of the completed investigation was missing.

Similar stories could be told with respect to other SVS requirements. Fortunately, the SVS’s new leadership clearly is working hard to remedy the Unit’s shortcomings, and is making progress. Further, SVS’s leadership has been extremely responsive to the Monitoring Team’s preliminary findings. Each instance of noncompliance was brought to the attention of the new



Page 32 of 100  
February 26, 2016  
www.consentdecreemonitor.com



SVS commander who promptly set out to take corrective action. The Monitoring Team will continue conducting periodic assessments until we are convinced the new procedures are embraced and consistently practiced by every member of the SVS team.

### **3. Findings**

The Monitoring Team's assessment found the SVS in full or near full compliance with five of the 35 elements of our assessment checklist. These include the following items:

- Question #4 – Is there a Major Offense Report Form in the case file?
- Question #7 – Is there evidence of attention to the victim's needs?
- Question #30 – Did the Detective utilize the Case File Index from nopd.org?
- Question #32- Was there a documented authorization for a Signal change, if required?
- Question #33- Is there documented supervisory review of reports and dispositions?

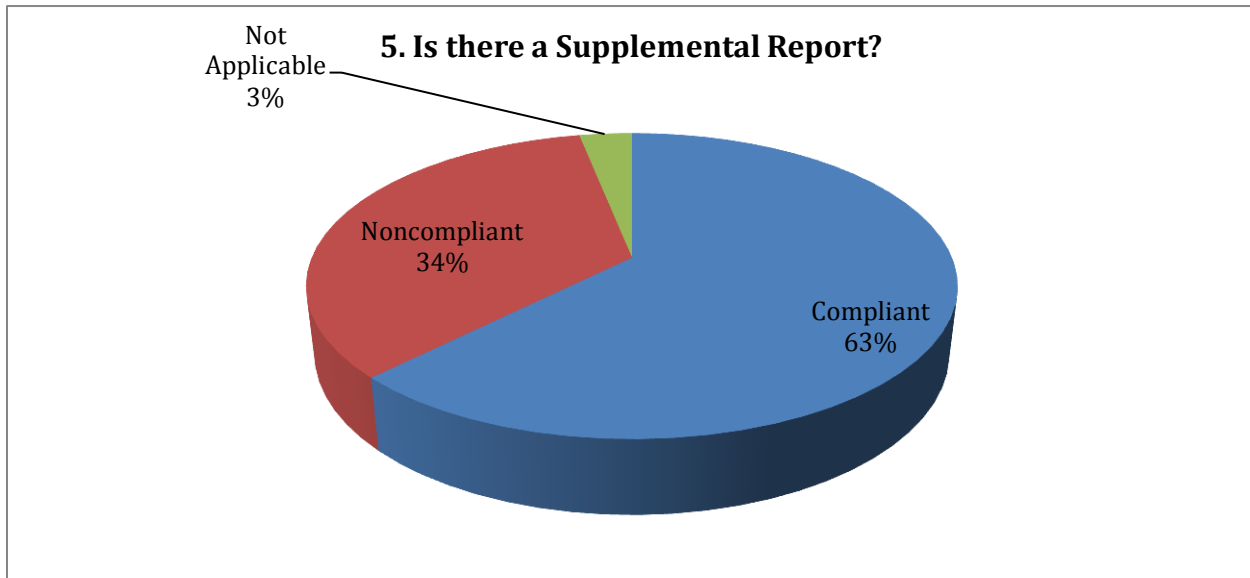
Notwithstanding these positive developments, as indicated below, SVS's success in implementing Consent Decree requirements was less consistent in other areas.

#### **a. Supplemental Reports**

A properly prepared case supplemental report should document the steps completed in the follow-up investigation. Supplemental reports provide the supervisor with the necessary information to determine whether the case was properly and satisfactorily investigated. A supplemental report should document, for example, whether the case remains open or closed, whether a warrant was initiated or served, and whether all leads were followed sufficiently to determine whether spending additional time on the investigation is warranted. When supplemental reports are not included in the case file, supervisors (and the Monitoring Team) waste substantial time verifying all required victim or witness interviews occurred and that all investigative steps were completed. Use of the Case File Index will help ensure the investigations are thorough and the case files complete in every SVS case file prior to supervisors approving the investigation.

As reflected in the chart below, in 11 of the cases we reviewed (34%) a supplement either was not written or was not available in the case file.





An SVS supervisor eventually was able to locate five supplements for 2015. This follow-up response during the audit improved the number of cases where a supplement was available in the case file to 26 of the 32 cases (81%).

Following the Monitoring Team's assessment, NOPD re-assigned one case for a follow-up investigation due to no supplemental report in the file.<sup>10</sup> The remaining five cases had been properly investigated and either were closed by arrest, had problems with the victim's identity or credibility, or were closed by exception. Each needed only to be supplemented, with information already documented in a Major Offense Report Form ("MORF") or an incident report, to complete the file. These are NOT cases where the NOPD failed to conduct a follow-up investigation.

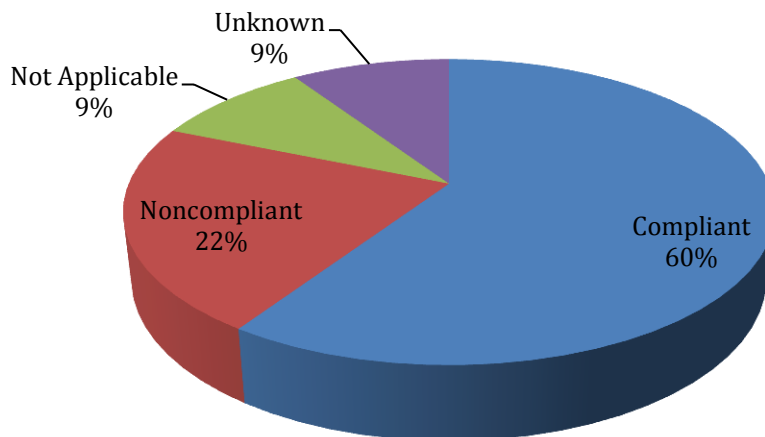
#### **b. Victim Statements**

As reflected in the chart below, in seven cases (22%) no victim statement was in the file. Four of the files indicated a statement had been taken, but no statement was available for review by the supervisor or the Monitoring Team. In three of these cases it was unknown whether a preliminary statement had been taken.

<sup>10</sup> The Monitoring Team followed-up with NOPD, and found the assigned investigator had obtained an arrest warrant for the offender. The case still was open, pending the arrest of the wanted subject.



### 6. Is there a victim statement (video, audio, or transcribed)?



Sexual assault investigations typically include both a preliminary and a follow-up interview of the victim. The results of our assessment indicate some investigators either are not routinely documenting their preliminary victim interviews, or are not including the recording in the case file. When a file is incomplete, supervisors are unable to assess fully the quality of the investigation. In some cases, an audio statement was taken, but the recording was not included in the file. SVS investigators and supervisors now are utilizing the case checklist to improve the collection of all pertinent investigative evidence.

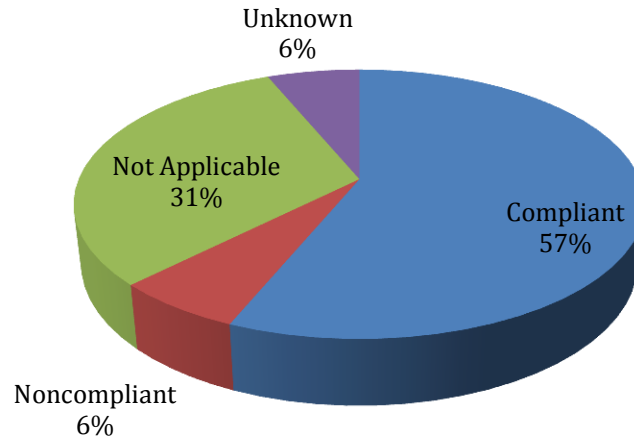
#### c. Follow-Up Interview

The case file checklist now requires the supervisor to ensure a follow-up interview is documented and included in the case file. As a result of our work in this area, the Monitoring Team discovered a minor problem, which we brought to the attention of the SVS commander. We expect the problem to be corrected with improved use of the case file checklist and supervisory reviews with Command-level signatures.

As reflected in the chart below, there were only two cases (6%) lacking documentation of a follow-up interview of the victim after the initial preliminary investigation. In one of these cases, the detective stated in a supplemental report she would look for surveillance video recordings, but the file did not contain a subsequent supplemental report as to whether this was done. Another case involved an on-line sexual predator who violated his probation. The initial report did not identify a victim. This case should have been supplemented if the follow-up investigator was unable to determine the identity of the victim.



**8. Was there a follow-up interview after the initial on-scene investigation?**



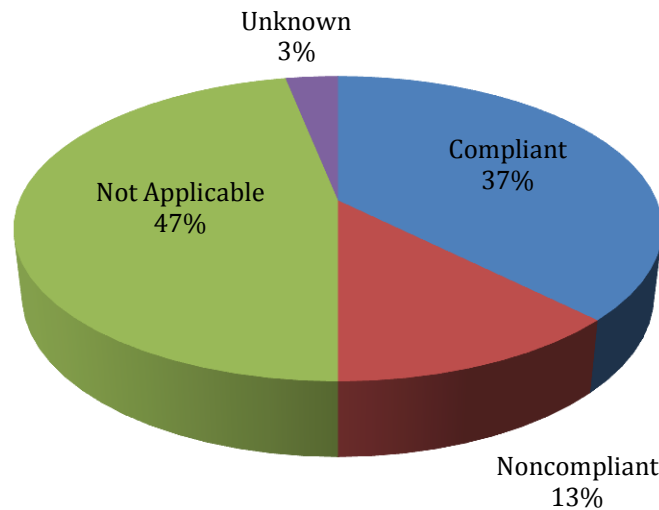
Investigators always should arrange for equipment to record follow-up interviews so they may focus on listening, as indicated in the SVS Standard Operating Procedures. When victim statements are recorded, a supervisor is better able to assess the quality of the interview and determine whether the investigator utilized proper interview strategies and was empathetic with the victim(s). The case file checklist now requires the supervisor ensure a follow-up interview is documented and included in the case file.

**d. Documented Witness Statement**

In response to Question #10 (Are there documented witness statements?), the Monitoring Team identified four cases where we expected to find documented witness video, audio or transcribed statements. The results of our assessment are presented in the chart below:



**10. Are there documented witness (video, audio, or transcribed) statements?**



As required in the SVS Standard Operating Procedures, investigators should identify and interview potential witnesses, bearing in mind there may be multiple crime scenes. It is especially important that the investigator identify and interview the first person the victim told about the assault. Investigators also should interview witnesses who might have seen or spoken with the victim before, during, or after the assault. These statements must be documented and included in the case file. The documentation aids in the investigation, assists the supervisor in determining whether the investigation is being handled properly, and assists the District Attorney should there be criminal proceedings. The Monitoring Team's review indicates a need for improvement in obtaining witness statements and ensuring they are included in the case files.

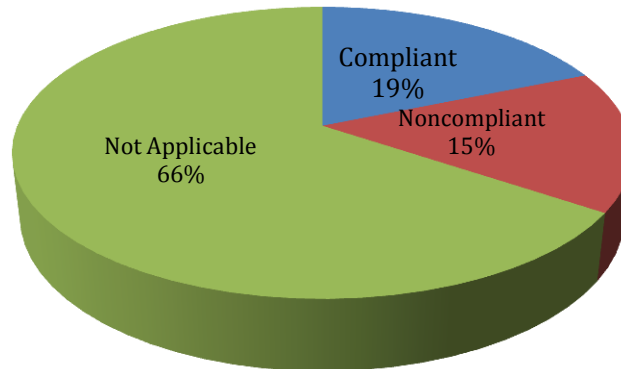
As a result of the findings in Question #10 (and Questions #27 and #28, dealing with a surveillance video canvas and witness canvasses), the SVS commander has instructed detectives assigned to the SVS to ensure witness canvasses and searches for surveillance videos are performed in every case with the potential for finding additional evidence, and the results of those canvasses are to be documented in a supplemental report.

**e. Documentation of Search for Video**

There were five non-compliant case file responses to Question #27, which assesses whether investigators documented whether they searched for surveillance videos.



## 27. Is there documentation of a search of surveillance video?



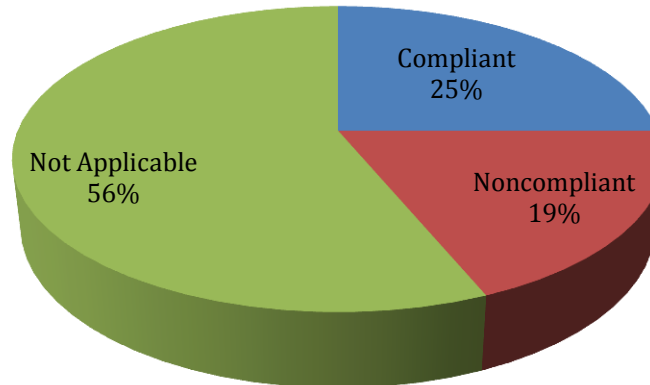
As a result of these findings, the Monitoring Team met with the SVS commander concerning cases where it was evident a witness canvas or a search for a video recording could have aided in the investigation. In one example, a victim was sexually assaulted on Canal Street where it is well known there are many available surveillance cameras. In the five non-compliant cases, the file contained no indication of a witness canvas or a search for videos. Upon being informed of our findings, the SVS commander made it clear to his investigators a complete investigation requires a search for video evidence – particularly where it is evident surveillance video could be helpful to the investigation.

### f. Documentation of Witness Canvas

There were six non-compliant case file responses to the Monitoring Team's Question #28, which assessed whether investigators are documenting their witness canvases. The results of our review are presented in the chart below.



## 28. Is there documented evidence of a witness canvas?



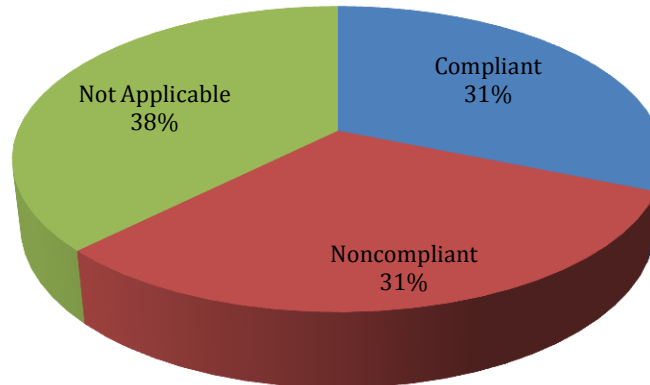
Investigators are required to identify and follow-up “leads,” including identifying potential witnesses. In the non-compliant cases in this audit, it was clear the investigator either became solely focused on the victim or did not pursue additional investigation into witnesses. Even if no witnesses are identified, all investigative steps taken to locate witnesses should be clearly documented in a supplement report. These cases should be investigated as if the detective were investigating a homicide. As the current SVS commander has instructed, NOPD requires a full “horizontal” and “vertical” investigation, with any potential evidence located and documented, including witness canvasses.

### **g. Documentation of MOTION Usage**

A competent investigator also should document his or her checks of a suspect’s criminal history. MOTION is an acronym for the Metropolitan Orleans Total Information Online Network – an online criminal history system. In ten of the cases the Monitoring Team reviewed, the documents were located in the file. In another ten cases (31%), however, the Monitoring Team was unable to verify that this aspect of the investigation took place.



#### 14. Is there documentation of MOTION/Coplink usage?



If the MOTIONS documents are not in the file, the supervisor cannot confirm the investigator adequately searched for a suspect or checked his/her criminal history, if the suspect is identified. A case file is incomplete without verification of a suspect's criminal history.

In some cases reviewed, a warrant was initiated for a suspect, but there was no indication in the file of the suspect's criminal history, if any. This is not only critical information for the case file, but also important information for the supervisors to determine whether additional resources must be used to improve the possibility of an apprehension. Though the MOTION section is on the Case File Index, it has been under-utilized by investigators. Our review found that some cases were signed as complete without the criminal history block being checked. The SVS commander and the CID Commander must both sign to indicate approval on the SVS Investigative Case File Index for each case. This is being corrected by SVS and additional supervisory over-sight is being provided in this area.

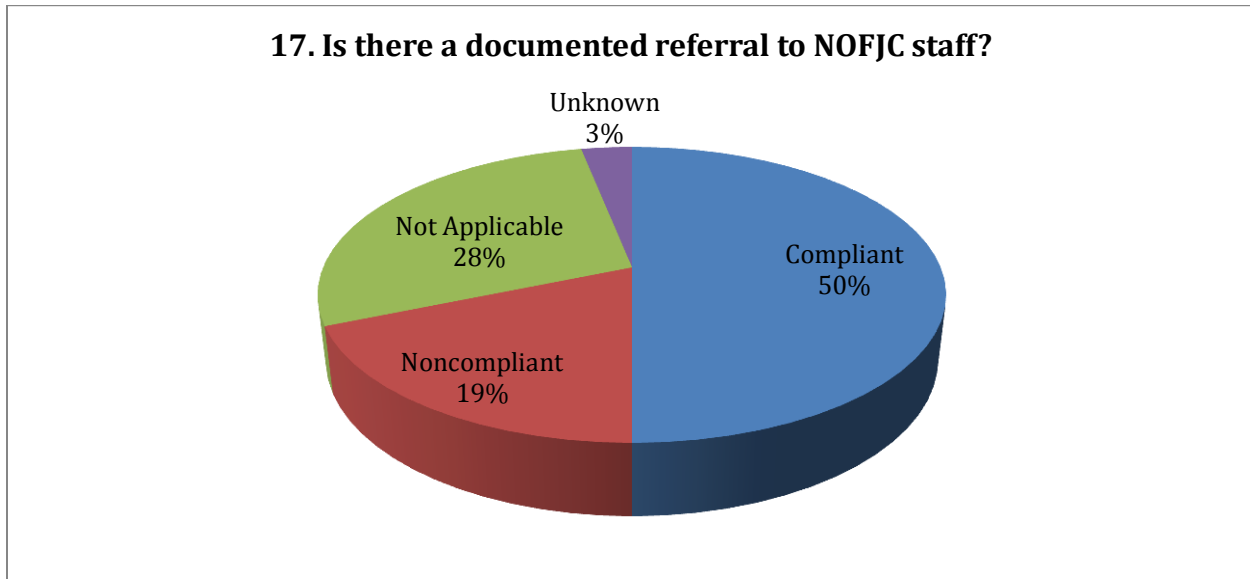
#### **h. Documentation of Referral**

Question #16 of the Monitoring Team's checklist asks if there is a medical or a Sexual Assault Nurse Evaluation (SANE) report in the files. In 17 (53%) of the cases reviewed, this question was not applicable. In 12 cases (representing 38% of the cases where a report was expected), one was included. In 3 cases (9%), the SANE or medical report was not in the file. It is probable that if a SANE report is mentioned in the supplement, it likely is available in hospital records and was never placed in the case file. The complete file should include a copy of the documentation.



### i. Referral to NOFJC

In August 2015, the SVS sex crimes unit relocated its offices to the New Orleans Family Justice Center, where the domestic violence detectives are also located. This co-location has enhanced the relationship with advocates and professionals trained to assist sexual assault victims and child victims during and following a sexual assault investigation. Our review of cases covered a period before this co-location occurred. As the below pie chart indicates, in six cases (19%), neither the incident nor the supplement report indicated a referral to the NOFJC or implied a referral of advocacy without mentioning the NOFJC. Officers and investigators are instructed specifically to document in their reports that victims were referred to the NOFJC.

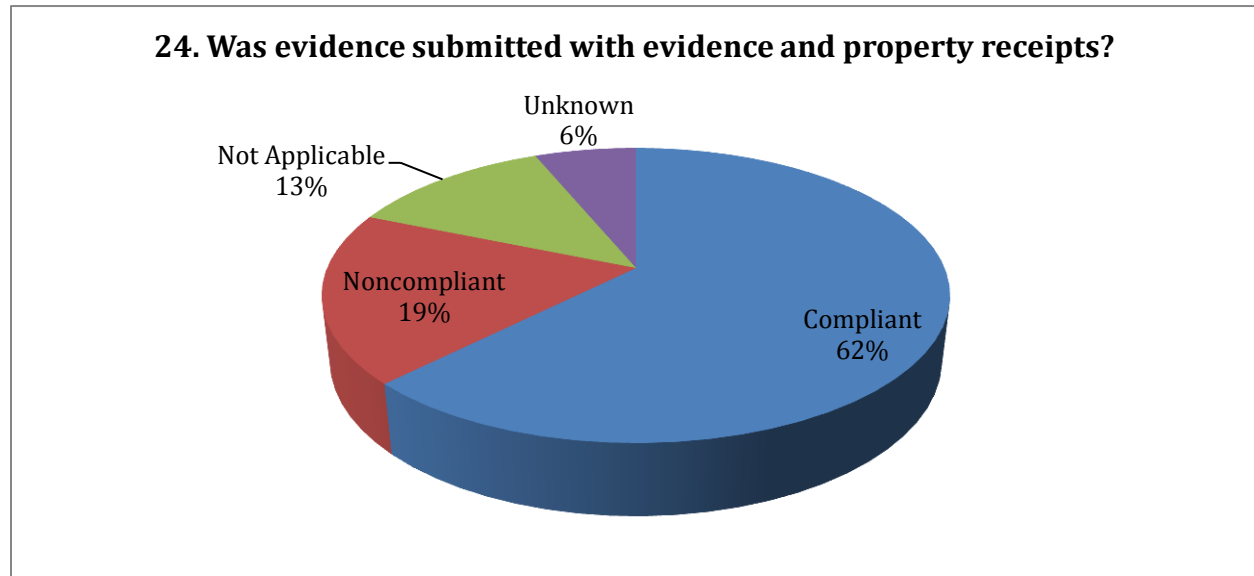


The current SVS policy requires investigators to refer all sexual assault victims to the NOFJC. Based upon frequent (and ongoing) conversations with the SVS commander, the Monitoring Team is optimistic NOPD will be in full compliance with the referral requirements now that the unit is co-located with NOFJC

### j. Evidence and Property Receipts

The SVS case files the Monitoring Team reviewed were *generally in compliance* with the Consent Decree requirements regarding documenting evidence collection in the case file report (Q # 23). Pursuant to NOPD policy, all recovered physical evidence is to be delivered to NOPD Central Evidence and Property Section, recorded in the Sections computer system, and a receipt generated. A copy of the receipt should be included in the case file. However, the below chart indicates that of 32 cases reviewed, there were six cases (19%) where the evidence receipts themselves were not located in the file.





The Monitoring Team raised these findings with SVS leadership, who agreed documentation of evidence submission is an important item to include in a file.

#### 4. Conclusion

The Monitoring Team's assessment demonstrates the NOPD SVS *has improved* from its prior state. While the SVS obviously and sadly struggled through the first 18 months of the Consent Decree, the unit finally seems to be on the right track. The Monitoring Team credits much of the recent improvement to the stable and effective leadership of the unit's new commander and the NOPD Compliance Bureau.

A new SVS policy, which officially went into effect January 3, 2016, has been followed for the most part in recent months. This new policy, combined with enhanced staffing, an investigative checklist, improved case tracking and case management systems, and improved training coupled with NOFJC partnerships is reflected in the improved investigations and strengthened victim-centered approach that is more evident in recent case investigations we reviewed.

One of the more unfortunate consequences of dealing with poor and incomplete investigations under the prior SVS management is that when deficiencies are discovered in review of older investigations they must be re-assigned and those investigative efforts take away from hours spent on in-coming investigations. Not only do SVS detectives continue to follow-up on old cases that were left incomplete, but the Special Task Force created as a result of the 2014 OIG report on SVS deficiencies, continues to use Second District detectives to investigate cases from 2011 and 2012.



The NOPD has an excellent opportunity to have an SVS that is guided by best practices and by the requirements of the Consent Decree, and to provide all victims with a victim-centered approach and thorough investigations. The clearly-stated position of NOPD's current SVS leadership that all cases must be fully investigated, coupled with the new resources provided by the NOFJC, provide the framework for a successful unit. Under the current SVS leadership, the Monitoring Team believes the SVS is on-track and working effectively and commendably to address deficiencies noted herein and those previously identified by the New Orleans Office of Inspector General. Stability and conscientiousness in the unit's leadership is the key to their recent progress and the key to their future success.

## **B. Domestic Violence Unit Assessment**

### **1. Methodology**

The Monitoring Team evaluated 27 randomly selected DVU case files covering the period May through August 2015. This sample represents 30% of the 90 cases assigned to DVU detectives during those months, as reported by the NOPD. The assessment was conducted primarily in the offices of the Domestic Violence Unit ("DVU"), which is housed in the New Orleans Family Justice Center ("NOFJC"). The 32-question checklist that guided our assessment is attached to this Report as Attachment 2. As with our other assessments, NOPD generally, and newly-appointed Commander Doug Eckert and his staff specifically, were fully cooperative throughout our assessment. The NOPD Compliance Bureau also cooperated in our assessment. Finally, the Orleans Parish District Attorney's Office provided invaluable assistance throughout our assessment.

### **2. Findings**

The Monitoring Team's assessment found NOPD to be in *full or near full compliance with several requirements of the Consent Decree*, including the following:

- Documentation of the investigator's attempts to locate victims;
- Investigator's and supervisor's reviews of BWC recordings;
- Elements of the crime supporting the actual charges;
- When there was documented evidence of the potential risk to a victim, follow-up action occurred providing safety and/or protection advice;
- There was no use of a "dual arrest" in any of the cases;
- When strangulation was noted, appropriate documentation occurred;

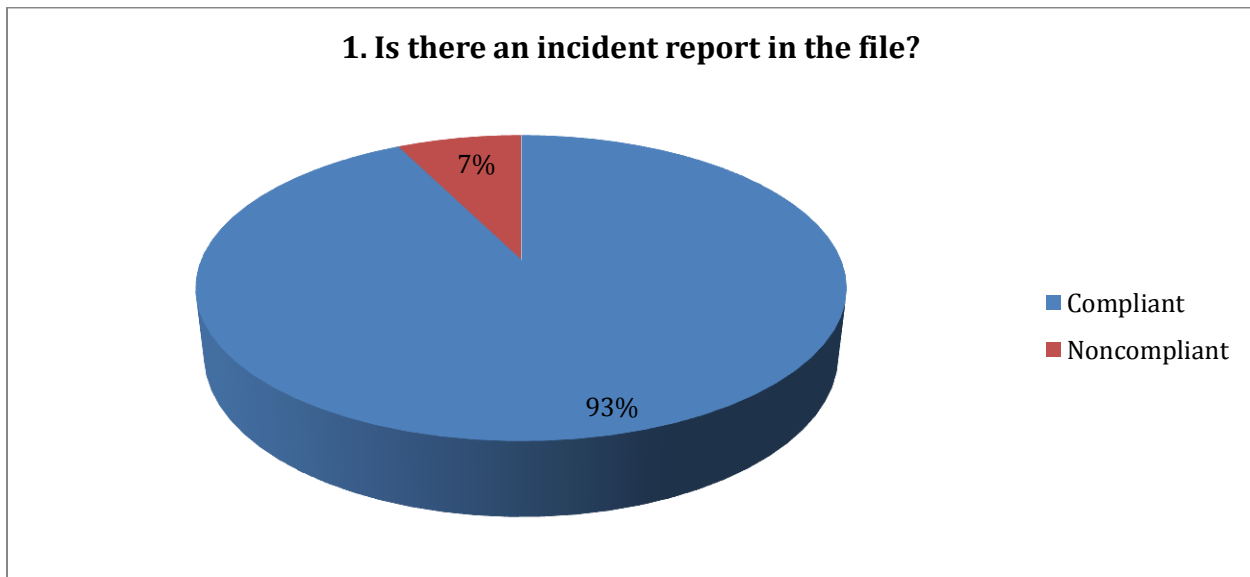


- Warrants were sought when appropriate;
- Generally, initial investigations were professional and pro-active;
- Generally, follow-up investigations were professional and pro-active;
- Supervisory review and approvals were evident on all reports; and
- There were no indications of a department employee, sworn officers or public figure involvement which required additional documentation and notifications.

Other areas, however, as discussed below, *still need additional effort by NOPD.*

**a. Incident Reports**

An incident report from the initial responder was initially located in 25 (93%) of the 27 case files.

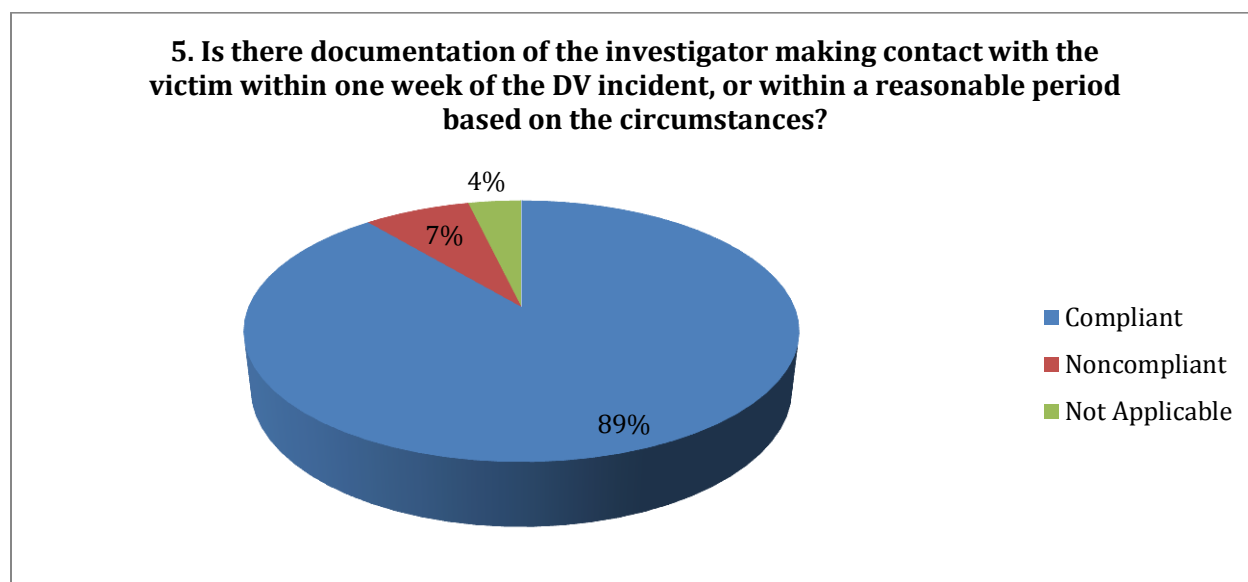


Importantly, a DVU supervisor was able to locate the remaining two incident reports to complete the audit with **100% compliance** in all audited files. The incident report is important information for the investigator to review as part of his/her follow-up investigation.



### b. Contact With Victim

The Monitoring Team looked for documentation that the investigator made contact with the victim within one week of the DV incident, or within a reasonable period based on the circumstances. Ideally, a detective will re-contact a victim within a day or two of the domestic violence incident; however, volumes of calls and other assignments often cause a more delayed follow-up. As depicted in the below chart, DVU detectives are doing a reasonable job in re-contacting the victim within one week, doing so in 93% of the cases reviewed.



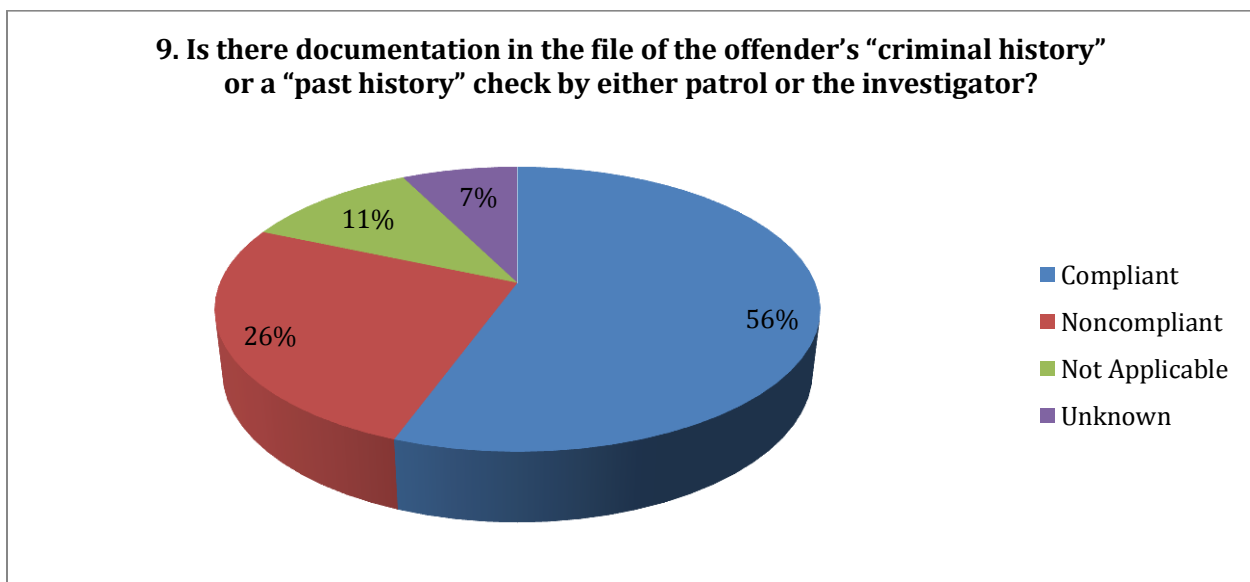
Even though the DVU is clearly under-staffed,<sup>11</sup> they are doing a reasonably good job re-contacting domestic violence victims within a reasonable period of time. The DVU is making every effort to re-contact victims as soon as possible, and generally within one week of the domestic incident. Clearly, additional assigned investigators would reduce each detective's workload and make this requirement easier to complete.

<sup>11</sup> The Consent Decree requires the Domestic Violence Unit to be sufficiently staffed. Per Consent Decree paragraph 218, NOPD must "assign sufficient staff to the DVU at the NOFCJ to permit detectives to review, on a weekly basis, District-level reports on incidents of domestic violence, for the purpose of identifying training needs and tracking the District's response to domestic violence." The Consent Decree goes on to require "sufficient staff to conduct appropriate follow-up investigation on felony offenses..." and "sufficient detectives ... based on the calls for service." *The Monitoring Team does not believe NOPD's current DVU staffing allocation is sufficient.*



### c. Criminal History

The Monitoring Team looked for documentation in the file of the offender’s “criminal history” or a “past history” check by either patrol or the investigator. As depicted in the chart below, in 56% of the audited cases, the Monitoring Team found documentation of a criminal history check or documentation detailing the domestic violence history of the assailant. This information is important for accurately understanding the relationship history and whether the violence is continuing and/or growing in intensity.



In 26% of the cases, the Monitoring Team was unable to determine whether a criminal history or “past history” check was made by the initial officer or the investigator. Without this information in the file, the supervisor approving the content of the investigation is not receiving the full picture. The investigators must be more diligent in ensuring these checks are completed, documented, and available in the file for supervisory review. The DVU is now utilizing a case file check list that will allow the investigator and supervisor to verify all elements of the investigation are complete.

### d. Risk Assessment

DVU detectives are required to review a victim’s response to four critical risk questions included in the patrol officer’s report. Per NOPD policy, these questions are to be asked by the preliminary investigator if any intimate partner, family, or household member alleges violence was used against them or a crime was committed against them. If these questions and answers are not documented in the original case report, they should be addressed and documented in the detective’s supplement. The four risk questions are as follows:

Office of the Consent Decree Monitor

Appointed By Order Of The U.S. District Court For The Eastern District of Louisiana

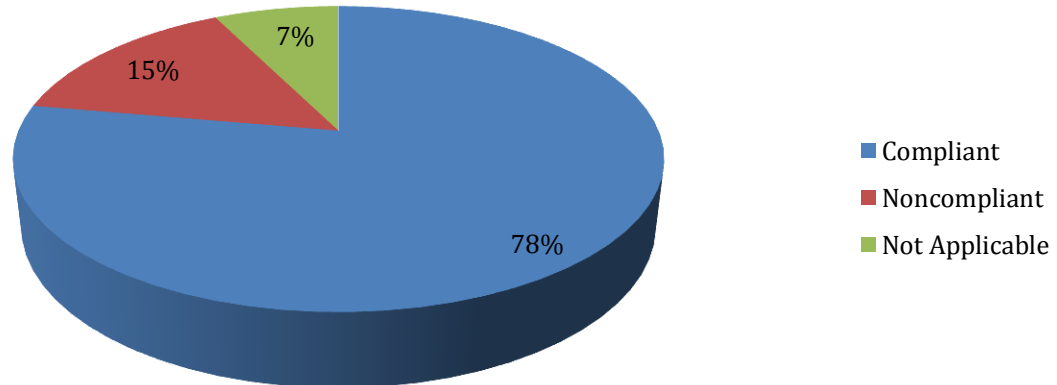


1. Do you think he/she will seriously injure or kill you, your children or someone else close to you?
  - a. What makes you think so?
  - b. What makes you think not?
2. How frequently does he/she intimidate, threaten or assault you?
  - a. Is it changing?
  - b. Getting worse?
  - c. Getting better?
3. Describe the time you were most frightened or injured by him/her?
4. Have you ever been threatened or intimidated by the other party/parties for seeking help or attempting to seek help from law enforcement, the courts or others? If so,
  - a. Who threatened you?
  - b. When was the threat made?
  - c. Describe the nature of the threat
  - d. Was a weapon used?

As depicted in the below chart, patrol officers documented the four risk questions in their initial reports 78% of the time, and in most cases when they did not document the risk questions, the questions were addressed in a supplement by the DVU detective. These questions are obviously important indicators of the seriousness of the domestic violence situation and abuse history.



### 10. Is there a victim Risk Assessment documented by patrol?

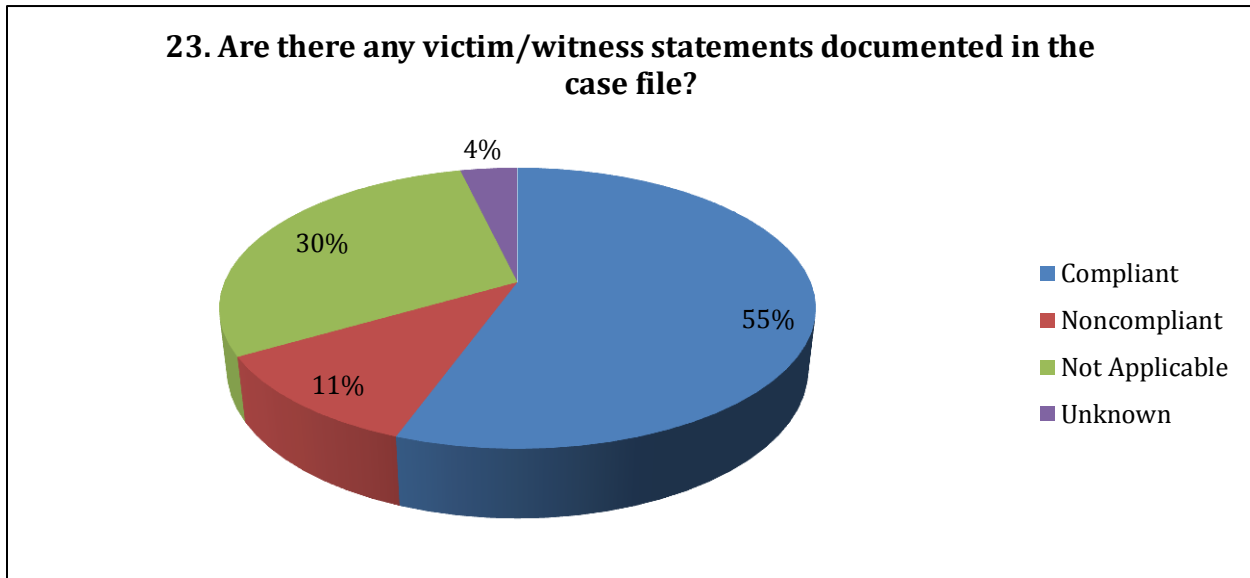


The DV policy was officially issued on April 5, 2015 and training on this requirement is being conducted in in-service training. The Monitoring Team observed NOPD's adherence to the requirements in the DV policy improve as the months progressed, as additional officers were trained, and as this particular requirement was enforced by supervisors and re-iterated by DVU detectives while approving patrol reports.

#### e. Victim/Witness Statements

As depicted in the below chart, there were only 3 cases (11%) where the victim or witness statements were not located in the case files. The DVU often relies on video statements and there are fewer written victim/witness statements since the deployment of BWC's. In the majority of patrol response cases the officer relied on the BWC to document statements by the victim. The DA's office is using the BWC's effectively for case prosecution and their use has positively impacted prosecution.





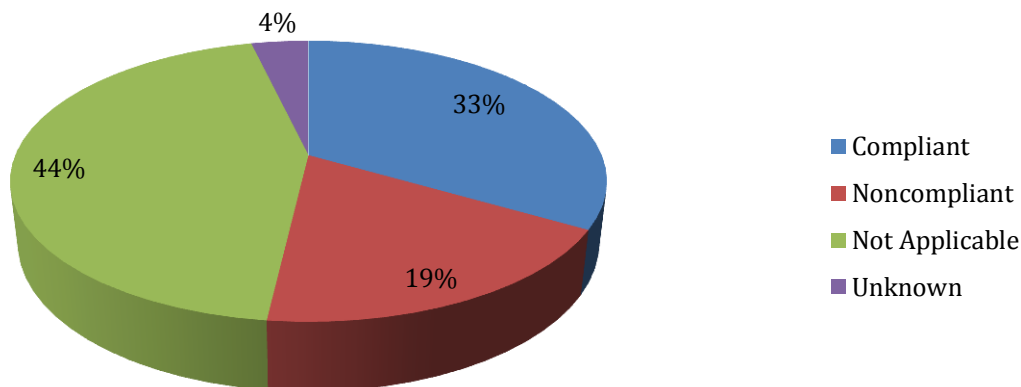
In cases where a written statement is not documented by the preliminary investigator, it is important that detectives review and document what is stated in the BWC recording. By documenting victim statements or placing a recording in the file, a supervisor and the DA reviewing the case will have a better overall picture of the details of the crime.

**f. Follow-Up Statements**

As depicted in the chart below, the Monitoring Team identified five cases (19%) where there was either no documentation or no recording of the victim follow-up statements. In 9 of the 14 cases where a follow-up statement was expected the detective documented in a supplement what the victim stated on the BWC. The documentation is important for case review by supervisors. It would be difficult for a supervisor to review all BWCs for each domestic violence case assigned.



**24. Is there documentation of or actual recordings of victim follow-up statements in the file?**



By documenting victim statements or placing a recording in the file, a supervisor and the DA reviewing the case will have a better overall picture of the details of the crime. These requirements were added to the new checklist to be used by detectives and supervisors to aid in determining whether the case file and investigation are complete.

### 3. Conclusion

The Domestic Violence Unit is well supervised under the leadership of its current supervisor, who has been a solid and persistent leader since the Monitoring Team began monitoring the unit over 28 months ago. The sergeant can be found in his office very early in the morning reviewing reports and responding to e-mails about case investigations. In the Monitoring Team's view, he is dedicated to improving the DVU and has proven himself to be a true asset to the NOPD and the Monitoring Team. We received rave reviews of the sergeant's work from the NOFJC staff, NOPD Compliance Bureau staff, and victim advocates working with him in his area of expertise.

The DVU team diligently worked to incorporate the elements of the *Blueprint for Safety*<sup>12</sup> into the DV policy and DVU protocols, which were issued in April 2015. Current DVU management has an excellent relationship with the District Attorney's Office and works closely

<sup>12</sup> Developed in 2007 in Saint Paul, Minnesota, the *Blueprint for Safety* reflects a "comprehensive approach for addressing domestic violence in the criminal legal system. The *Blueprint* integrates the knowledge gleaned from more than thirty years of research, demonstration projects, and practice into a 'Blueprint' for city and county agencies responding to misdemeanor and felony assaults." See *The New Orleans Blueprint for Safety* (October 21, 2014). [<http://www.nola.gov/health/domestic-violence-prevention/>]



with all District Commanders on deficiencies discovered in patrol officer's cases. Current management is active in providing training on the DV policy and in responding positively and promptly when deficiencies are noted in either patrol or in the investigator's response.

In response to the Monitoring Team's audit, the DVU added a checklist for case files to remind detectives of the required documentation for a thorough investigative case file. The domestic violence policy implemented in April has led to more thorough reports and investigations on domestic violence cases. Further, the DVU's co-location with the Family Justice Center adds to the Unit's ability to provide a victim-centered response to domestic violence incidents.

To further improve the data collection for domestic violence cases, NOPD added domestic violence-specific fields to the electronic reporting system. Superintendent Harrison's recent directive requiring officers to mark-up calls where the complainant is not on scene as "gone on arrival" rather than "unfounded" has decreased the number of unfounded calls and increased the number of gone on arrival calls, more accurately representing the disposition of domestic violence calls.<sup>13</sup>

It remains critical that NOPD provides timely responses to all Domestic Violence calls for service. It is clear to the Monitoring Team that once the victim is in the system and in contact with the DVU, the detectives are responding with a victim-centered approach and providing the services expected under the law and within the Consent Decree requirements. It is anticipated that compliance in all areas of the DVU and DV patrol response will continue to improve over time. The policy is still fairly new and the requirements within it are more complicated and stringent. As officers continue to train on the policy and find that the department and the OCDM are monitoring their response very closely, we will continue to see progress toward full compliance.

## **C. Domestic Violence Uniform Patrol Assessment**

### **1. Methodology**

The Monitoring Team reviewed a random sample of incidents selected from District-level responses dispatched as domestic violence incidents. Our review covered calls for service from May through August 2015. We selected this period because the NOPD's new domestic violence policy had been issued to all personnel in April 2015. The 29-question checklist we used in our assessment is found as Attachment 3 to this Report. The majority of our assessment was conducted off-site by reviewing police reports and Body Worn Camera (BWCs) recordings.

---

<sup>13</sup> Additionally, newly-appointed Deputy Chief Paul Noel implemented a new process requiring NOPD call-backs on all DV-related "gone on arrival" cases.



## 2. Overview Findings From The May 2015 Review

NOPD received 1,363 domestic violence related calls in May 2015, and the Monitoring Team randomly selected 41 of those calls for evaluation. Of the 41 calls audited, 18 calls were cleared UNF (unfounded), representing 43.9% of the total. While none of these calls have EPR reports in the files (since EPRs are not required with a UNF classification), many of them have BWC recordings. Our review of the BWC recordings showed that many “unfounded” clearances were not properly coded as “unfounded.” In actuality, many of the “unfounded” calls resulted from a delayed response where the complainant was no longer on the scene or did not answer the door or a call back by communications. *Obviously, this is an improper use of the “unfounded” classification, which has been brought to the attention of NOPD leadership. Such calls should be marked “gone on arrival,” rather than “unfounded.”*<sup>14</sup>

Our review of NOPD’s May 2015 call responses revealed 16 calls (39.02 %) were handled properly, with clear evidence on the BWCs and a correctly documented EPR report. In contrast, seven calls (17%) out of the 41 raised concerns to the Monitoring Team. The four summaries below illustrate the nature of our Team’s concerns:

- One incident was a third call by a victim related to an ongoing DV. In May, the victim’s door was kicked down by a former boyfriend and it was cleared unfounded with no indication of why, or if anyone responded. Later in May, the victim stated she had called the police, but no officer responded to the call. On the third call for service, the suspect threatened by text message to set the complainant’s house on fire.
- One call was dispatched as an aggravated battery. A review of the dispatch log revealed this to be a domestic violence incident. The Monitoring Team was unable to locate an EPR or BWC recording of this incident.
- One case involved a victim who stated she was choked by the suspect, but the case report included no evidence of a risk assessment having been conducted or an arrest having been made.
- In one case, an officer responded to a call in a hotel of a man beating a woman holding a baby. The male subject had left the hotel, but the female victim was still upstairs in a hotel room. The responding officer spoke to the victim by phone provided by the desk clerk and asked if the victim was okay. The officer then left the scene, telling the desk clerk there was nothing she could do if the victim didn’t

<sup>14</sup> Subsequent to this reporting period, NOPD Superintendent Harrison took prompt action to address this issue, and NOPD reports unfounded calls have dramatically decreased.



want to cooperate. The officer never attempted to view the woman and child to confirm they were okay.

Each of the foregoing concerns (and other similar concerns) was relayed to the NOPD Compliance Bureau and/or the NOPD Public Integrity Bureau for follow-up.

### **3. Overview Findings From The August 2015 Review**

NOPD received 1,307 domestic violence related calls in August 2015, and the Monitoring Team randomly selected 39 of those calls for review. In five of those cases, we evaluated the responding officer's conduct as professional and compliant, and brought those officers' names to the attention of the NOPD. Twelve calls were cleared as "unfounded," which, as described above, is cause for great concern.

All in all, the Monitoring Team found more cause for commendation than criticism. We identified numerous examples of NOPD officers acting in full or near full compliance with the Consent Decree. Some of these compliance areas include the following:

- We identified Body Worn Camera (BWC) footage in all cases.
- Officers made proper contact with a supervisor and/or responded with two officers to all Code 2 calls.<sup>15</sup>
- In all but one case, we saw clear evidence that officers either made contact with the parties or sufficiently attempted to make contact.
- Officers consistently separated children from the parties.
- We identified no cases where inappropriate "dual arrests" were made.
- We identified no violations of policy in cases where the suspect was not on the scene.
- Officers made the required victim referrals to the NOFJC in all but one case.
- Officers distributed the required victim's rights brochures in all but one case.
- The files documented proper supervisory approvals in all cases involving a signal change.

---

<sup>15</sup> A "Code 2" call is an emergency call where lights and sirens are authorized.



- EPR's properly documented observation of the scene.

NOPD deserves commendation for these very positive findings.

Four of the 39 calls we reviewed, however, raised concerns. Summaries of those four cases are presented here:

- One incident, involving an ex-girlfriend allegedly harassing the complainant at his front door, was cleared as "unfounded." The BWC, however, was turned off with the officer still in the cruiser, and there is no indication the officer ever got out of the car.
- One incident involved a prior boyfriend who allegedly fired a weapon at the victim's house when she would not come to the door. At disposition the call was changed from a 37D (aggravated assault -domestic) to a 56D (Domestic Criminal Charge). There was no supplement in the file as to whether a warrant was sought or secured.
- One incident involved a female caller indicating there was no physical confrontation and the argument was verbal only. During a review of the BWCs, however, the Monitoring Team clearly heard the male subject stating "she hit me three times." This statement should have been accurately documented and further investigated, but was not.
- One report indicates there was "no witness and no physical altercation took place," however, the officer further reported the female victim showed the officer a mark left on her finger when the male subject took a knife from her when she was cooking.

Each of these cases promptly was brought to the attention of the NOPD for immediate follow-up.

#### **4. Specific Aggregated Findings From May and August**

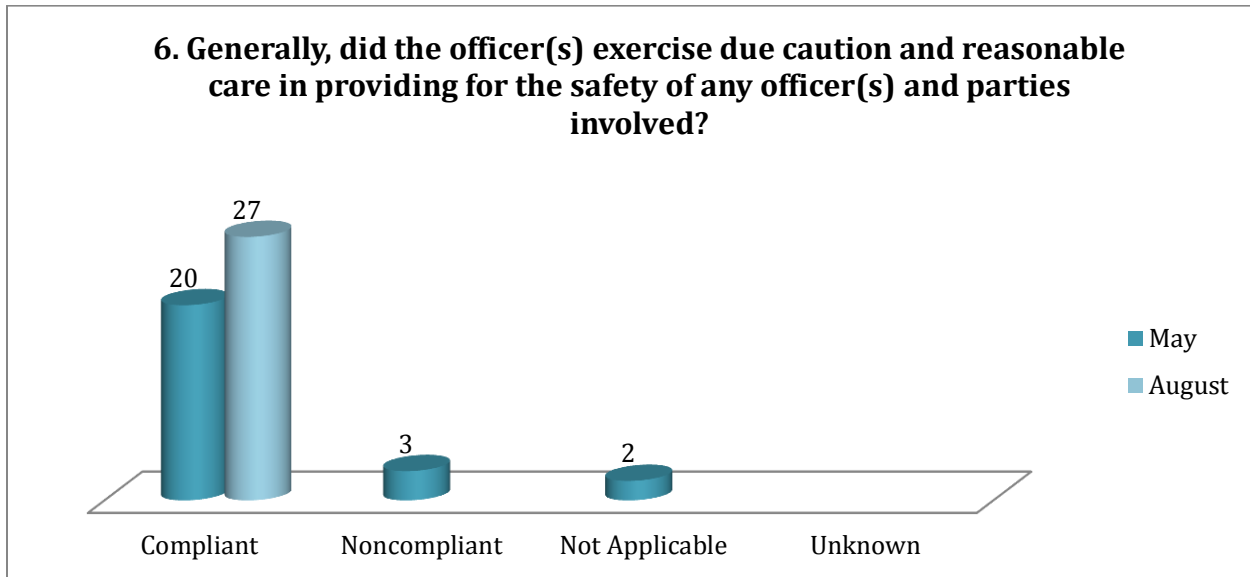
A selected number of the audit questions are depicted below with graphs added to show the numbers represented by the responses in May and August.

##### **a. Due Caution and Reasonable Care**

There were three calls with non-compliant safety issues in May and zero non-compliant issues in August. *This finding is significant.* In June 2015, an NOPD officer was killed in the line of duty while interacting with a domestic violence suspect. As a result of this incident,



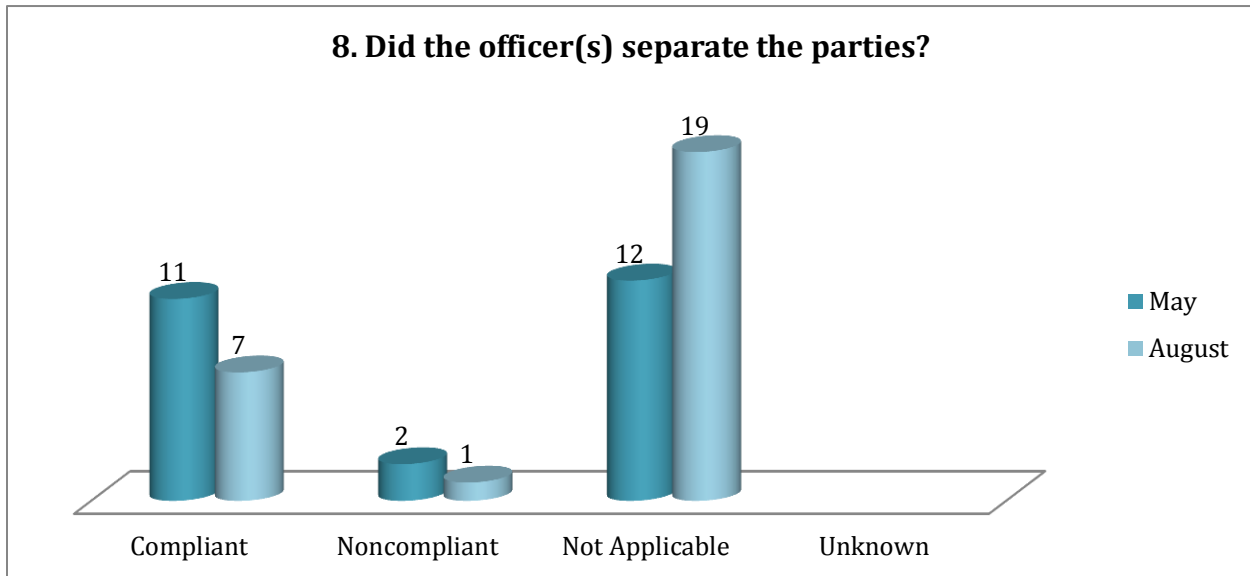
additional training on searching and handcuffing techniques was conducted agency-wide immediately after his death.



It is clear by these findings and by observing the BWCs post-June that patrol officers received a clear message on the importance of officer safety – particularly when handling high risk calls such as domestic violence crimes. While three non-compliant cases do not seem like many, any lack of caution during a domestic dispute may lead to serious injury or death of a civilian or an officer. This section will be closely monitored, as complacency can once again occur and have tragic consequences.

#### **b. Separation of the Parties**

As depicted in the following graph, it appears that officers, with only a few exceptions, understand the importance of separating the parties, not only for the safety of all participants but also to reach a more accurate understanding of any conflicting versions of the incident.

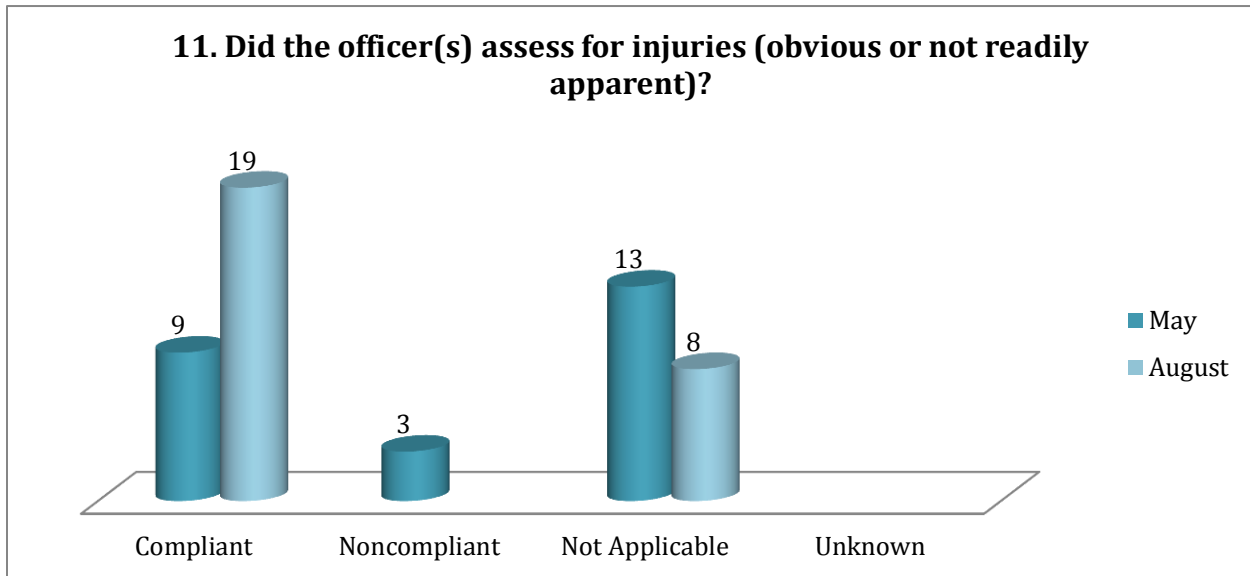


As required in the Domestic Violence policy, officers must secure the scene for the safety of the officers and the parties. In cases where the Monitoring Team found non-compliance, officers were observed interviewing both parties without separating them. At times the parties continued to argue in the presence of the officers, which often can lead to additional violence and unnecessary use of force by the officers. By separating the occupants and the parties, the officers are better able to assess what has occurred during the dispute and collect appropriate statements and evidence. The Monitoring Team observed a clear improvement from May to August, which likely can be attributed to the recent enhanced training.

### c. Assessment for Injuries

There were three cases in May where officer(s) failed to investigate or document an assessment of injuries. As depicted in the following graph, by August, in all of the cases audited, except for the unfounded clearances, there was evidence of injury assessments, where applicable.

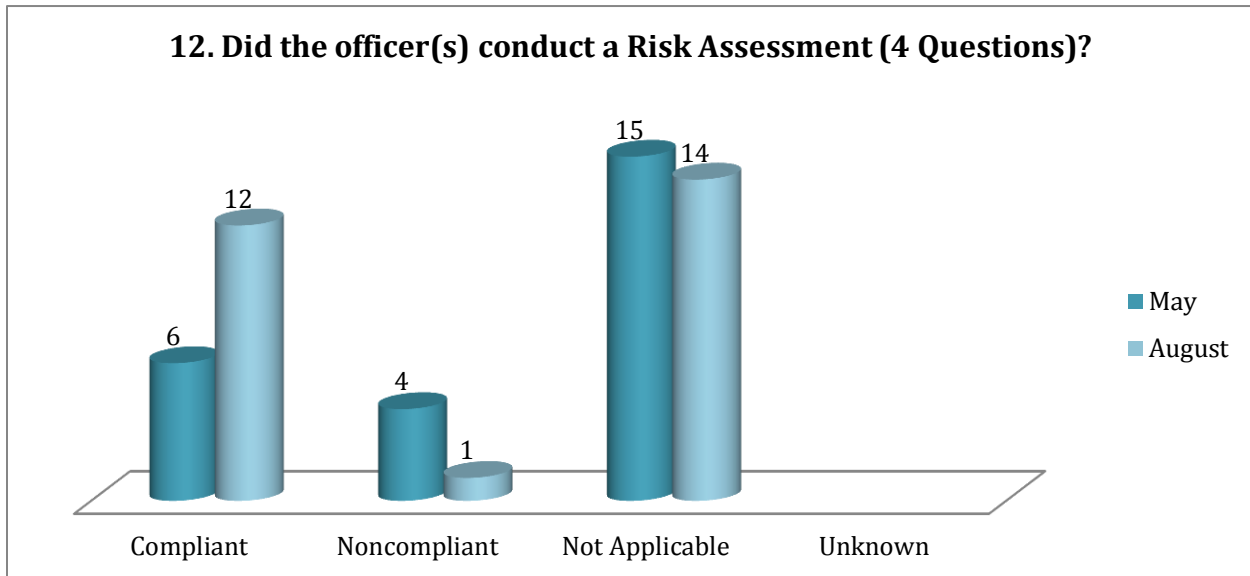




The Monitoring Team determined that in three of the audited cases, all occurring in May, the officers made no clear attempt to determine whether anyone was injured as a result of the domestic incident. In most cases the Monitoring Team either heard the officers ask about injuries or observed them assessing injuries. In the non-compliant cases the officers also did not document injuries or the lack of injuries in a report. Clearly, this is an important element of a domestic violence case and when it does not occur it is a violation of policy and an incomplete investigation.

## 5. Risk Assessment

As indicated above, officers are required to ask “risk assessment” questions when responding to certain domestic violence calls. These questions are important indicators of the seriousness of the domestic violence situation and abuse history. As depicted in the below graph, patrol officers documented the four risk questions in their reports the majority of the time, and in most cases when they did not document the risk questions, the questions nonetheless were asked, and were addressed in a supplement when a DVU detective later was assigned.



The DV policy officially was issued on April 5, 2015 and training on this requirement is being conducted through in-service training. The Monitoring Team found that compliance with the policy improved from May to August, as additional officers were trained, as the requirement was enforced by supervisors and as it was re-iterated by DVU detectives while approving patrol reports. As indicated above, there were four cases of non-compliance (10%) in May and only one case of non-compliance (3%) in August.

## 6. Primary Aggressor

The “predominant” or “primary” aggressor is the person who poses the most serious ongoing threat. If the officer determines both parties used illegal force or took illegal action, and neither party acted in self-defense, the officer shall conduct a predominant aggressor assessment.

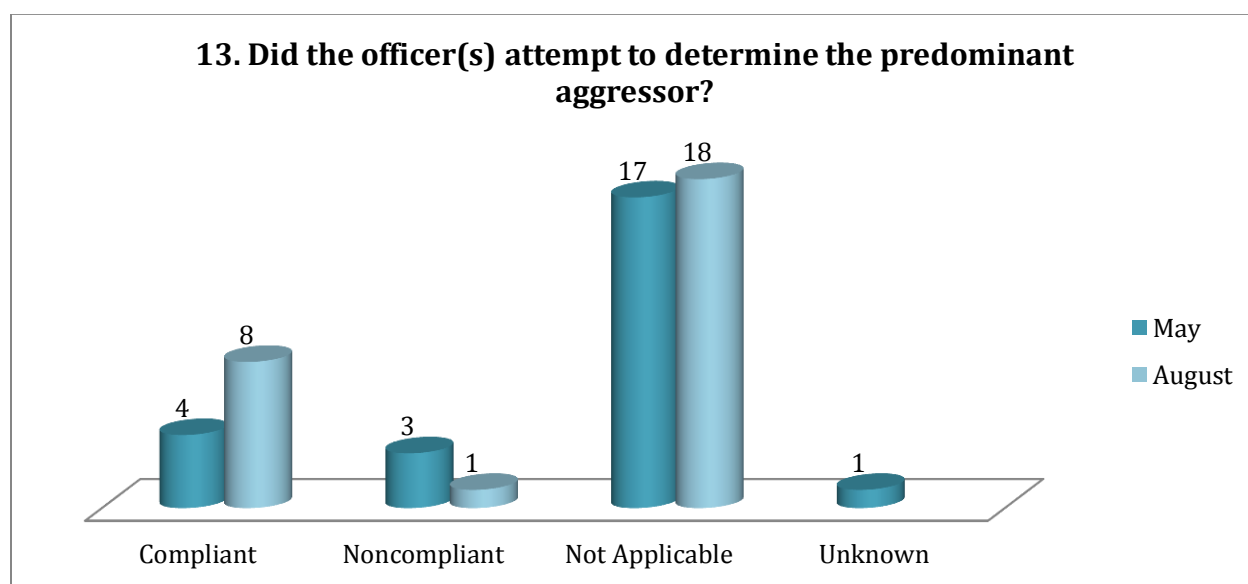
In making a predominant aggressor determination, the officer must look for the person who, by his or her actions in the incident and through history and previous actions, has caused the most physical harm, fear and intimidation against the other, considering all the evidence, including:

- What each party’s purpose is in using violence;
- Evidence from complainants and witnesses;
- Extent of personal injuries;
- Threat of future injury;



- Prior incidents of domestic violence;
- Future welfare of any minors; and
- Who uses the highest level of violence in the relationship.

As depicted in the following graph, there were three incidents of non-compliance (7%) in May, and only one incident of non-compliance (3%) in August 2015.



In the non-compliant cases, the DVU supervisor was made aware of the deficiency and the officer's supervisor was made aware of the need for additional training. The first responders now have access to this information on a "drop down" screen on their computers when filing a report. Hopefully this also will aid in compliance.

### **7. Discouraging Victim**

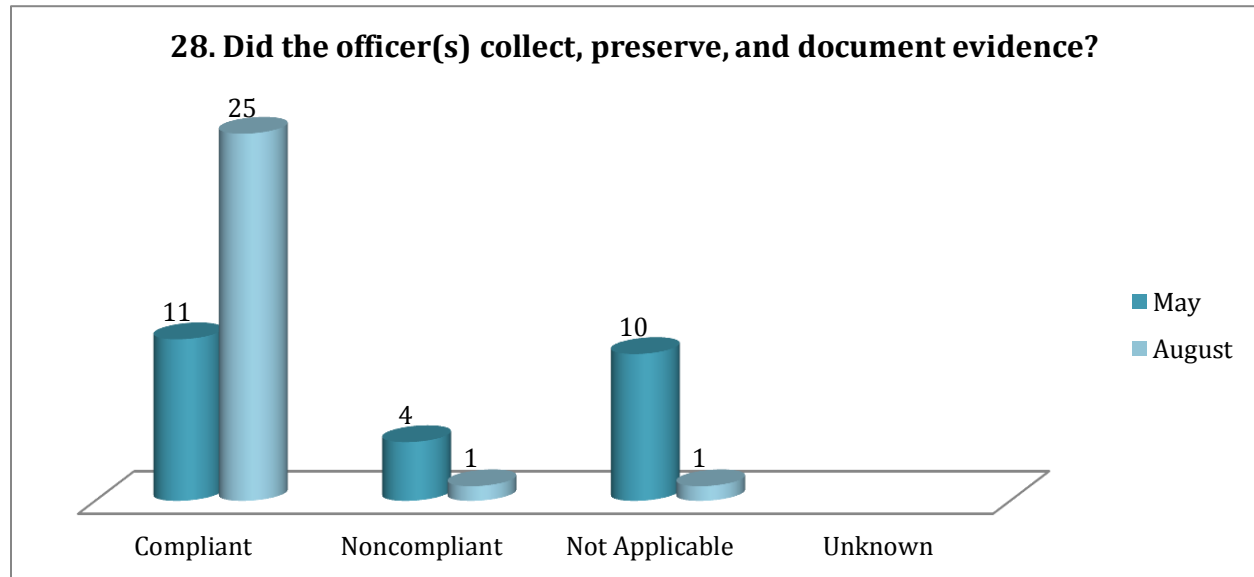
There were three cases in May where the Monitoring Team determined the officer's comments could be interpreted as "discouraging" to the reporting party. It is reassuring to report there were no cases of discouraging remarks in the August case reviews.

### **8. Preservation of Document Evidence**

Initial responders are expected to collect, preserve, and document all relevant physical evidence including evidence substantiating the victim's injuries and the attack, as well as evidence recording the crime scene, in accordance with agency policy and the Consent Decree.



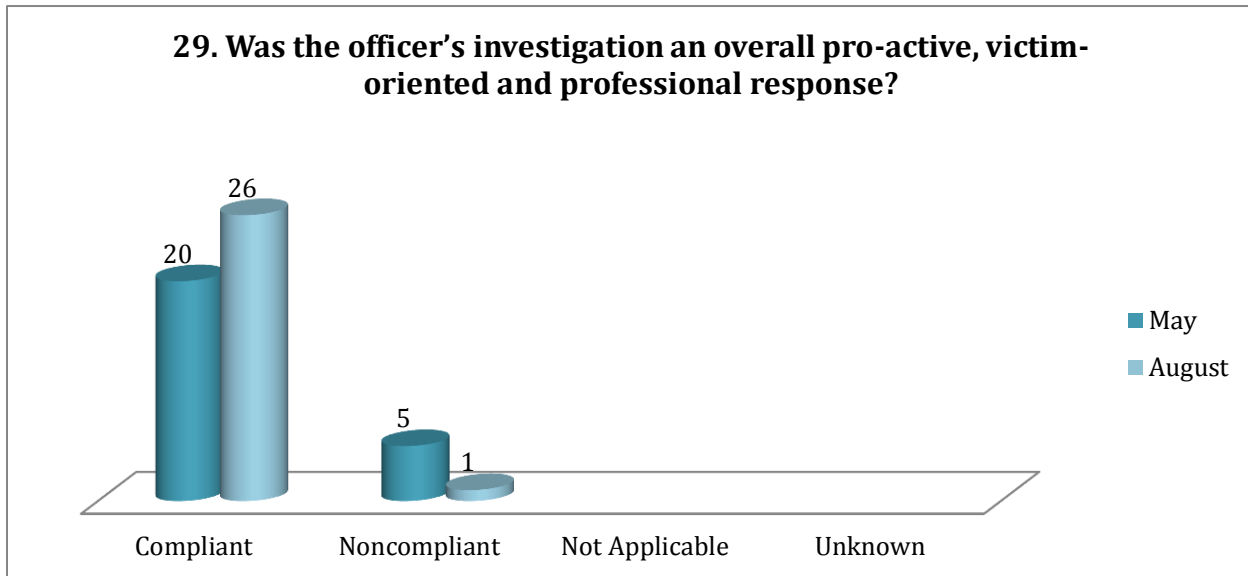
As depicted in the following graph, there were four non-compliant cases in May and only one non-compliant case in August. As officers adjust to the improved and enhanced requirements of the new policy, and with training and counseling, the Monitoring Team anticipates evidence collection will consistently will improve.



Collection and documentation of evidence is important to any case, but particularly important for proceeding with charges or obtaining convictions. Domestic violence cases often result in one person's version against another's. When evidence is solicited effectively, it can make a difference as to the proper end result. Domestic violence offenders often develop a pattern. The initial officer's report lays the foundation for each subsequent intervener. Therefore, it is critical that evidence is obtained and documented in every DV case. In those cases where the officer did not properly document evidence, the supervisor was advised of the deficiency.

## 9. Professional Response

As the following graph indicates, there was improvement from May to August with regard to a professional response. In May there were five cases where the Monitoring Team determined the response was not victim-oriented and therefore could have been improved. In August there was only one specific case noted for improvement, even though there were a total of four cases that needed additional follow-up.



The Monitoring Team found most of the patrol officers to be empathetic, supportive, and patient during their response to domestic violence cases. There is clear improvement in officer behavior from the audit of May calls for service to the calls audited in August. In each case where there was a deficiency, the DVU supervisor made it clear to the Commander of the District that these calls are being monitored and that their officers must adhere to policy and procedures. All Commanders are reported to be in support of the DV policy changes and are “on-board” with attending to any deficiencies. Even in cases where the officer failed to obtain all required information, it was generally determined and noticed that officers were acting professionally and were focused and attentive to the victim’s needs. The Monitoring Team expects continued improvement in the overall response to domestic violence cases with the enhanced in-service training and policy enforcement.

#### **D. Assessment of Unfounded Domestic Violence Calls**

##### **1. May Findings**

A random audit of DV calls for service resulted in 41 calls audited out of the 1,363 calls dispatched with a domestic violence category in May 2015. Of the 41 calls reviewed, eighteen (3.9%) were “unfounded” by patrol officers. The response times were reviewed for patterns, trends, and/or abnormalities. A summary of our observations in those eighteen cases follows:

- The shortest time held before dispatch was 2 minutes (1 case).
- The longest time a call was held was 15 hours, 13 minutes.



- Eleven (27%) of the cases were held in excess of one hour before dispatch.
- Three of the eleven cases held in excess of one hour before dispatch do not indicate the officer's arrival time.
- Twelve of the eighteen cases reviewed were closed by the arriving officer in less than 10 minutes: eight of the 12 in less than 5 minutes, 5 in 2 minutes or less.
- One case listed as an "aggravated battery" was held for 15 hours and 13 minutes before it was dispatched in spite of the more serious classification of "aggravated battery." The officer arrived within three minutes following dispatch and the call was closed by the officer in less than one minute. The obvious assumption being, in spite of the quick response on the part of the officer, the lengthy delay in dispatching negated the likelihood of the officer successfully obtaining further information or gathering any items of evidentiary value.

Clearly, there is a wide variance in the time it takes for a call to be dispatched that is disturbing and unacceptable, from a reasonable two minutes to an unacceptably long 15 hours, with many calls held over an hour. On the other hand, it is encouraging to note that once received, the responding officer(s) generally are quick to respond. Arrival times for officers on DV calls range from less than 1 minute to a maximum of 17 minutes with the average arrival time following dispatch of the call to be 6.125 minutes.<sup>16</sup>

## 2. August Findings

A random audit of DV calls for service resulted in 39 calls being audited out of the 1,307 calls dispatched with a domestic violence category in August 2015. Of the 39 calls reviewed, twelve (30%) were unfounded by patrol officers. The August rate of unfounded calls was lower than the final number in May. The response times were reviewed for patterns, trends, and/or abnormalities.

- The shortest time held before dispatch was .5 minutes.
- The longest time held before dispatch was 7 hours 48 minutes.
- Three of the 12 cases were held in excess of 1 hour before dispatch.

<sup>16</sup> The data here cannot be applied to NOPD's response times overall, which, depending on the time, day, and district, can be extremely long. It is not uncommon for members of the Monitoring Team, while riding with officers at midnight, to see multiple calls holding since noon.



- Eight of the 12 cases reviewed were closed by the arriving officer in less than 10 minutes: 2 in less than 5 minutes.
- Three of the cases reviewed do not reflect the officer's arrival time.
- Arrival times for officers range from 5 minutes to 27 minutes with the average being 5.83 minutes.

In comparing May reports with those reviewed for the month of August, the data indicate officers are responding more quickly. They are also spending considerably greater time on scene prior to closing the call: 21.4 minutes per call for August reports as compared with only 8.8 minutes per call in May reports. The Monitoring Team will be examining these changes further over the coming quarter.

### 3. May/August Conclusions

The Monitoring Team observed a general progression of improvement in the NOPD's response to domestic violence from May to August 2015. Not only in terms of time getting to the scene and time spent on the scene, but in the handling of the call by the officers on the scene. By and large, we observed *many* instances of empathetic officers handling domestic violence calls with patience, tolerance, and professionalism.

NOPD's DVU leadership and the Compliance Bureau have worked diligently to incorporate the elements of the City's *Blueprint for Safety* model into the DV policy and DVU protocols officially issued in April 2015. It is evident DVU has been working closely with all District Commanders on deficiencies discovered in patrol officer's cases. DVU detectives are actively training uniformed officers on the policy. Supervisors and District Commanders are responding positively and promptly when deficiencies are noted in their assigned officers' response. The excellent relationship between the DVU and the District Attorney's Office is evident. DA Karen Avery reports a positive improvement with reports and investigations under the new DV policy and enhanced training.

Staffing issues, coupled with operational inefficiencies and institutional roadblocks, negatively impact the Field Operations Bureau's (Patrol) efficiency in responding to domestic violence calls, as is evident in the section of this report dealing with unfounded clearances. Additionally, by all reports from NOFJC personnel and SVS staff, the DVU is under-staffed and not always available to follow-up cases in a timely manner. Staffing of the DVU continues to be a non-compliance issue with no encouraging movement toward assigning a sufficient number of detectives.

Page 63 of 100  
February 26, 2016  
www.consentdecreemonitor.com



Moreover, it is evident that DV calls are being held too long by Communications, most likely due, in part at least, to a shortage of available officers,<sup>17</sup> and it is more likely than not that there was a good reason for the original call to the police that is not being adequately reported because of the delayed police response. This lack of a report is a significant problem with domestic disturbance incidents because of the importance of reporting each event to collect the “history” of the abuser. The other significant concern is that the caller may not call back when the abuse occurs a second time because in his or her eyes the police never showed up.

The Monitoring Team remains optimistic due to the improvements we are seeing in the agency’s response to domestic violence. Officers are receiving better training and they are fully aware of the ramifications of not handling these calls properly within the requirements of their directives and the Consent Decree. The tragic loss of an officer in June, resulting from a domestic violence incident, gave additional significance to officer and victim safety during this assessment period. The enhanced NOFJC relationship with the DVU, coupled with the administrative assistance of the Compliance Bureau staff and the District Attorney, has improved the capability of measuring and improving the Department’s overall performance. Consequently, the bar is raised and the NOPD is now expected to be a model agency in response to domestic violence.

---

<sup>17</sup> As we have said previously, the number of officers on patrol is just one factor in response time. The deployment of those officers, the efficiency of roll calls, and the effectiveness of sergeants in moving officers off cleared scenes, among other things, all are equally important factors.





### **XIII. RECRUITMENT**

The Monitoring Team issued a Special Report in August 2015 in which we commended NOPD for several important improvements to its new officer selection program, but also criticized the Department for having made less progress in the area of developing a *selection process* that is smartly tailored to meet the requirements of the Consent Decree. Specifically, the Monitoring Team identified several shortcomings in the NOPD's selection process, including an outdated multiple-choice test and written exam, and an overly structured interview process. Since our findings, NOPD has been working closely with Louisiana Tech University to develop a new, compliant multiple choice test and written exam. The Louisiana Tech consultants currently are in the process of conducting a "job study," which, according to experts, is a necessary predicate to any credible entrance exam. Once the job study is complete, Louisiana Tech will work closely with NOPD to develop the new selection tools, which, subject to approval by the Monitoring Team and the Department of Justice, will be rolled out as rapidly as possible.

Concurrent with NOPD's work on its multiple choice test and written exam, the Department also is in discussions with the Monitoring Team regarding how best to restructure the panel interview process to make it more effective. As we reported previously, the current format of the interview process is overly structured:

Unfortunately, the current process is designed to remove the subjective nature of the interview process and take away the interviewer's ability to ask targeted questions, follow-up on partial answers, and probe the candidate for more information. This process, because it stresses rigidity and removes subjective decision making, is defensible in a legal challenge (by an unsuccessful candidate), but it is not designed to determine the best candidates: it is more likely to identify a "consensus" candidate. To be clear, the Monitoring Team is not against a "structured interview" process. We recognize such a process is used in many departments. Rather, as discussed below, the Monitoring Team objects to the unwillingness of the NOPD to allow for limited but meaningful probes and follow-up questions.

Following multiple discussions with NOPD, the Department of Justice, and the Court, Judge Morgan directed NOPD to revise its current interview process to remedy the shortcomings

Page 65 of 100  
February 26, 2016  
www.consentdecreemonitor.com



identified by the Monitoring Team and the Department's own HR experts.<sup>18</sup> The parties and the Monitoring Team currently are working together to restructure the current interview process.

---

<sup>18</sup> As noted in our August 2015 Special Report, NOPD made positive, strategic moves by inviting private sector Human Resource directors and knowledgeable individuals to participate in the interview process. The Monitoring Team has been extremely impressed with the Human Resource experts the City has engaged.



#### **XIV. ACADEMY AND IN-SERVICE TRAINING**

##### **A. Academy and Training Generally**

Our prior Report noted progress in certain areas of the Police Academy, but noted the Department “has a long way to go to come into full compliance with the Consent Decree.” Among other things, the Monitoring Team noted the following regarding the Academy’s progress:

NOPD’s training program still needs a lot of work. The Academy continues to operate without approved lesson plans, a meaningful evaluation of its current instructors, and a comprehensive strategic plan to remedy known shortcomings. The quality of the instruction, the materials, and the curriculum also remains inconsistent. While, as noted above, we have seen recent progress in all these areas, more work needs to be done, and it needs to be done faster.

Unfortunately, while progress continues to be made in some areas, most of these shortcomings persist.

On the positive side, the Academy leadership has put in significant time improving lesson plans, conducting a “needs assessment,” and preparing a draft of a 2016 Master Training Plan (“MTP”), and there is much to like about its work product. But there also is much with which to take issue. The lesson plans still are not complete, the needs assessment still needs work, and the Master Training Plan leaves out significant substantive elements and Consent Decree requirements.

Since the MTP is the critical foundational document upon which the Department’s 2016 curriculum must stand, it is worth drilling down into that document here. While the Department certainly put much work into the MTP, and, as noted above, there is much to like about it, here is a summary of areas that still need work.

- The Plan does not identify teaching objectives for any of the courses planned for 2016. Without teaching objectives, neither the Monitoring Team nor DOJ (nor NOPD for that matter) can evaluate whether the right subjects are being taught and whether they are being taught correctly.
- The Consent Decree requires the substantive involvement of the Training Advisory Committee in the preparation of the MTP. However, it does not appear the TAC had any meaningful role in the development of the draft MTP.



- The MTP is based upon an incomplete “needs assessment.”
- The current proposed curriculum is delivered in blocks rather than in a logical progression with each new skill or concept building upon previously learned knowledge. As an example, an effective curriculum would have officers take a “legal aspects of search and seizure” course before taking a course on the proper tactics for conducting traffic stops or field interviews. The proposed MTP, however, does not organize training in this logical fashion.
- The MTP did not make clear that the concepts of procedural justice and de-escalation would be incorporated into each Academy course offering. These concepts, however, are critically important for promoting constitutional policing.

Additionally, the draft MTP states that “[w]ith limited training hours available to Department personnel, the delivery of all desired courses will not be achievable.” Obviously, Consent Decree requirements cannot be set aside because of purported limits on available training hours. All courses required by the Consent Decree must be included in the Department’s training program.<sup>19</sup>

The Monitoring Team has shared its ongoing Academy concerns with NOPD leadership and with the Court, and, to its credit, the Department took meaningful action. Specifically, the Academy recently took the following actions:

- To ensure the problems at the Academy receive the highest level of attention within the Department, Superintendent Harrison promoted Commander John Thomas (now Deputy Chief John Thomas) from the Compliance Bureau to head the Department’s Management Services Bureau, with specific direction to focus his attention on improving the Academy.<sup>20</sup> The direct and constant attention of a Deputy Chief is a welcomed improvement; and one which, based upon the Monitoring Team’s two years of working with the Compliance Bureau, we believe will pay big near-term dividends.
- To facilitate the development of the Academy’s curriculum, lesson plans, and to ensure the quality of teaching is improved, the Department sought and received approval from the City and the Civil Service Commission to hire an “Academy

<sup>19</sup> Following the Monitoring Team raising concerns regarding the completeness of the Master Training Plan, the Academy leadership has worked closely with the Monitoring Team to revise and supplement the Plan. NOPD reports the new MTP includes all required training.

<sup>20</sup> The former head of the Management Services Bureau, Stephanie Landry, who has been a positive force of reform within the Department, will continue to be responsible for the Department’s financial, budgetary, HR, and staffing matters, now reporting to Chief Thomas.



Director” with a PhD who will take charge of all academic-related aspects of the Academy. The new Director will report directly to Chief Thomas.

- To better assess its current instructor capabilities, the Academy engaged the University of New Orleans to conduct independent, academic evaluations of all current instructors. The University professionals who have agreed to perform this service will evaluate each instructor’s grasp of the subject matter, ability to communicate clearly, use of adult learning techniques, and ability to inspire students.

The Monitoring Team is hopeful these changes will have the intended consequence of expediting progress at the Academy. The importance of an effective training program within a police department cannot be overstated. As the President’s *Task Force on 21<sup>st</sup> Century Policing* recognized, “as our nation becomes more pluralistic and the scope of law enforcement’s responsibilities expands, the need for expanded and more effective training has become critical.” Indeed, an extremely high percentage of unfortunate law enforcement incidents – be they police uses of force against citizens or citizen uses of force against officers – can be traced back to gaps in training. To put it bluntly, an “adequate” training program does not cut it here. Officers and citizens deserve nothing less than an “excellent” training program. It is against this background that the Monitoring Team continues to focus on this critical issue.

## **B. Community Oriented Policing Training**

Paragraph 226 of the Consent Decree requires that NOPD provide eight hours of structured annual in-service training on community policing and problem-oriented policing methods and skills for all officers, including supervisors, managers, and executives. The Monitoring Team reviewed NOPD’s annual in-service training on Community Oriented Policing in November 2015, and identified significant problems with the training. First, the course was not taught by the instructor who developed the course material. Second, the course was being taught without a compliant lesson plan. Third, the course was cut short by 45 minutes to fit in a subject wholly unrelated to community oriented policing. Fourth, the course relied on outdated and inappropriate materials.

With respect to the substance of the course, the Consent Decree sets forth multiple specific strategies and concepts that must be included in a compliant Community Oriented Policing training program. The Monitoring Team’s review of the November 2015 training revealed NOPD current training program meets *almost none* of the requirements set forth in the Consent Decree. In short, NOPD’s in-service community oriented policing training *is not compliant* with the Consent Decree, and, in the third year of the Consent Decree, patrol officers very troublingly still are left without proper training on this critical topic.



According to the NOPD Academy, 2016 Community Oriented Policing Training is proposed as an eight-hour course. Further, the applicable Lesson Plan is being updated and will be reviewed by the Monitoring Team (and the Department of Justice) prior to the first course being taught. Among other things, the Monitoring Team will be looking to see that community members – either through PCABS, Neighborhood Associations, local universities, or the like – have been engaged by the Academy in the design of the 2016 course. Further, the Monitoring Team will be looking to make sure the “Pillars of Procedural Justice” are properly and emphatically included and reinforced in all Community Oriented Policing in-service training.

### **C. FTO Academy Training**

The Monitoring Team observes Academy training, and shares its feedback with Academy management, on a regular basis. In October 2015, among other things, the Monitoring Team observed NOPD Field Training Officer (“FTO”) training.

#### **1. Adult Learning and Problem Solving**

The adult learning and problem solving course was taught by full-time Academy staff member Sergeant Rebecca Easley. This is an important topic as current research makes clear using adult learning techniques simply is a better way to teach adults. An article in the *FBI Bulletin* described it this way:

Although adult and youth learning are governed by many of the same basic concepts, research now shows that adults differ from youths in many ways that influence their learning. Adults differ distinctly in terms of such factors as motivation, interest, values, attitudes, physical and mental abilities, and learning histories. The conditions imposed by these differences make adult learners a unique audience and form the basis for the principles of adult learning and for the instructional methodologies tailored to the characteristics of adult learners. With this in mind, law enforcement instructors, supervisors, and administrators who not only design training courses but also select those provided by other sources should inquire as to whether, as well as, how these courses use adult learning methodologies. Such knowledge can help law enforcement managers find the most suitable training for their employees.<sup>21</sup>

---

<sup>21</sup> Kennedy, Ralph, “Applying Principles of Adult Learning – The Key To More Effective Training Programs,” *FBI Law Enforcement Bulletin*, 72:4 (April 2003).



It is for this reason the Consent Decree demands the Academy “ensure that a variety of adult learning techniques, scenario-based training, and problem-solving practices, in addition to traditional lecture formats, are incorporated into all training.” (CD 256)

This FTO course involved a presentation, class discussion, a video, and significant student participation. At one point, for a component called “teaching instead of dictating,” Sergeant Easley broke the class into smaller groups to maximize active student involvement. While we would have liked to have seen greater focus on the “problem solving” side of the adult learning/problem solving equation, Sergeant Easley exhibited command of the subject matter and presented the material well. She taught the course in an organized manner, clearly identified the course objectives at the outset, and applied, appropriately enough, adult learning techniques. All in all, we were impressed by the course and the manner in which it was taught.

## **2. Every Officer A Leader**

The second FTO course we observed this period focused on supervision and management, and was titled “Every Officer a Leader.” The course was taught by Academy Commander Richard Williams. Commander Williams clearly described the goals of the course at the outset, and engaged the students early on by discussing failures in leadership they had observed over the course of their careers.

Commander Williams used adult learning techniques by involving the class in discussion and by sharing his own experiences. The class later broke into small groups to review information and to prepare points of discussion that were later discussed among the entire group.

Among other things, the course discussed the needs of effective leadership, including the ability to communicate, the ability to prepare, the importance of after-action reviews, and the importance of developmental counseling. The course also focused on the criticality of empathy in connection with community policing. Commander Williams promoted a meaningful dialogue regarding professionalism, command presence, resiliency, mental agility, and competency.

The course also spent significant time focusing on the importance of working with the community to build positive community/police relationships, and conveying this approach to the recruits the FTOs mentor. The discussion of building community trust was followed by a discussion of communication and active listening, as well as a discussion about ethics, which covered several items relating to the Consent Decree. Commander Williams used various scenarios to drive home his points in each of these areas.

In summary, the course was well organized and well taught. The attendees were receptive to the training, and the instructor (Commander Williams) was enthusiastic, knowledgeable, and applied effective adult learning techniques. The attendees actively





participated in the course through involvement in group discussions, offering experiences, and providing personal thoughts on various matters.

#### **D. FTO Program**

The Consent Decree requires NOPD to develop and implement a Field Training Program. (CD 275) In addition to the Academy courses regarding the Field Training Program, the Monitoring Team also reviewed specific elements of the program itself. Our findings, in summary form, are set forth below.

##### **1. Paragraph 275**

Paragraph 275 of the Consent Decree requires NOPD “to develop and implement a field-training program for recruit academy graduates that comports with NOPD’s written training plan . . . .” The Consent Decree further provides the program “shall follow academy training and shall be at least 16 weeks.” *The Department is in partial compliance with this requirement.* The Department does have a field training program, but lacks a written training plan.<sup>22</sup> The training program is 16 weeks in length and follows the Academy training as required. The Monitoring Team was unable to locate field-training performance evaluations at the Academy in order further to evaluate the quality of the program.

##### **2. Paragraph 276**

Consent Decree paragraph 276, among other things, requires NOPD to develop policies and procedures on field training that delineate the criteria and methodology for selecting FTOs and Field Training Sergeants. Paragraph 276 further permits only “highly qualified officers” to serve as FTOs and Field Training Sergeants (“FTSs”), and that both comply with “formal eligibility criteria.” The Department is in *partial compliance* with these requirements. The Department policy does delineate the criteria and methodology for selecting FTOs, but it does not for the FTSs. There exist partially established formal eligibility criteria for FTOs, but, again, not for FTSs. All FTO appointments are subject to review for reappointment at the Training Division Commander’s discretion, and District commanders have discretion, upon consultation with the Training Academy staff, to remove an FTO from the FTO program.

##### **3. Paragraph 277**

Consent Decree paragraph 277 requires, among other things, that “all current and new FTOs and Field Training sergeants receive at least 40 hours of initial supervisory-level training and annual in-service training in the following areas: management and supervision; community-oriented policing; effective problem solving techniques; and field communication.” The

<sup>22</sup> NOPD reports the written training plan will be incorporated into the Academy’s 2016 Master Training Plan.





Department is in *partial compliance* with this requirement. NOPD's FTSs have attended supervisory training, but the FTOs have not. Moreover, several field training supervisors have not attended the FTO training as required, including sergeants from the First, Fourth, and Eighth Police Districts.<sup>23</sup>

Some FTSs have received the required 40 hours of training. While NOPD reports all FTOs have received the 40 hours of initial training, the Monitoring Team could locate no documentation supporting that representation or demonstrating that the required courses were provided. Some FTSs have received the required annual training, and NOPD reports all FTOs have received the annual training, but here again there is no documentation available to review. Moreover, some new applications for FTO contained officer performance evaluations as required, but all did not.

#### 4. Paragraph 278

Paragraph 278 requires "that recruits in the field-training program are trained in a variety of geographic areas within New Orleans; in a variety of shifts; and with several FTOs." ***The Department is in compliance with this requirement.*** The Monitoring Team's assessment revealed each recruit in the FTO program worked various districts during the training program, various shifts during the training program, and with various officers during the training program.

#### 5. Paragraph 279

Paragraph 279 requires NOPD "to review and evaluate the performance of FTOs and Field Training Sergeants, with re-certification dependent on satisfactory prior performance and feedback from the Training Division staff." ***The Department is not yet in compliance with this requirement.*** The Monitoring Team was unable to locate performance evaluations for each FTO at the Academy. Nor were we able to locate performance evaluations for FTSs at the Academy. The lack of such evaluation likely is due to the Academy not having input into FTO or FTS performance evaluations. Indeed, NOPD has no system for any Academy staff to provide feedback regarding FTO or FTS performance.

We also found gaps in the current Academy evaluation system. For example, one officer was revoked as an FTO, but the demotion was not listed in the evaluation system.

<sup>23</sup> Subsequent to this reporting period, the Department produced additional documentation supporting the Department's compliance with paragraph 279. The Monitoring Team is reviewing those materials and will update the status of this paragraph in its next report.



## 6. Paragraph 280

Paragraph 280 obligates NOPD to “create a mechanism for recruits to provide confidential feedback regarding the quality of their field training, including the extent to which their field training was consistent with what they learned in the Academy, and suggestions for changes to Academy training based upon their experience in the FTO program.” NOPD further must “consider feedback and to document its response, including the rationale behind any responsive action taken or decision to take no action.” ***The Department is not yet in compliance with this requirement.*** NOPD does have a mechanism for recruits to provide confidential feedback regarding the quality of their field training. Evaluations are completed by recruits after each field training session and the Curriculum Director conducts focus sessions with groups of recruits at the end of their Academy training session and at the end of their field training.

The Monitoring Team observed the Curriculum Director meeting with groups of officers completing their field training program. The Director sought to determine if there were areas the Academy could have provided better training. He included the resulting information in a “needs assessment” for the Academy, which will be used to facilitate the completion of the Academy’s 2016 Master Training Plan.

Notably, the recruit evaluation of the FTO program does not evaluate whether the field training they received was consistent with the Academy classroom training. However, the issue was discussed with the recruits as part of the Curriculum Director’s group meeting.

## 7. Paragraph 281

Paragraph 281 requires NOPD “to review and revise its FTO participation policy to establish and implement a program that effectively attracts the best FTO candidates.” ***The Department has taken steps toward compliance with this requirement.*** The Department has revised its FTO/FTS participation policy to better attract the best FTO candidates. The policies still are under review by the Department of Justice and the Monitoring Team, however.

The Department uses a 5% pay incentive to attract FTOs. The benefit is paid even when not training a recruit officer. Another benefit is the recognition an officer receives by attaching the chevrons of a field training officer. The Department states they now use KSAs<sup>24</sup> to advertise throughout the Department for field training officers, require at least a PO2<sup>25</sup> and have four years of experience to apply for the position, have a letter of recommendation from the commander, conduct an interview panel to choose FTOs, and complete FTO evaluations to retain the best candidates.

<sup>24</sup> The term “KSA” refers to “knowledge, skill, and ability.” KSAs simply identify the specific prerequisites for a given job.

<sup>25</sup> PO2 refers to a patrol officer grade.



## 8. Paragraph 282

Paragraph 282 requires NOPD's Training Advisory Committee to conduct "a study of the feasibility of implementing a Police Training Officer model that would incorporate community- and problem-oriented policing principles, and problem-based learning methods of teaching." The Consent Decree provides further that, if feasible, "NOPD and the City agree to implement this program." ***The Department is not yet in compliance with this requirement.*** The NOPD Compliance Bureau and Academy personnel state there has not been a study of the feasibility of implementing a police training officer model. The subject has been discussed at a regular Training Advisory Committee ("TAC") meeting. Some work has been done with the TAC, but not in regard to field training.

### E. In-Service Training

The Monitoring Team reviewed the Department's 2015 in-service training program over the course of this reporting period, and found the Department to be ***not yet in compliance*** with the Consent Decree. The Department is aware of the gaps in its in-service training program and is working to remedy those gaps in its 2016 program. Nonetheless, here is a summary of our 2015 findings.

#### 1. Paragraph 283

Consent Decree paragraph 283 requires NOPD "to develop and implement a mandatory annual in-service training program that comports with NOPD's written training plan and the requirements" of the Consent Decree. Among other things, NOPD must "provide at least 64 hours of [annual] in-service training to each officer pursuant to this program." The Consent Decree further provides the in-service training must "be comprised of a 40-hour core curriculum and 24 hours of additional elective training." The Department is in ***partial compliance*** with this requirement.<sup>26</sup> The Department established a training curriculum of 64 hours of training for officers (24 hours of which takes place as roll call training).

With respect to officers actually receiving the required hours of training (as opposed to the curriculum stating what *should* happen), NOPD is unable to demonstrate compliance with this requirement. The Department was unable to provide the Monitoring Team with records sufficient to show which officers had and which had not received the requisite hours of training. Moreover, certificates of completion are not consistently maintained by the Academy. NOPD has purchased a new software system (PowerDMS), which will allow the Academy to track all officer training at a central location in the future. If used properly, PowerDMS should go a long way toward helping NOPD come into compliance with this paragraph.

<sup>26</sup> NOPD reports that the forthcoming revised 2016 Master Training Plan will remedy this gap.



## 2. Paragraph 284

Paragraph 284 requires NOPD “to create core-training requirements for the following positions: officers; command staff; lieutenants and sergeants; detectives; narcotics investigators; and specialized units.” In this context, “core training” refers to non-elective training. The Department is in *partial compliance* with this requirement. While the Department provides core training to officers, command staff, lieutenants, and sergeants, it does not currently offer core training for narcotics investigators, detectives, or specialized units.

This is not to say these units do not provide training to their members. But the training provided is not coordinated through the Academy, is not part of a Department-wide training plan, and is not supported by written lesson plans.

## 3. Paragraph 285

Paragraph 285 requires NOPD “to plan, develop, and implement a comprehensive roll-call training program.” The Consent Decree provides that the “roll-call training shall be provided at the beginning of each shift,” and shall “include special topics selected by the Training Division Commander or District Commanders that address officer safety, readiness, community concerns, or departmental procedural matters.” *The Department is in substantial compliance with this requirement.* The Department has a roll call training policy (404) and a regular training policy (208) that includes roll call training. Moreover, the Monitoring Team frequently observes roll calls during the various shifts, and consistently sees a healthy discussion of new policies, safety issues, and community concerns. The substance of the roll call training, however, is not maintained by the districts in an auditable fashion, which makes it difficult for the Monitoring Team (as well as for the district Commanders) to ensure the full breadth of issues are consistently being discussed.



## **XV. OFFICER ASSISTANCE AND SUPPORT**

As noted in our last Quarterly Report:

After a slow start, NOPD now has a full-time Officer Assistance and Support (“OA&S”) program manager. Led by a civilian mental health professional, Cecile Tebo, the program will fill a huge gap in the support NOPD historically has given its officers. While much work still needs to be done in this area to develop and roll out the actual programs supporting officers, the appointment of Ms. Tebo represents a material step forward.

Since Ms. Tebo’s appointment, 49 officers and/or family members have accessed NOPD’s “Officer Assistance Program” (“OAP”) to receive in-house services and/or referrals to outside professionals/agencies for mental health care. This figure includes officers, family members, and significant others. Further, Ms. Tebo’s office was meaningfully involved in providing counseling services following the recent shootings of two NOPD officers, as well as three additional tragic incidents involving NOPD officers and family members.

With respect to the structure of the OAP program, NOPD has prepared written policies and procedures, which currently are under review by the Department of Justice. The Department also supplemented the OAP staff with a licensed clinical social worker in November 2015. In contrast to this progress, the OAP program has yet to identify suitable office space outside of NOPD to provide officers the privacy they deserve when taking advantage of these important services.

In addition to the foregoing, the Monitoring Team has observed the following progress being made in this area:

- Ms. Tebo continues to facilitate and participate in weekly in-service training. She provides weekly 15-30 minute sessions at the Academy to advise on services available to officers and their families.
- Ms. Tebo is in the process of developing a Peer Counseling (peer support) program with three areas – 1) post-shooting peer support, 2) family peer support, and 3) “general” peer support program. The expected date of implementation is April 2016.
- Since the subject matter falls squarely within her area of expertise, Ms. Tebo also has been intimately involved in the development of NOPD’s CIT training, curriculum, and policy.

Page 77 of 100

February 26, 2016

www.consentdecreemonitor.com



Ms. Tebo actively and successfully has spread the word to officers and their families about the newly developed OAP program. By December 2015, 49 officers had accessed the OAP and received in-house services and/or referrals to outside professionals/agencies for effective care. Of those 49 officers, six have remained in continuous counseling services through the OAP. Also in December, Ms. Tebo successfully hired a social worker who is actively pursuing joint OAP projects with Ms. Tebo.

The 15-30 minute training sessions each week at the Academy are highly interactive and to date have generated more than 20 inquiries and/or sessions and referrals. An anonymous mental health assessment form has been completed for Department review, and once approved, it will be disseminated to all personnel for their voluntary completion. This tool will give the OAP a baseline of the mental health of NOPD officers. Over time, this will allow for program development and intervention as needed to maximize the effectiveness of NOPD officers. The OAP is developing a reward program with the intention of improving officer morale. This program will allow rank to issue "OAP Coins" for acts of exceptional service. The coins can be redeemed for gift certificates and other items. OAP has held its first meeting to discuss Peer Support and develop that program in 2016. OAP developed a gap analysis of Consent Decree requirements to assist in future goals. OAP has posted two newsletters called "Mental Matters" which are distributed department-wide. These letters introduced the OAP program and aided the office in distributing information about access to services.





## XVI. SUPERVISION

### A. Supervision Generally

Close and effective supervision is a core principle of most large effective organizations. In a police department, however, where young men and woman are given badges, guns, and asked to put themselves in harm's way to protect others, the concept of close and effective supervision takes on even greater importance.

The Monitoring Team has been critical of NOPD for its insufficient progress in this area of the Consent Decree in each of our prior reports. While our prior reviews have demonstrated to us most supervisors want to provide the sort of supervision required by the Consent Decree, many do not do so. Some do not provide adequate supervision because they lack the necessary skill and/or training, but this is a small group. Some do not provide adequate supervision because they lack the interest in doing so. In our experience, this is an even smaller group. But a large group do not provide adequate supervision simply because they lack the time to do so. Fortunately, Superintendent Harrison and his team are working to find ways to ensure supervisors have more time to actually supervise, but this is a project that will take time to bear fruit. *Thus, this area remains a significant concern of ours.*

It is not an exaggeration to say NOPD supervisors have a lot on their plates. Sergeants and lieutenants today must respond to the scene of use-of-force incidents, conduct misconduct investigations, review reports, review camera recordings, prepare officer schedules, handle payroll, provide in-district training, plan and administer roll calls, provide counseling and re-direction, meet with community members, and even answer calls for service. Unfortunately, this full plate leaves little room for supervisors to spend time on the street, overseeing their officers, answering questions, providing guidance, and generally providing the sort of close and effective supervision most supervisors would like to provide.

While finding ways to get supervisors out of their offices and onto the streets will take time, NOPD has had some recent success in remedying several of our prior negative findings in this area.

- First, the Department quite successfully promoted the consistent and proper use of BWCs by officers. We now see a very high rate of compliance with respect to use of BWCs among officers.
- Second, supervisors are routinely reviewing BWC videos, and are taking action based upon what they see in those videos. One recent PIB investigation involving an inappropriate use of force by an officer against a handcuffed suspect, for example, was identified and brought to the attention of PIB by a supervisor routinely reviewing BWC videos.



- Third, supervisors now are doing a much better job reviewing officers' daily activity reports and ensuring they are completed properly and completely.
- Fourth, the Monitoring Team's most recent review of the Department's record keeping practices has shown a dramatic improvement among all eight districts. Our most recent review of the 7<sup>th</sup> District, for example, found 100% compliance with Consent Decree requirements regarding photographic line-ups and custodial interrogations. Just nine months ago, the 7<sup>th</sup> District had one of the lowest compliance rates among all eight districts. Other districts have shown similar improvements in this area.

Notwithstanding these successes, more progress still needs to be made in related areas. Specifically, we still are seeing inconsistent results with respect to:

- Preparing and maintaining counseling forms at the district level;
- Clearly identifying monthly supervision schedules;
- Documenting when disciplinary action is taken against an officer;
- Documenting supervisory reviews of use of force reports; and
- Promoting efficiency within the various districts to avoid delays in (a) moving officers from roll calls to patrol duties and (b) moving unneeded officers from cleared incident locations back to patrol duties.

Even with these areas of inconsistent progress, as noted above, progress clearly is being made.

## **B. Video and Audio Documentation of Police Activities**

In the Spring of 2014, the New Orleans Police Department began rolling out body worn cameras (BWCs) to its patrol officers. As its name implies, a BWC is a camera that attaches to the police officer's uniform, and records interactions between the officer and citizens. Then-NOPD chief Ronal Serpas said of the Department's voluntary decision to launch its BWC program, "this is the next step in American policing that will ensure transparency and accountability..." Superintendent Harrison likewise strongly supports the use of BWCs, and





has expanded the program. Since NOPD's adoption of BWCs, law enforcement agencies across the country have followed New Orleans' lead and initiated similar programs of their own.<sup>27</sup>

While the Consent Decree does not speak of BWCs directly, it does require NOPD to take certain actions regarding the functionality, maintenance, and use of the audio and video equipment it deploys. Paragraph 327, for example, requires NOPD to ensure its vehicle cameras are operational, and that non-functioning equipment is repaired or replaced promptly. Paragraph 327 goes on to require NOPD to ensure "recordings are captured, maintained, and reviewed as appropriate by supervisors, in addition to any review for investigatory or audit purposes, to assess the quality and appropriateness of officer interactions, uses of force, and other police activities."

Since the initiation of the Consent Decree, the Monitoring Team has evaluated NOPD's BWC program using the same standards the Consent Decree applies to in-car cameras. Since BWC recordings provide a critical tool to supervisors, the Monitoring Team also monitors when and how sergeants and lieutenants review BWC recordings as a component of the "close and effective supervision" required by Section XV of the Consent Decree.<sup>28</sup>

## 1. BWC Deployment

As of December 2015, according to Departmental statistics, the NOPD has outfitted 100% of its patrol officers with BWCs. Canine officers, "general assignment" (previously called "Task Force") officers, Quality of Life officers, and School Resources officers also have been provided with cameras. While a malfunction or an emergency situation can result in an officer on the street without a camera from time to time, the Monitoring Team can confirm such exceptions are rare. Almost all patrol officers answering calls for service now wear BWCs.

Moreover, at the request of the Monitoring Team and the Court, in September, NOPD expanded its BWC program to cover sergeants as well as patrol officers – an especially important expansion since sergeants often answer calls for service when a patrol officer is not available. As of September 23, 2015, 100% of patrol sergeants were outfitted with BWCs.

<sup>27</sup> Many law enforcement agencies only recently have launched BWC programs. The Denver Police Department, for example, initiated its BWC program in January 2016. The Rochester, New York Police Department likewise only recently announced plans to launch such a program. Virginia Beach police have announced plans to launch a BWC program in 2017. In contrast to these agencies, many major law enforcement agencies still have not taken any steps to adopt a BWC program.

<sup>28</sup> One recent excellent example of the use of BWC camera footage by a supervisor involved a sergeant in the Eighth police district (the French Quarter). In the course of reviewing BWC videos as part of his daily supervisory duties, the sergeant came across a recording of an officer striking a handcuffed suspect in the Eighth District station. The supervisor immediately reported the incident to PIB, which promptly investigated the matter. Since the matter still is under investigation by PIB, we cannot discuss further details in this Report. The Monitoring Team will review the PIB investigation upon its conclusion.



The NOPD deserves great credit for its aggressive adoption of a broad-based BWC program, and its continued expansion of that program. It is quite accurate to say the Department is a national leader in this area.

## 2. BWC Use

Obviously, a BWC program only works if cameras are turned on, kept on, and used properly. The Monitoring Team assesses the proper use of BWCs by NOPD officers in several ways. First, the NOPD Compliance Bureau itself conducts a monthly BWC audit, the results of which are shared with the Monitoring Team and the Court. The Monitoring Team was involved in the development of the audit methodology and spot checks the audit results.

The last several audits conducted by the Compliance Bureau have shown an extremely high rate of camera use by NOPD officers. The most recent monthly audit (conducted in December 2015) showed an overall compliance rate of 98%. While this still means some officers are not turning on their cameras when they should, a 98% compliance rate is an extremely high rate of adoption and usage for any new technology.<sup>29</sup>

Second, the Monitoring Team supplements NOPD's internal BWC audits with regular independent audits of our own. We review video recordings every quarter and evaluate not only the proper use of the BWC, but also the propriety of the action caught on the BWC recording. While the Monitoring Team is in the process of compiling the data from our most recent review, the following preliminary findings provide us additional confidence regarding NOPD's findings:

- We have located videos in almost all incidents we reviewed.
- We usually find multiple videos when multiple officers respond to an incident.
- While videos sometimes are activated late or terminated early, in most cases the "missing" video footage was captured by another officers' BWC.
- While most of the images caught on the Department's BWCs show officers acting properly, a small number of videos show officer impropriety. When the Monitoring Team finds improper officer conduct, we take immediate steps to ensure the matter is fully and properly investigated by PIB.

<sup>29</sup> An average NOPD officer responds to over 1,000 calls for service in a given year. The likelihood that an officer occasionally will forget to activate his/her BWC is quite high. While the Monitoring Team wants NOPD to achieve as close to 100% compliance as possible, it must be recognized that 100% compliance in any police agency is unlikely.

Page 82 of 100  
February 26, 2016  
www.consentdecreemonitor.com



The full statistical results of our most recent camera audit will be presented in a forthcoming quarterly report.

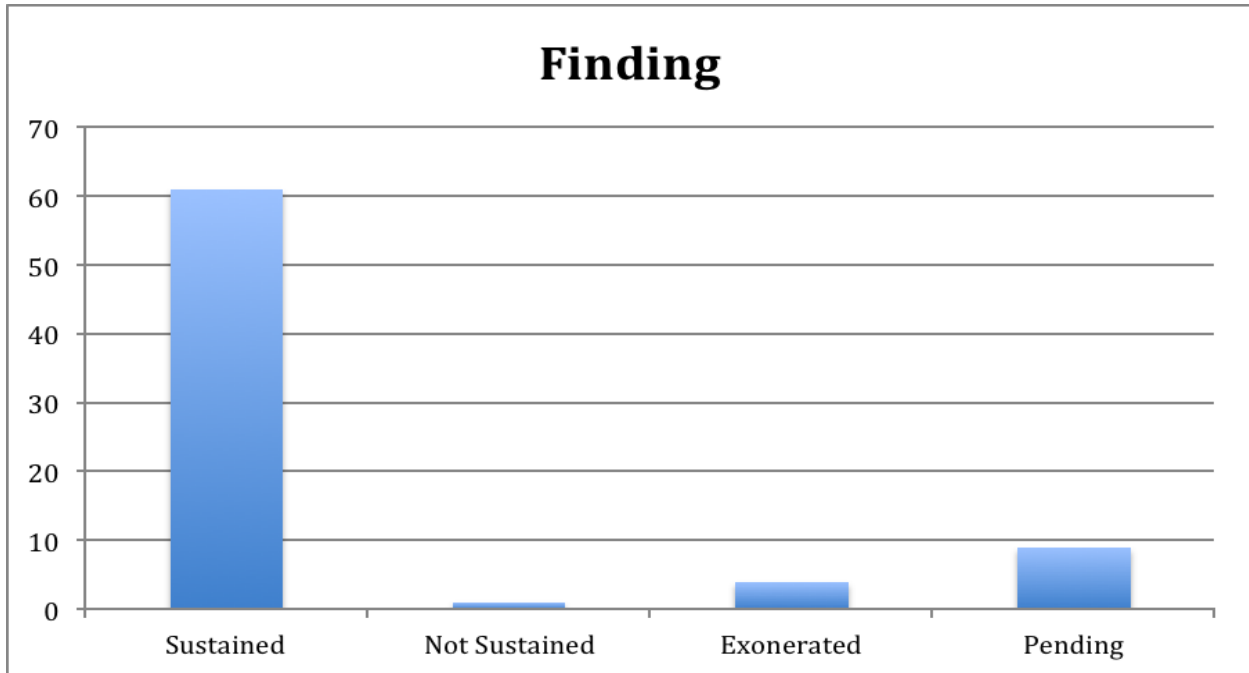
Third, the Monitoring Team regularly conducts personal observations (ride-alongs) with officers and supervisors during all shifts and in all districts. We continuously assess BWC use. Our personal observations provide further confirmation most NOPD officers now are using their BWCs properly.

### 3. BWC Discipline

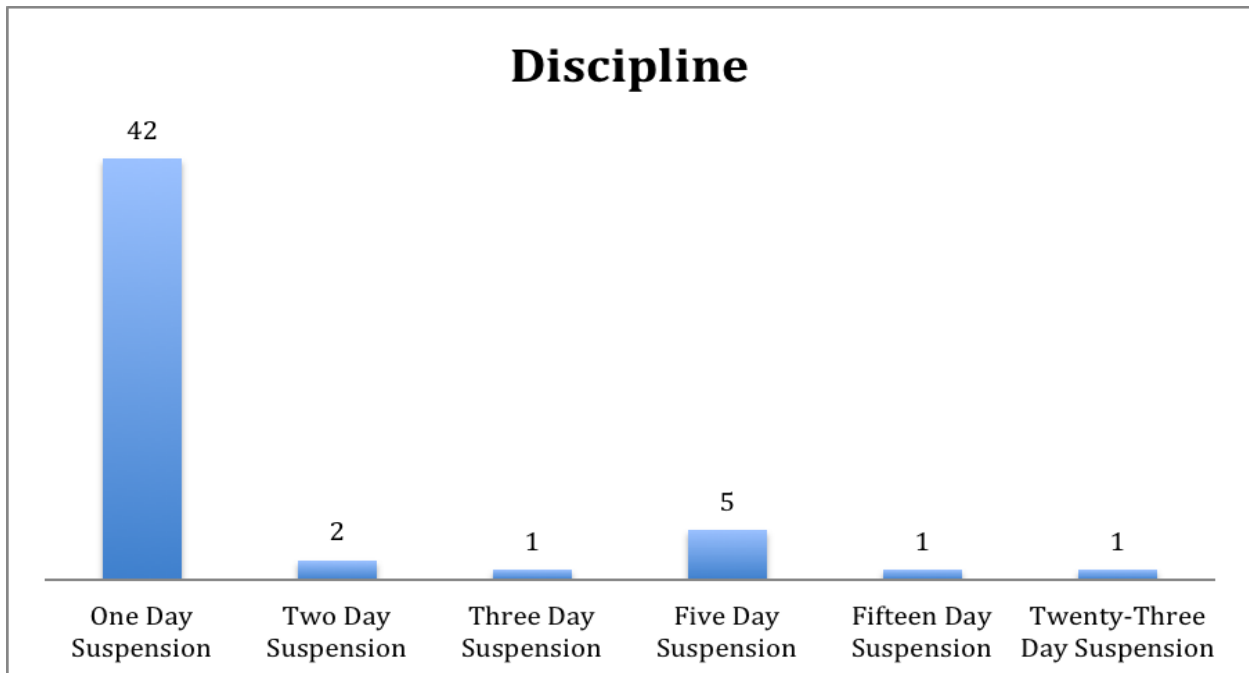
According to NOPD's Public Integrity Bureau, as of January 2016 (recently available even though beyond the period covered by this Report), PIB investigated 133 cases of BWC non-use or mis-use in 2015. (To put this number in perspective, NOPD officers responded to nearly 400,000 calls for service in 2015.) Of these 133 cases, 56 have gone to a hearing, 20 are awaiting hearing, and 18 still are under PIB investigation. Of those cases that went to a hearing, the following outcomes resulted:<sup>30</sup>

---

<sup>30</sup> A "*sustained*" case refers to a case in which the investigation determines "by a preponderance of the evidence" that the alleged misconduct did occur. "*Not sustained*," as one would expect, "means the investigation was unable to determine "by a preponderance of the evidence" whether the alleged misconduct occurred. Where an officer is "*exonerated*," the investigation determined the alleged conduct occurred, but did not violate NOPD policy. Finally, although not reflected on this particular graph, a finding of "*unfounded*" refers to an investigation that determines the alleged misconduct did not occur or did not involve the subject officer.



Of those cases that made their way to a hearing and had the allegation sustained (meaning a violation did occur), the following discipline resulted:



Page 84 of 100  
February 26, 2016  
www.consentdecreemonitor.com



While the Monitoring Team initially questioned whether a one-day suspension was harsh enough to drive behavior and ensure the rapid adoption of the new BWC technology, the extremely high rate of usage by NOPD officers strongly suggests the current discipline regime has effectively driven the necessary behavior.



## **XVII. MISCONDUCT COMPLAINT INTAKE, INVESTIGATION, AND ADJUDICATION**

The Monitoring Team initiated the second of a three-part assessment of PIB's administrative investigation processes this reporting period. We reviewed approximately 30 administrative investigations to ensure they were completed in compliance with Consent Decree requirements. While the findings of our full assessment will be published in a forthcoming Special Report, a summary of our preliminary findings follows:

- Certain information, such as potential deficiencies in policy, training, or procedures, were not being documented in PIB administrative reports.
- PIB investigators either were not making credibility determinations or were not documenting them in their reports. On a related note, where we did find a credibility statement made in a report, the report often lacked support for the statement.
- Because PIB letters to complainants were not dated by PIB, the Monitoring Team was unable to assess whether NOPD is complying with its obligations to send letters to complainants within ten days of the conclusion of the investigation.
- PIB has been using a confusing internal form to track the timelines of its investigations.
- Some final letters sent to the complainant explained the closure of the investigation using one of seven findings: withdrawn, resigned under investigation, dismissed under investigation, sustained, not sustained, exonerated, and unfounded. The Consent Decree, however, limits the findings to the latter four: sustained, not sustained, exonerated, and unfounded.

Each of these preliminary findings was shared promptly with the NOPD and the Monitoring Team has confirmed *PIB already has taken steps to remedy all of them*. As noted above, the totality of the Monitoring Team's findings as well as the status of NOPD's corrective actions, will be detailed in a forthcoming Special Report.



## **XVIII. AGREEMENT IMPLEMENTATION AND ENFORCEMENT**

### **A. Outcome Assessments**

Unlike prior federal Consent Decrees, the New Orleans Consent Decree requires the Monitoring Team to perform “outcome assessments” in addition to its compliance reviews and audits. (CD 448) While the outcome assessments do not impose an additional compliance hurdle upon the NOPD, they do provide both parties a means of assessing whether the Consent Decree is working as intended – that is, whether it is resulting in constitutional policing.

The outcome assessments, however, also provide the NOPD an alternative means of emerging from the Consent Decree. Paragraph 491 of the Consent Decree provides the Consent Decree may be terminated when NOPD and the City have been in “full and effective compliance” with the Consent Decree for two years. The Consent Decree defines “full and effective compliance” as “sustained compliance with all material requirements of this Agreement or sustained and continuing improvement in constitutional policing, as demonstrated pursuant to the Agreement’s outcome measures.” (CD 491) Accordingly, NOPD can demonstrate full and effective compliance either (a) by achieving the mandates of each material paragraph of the Consent Decree or (b) by showing, through the various outcome assessments, “sustained and continuing improvements in constitutional policing.”

While the initiation of the outcome assessments was not possible previously due to the then-state of NOPD’s compliance, the Monitoring Team believes the time is right to initiate several of the assessments. While NOPD still is a long way from being able to show compliance with many areas of the Consent Decree, significant progress has been made in several areas, and NOPD has enhanced its data keeping capabilities, such that this progress is capable of being measured more accurately now.

In January, the Monitoring Team, the Department of Justice, and the NOPD met to discuss the current state of the NOPD’s data and the initiation of the outcome assessments. The Monitoring Team plans to initiate several outcome assessments in the coming months.

### **B. Monitor Recommendations and Technical Assistance**

In addition to our audits and assessments, the Monitoring Team also provides Technical Assistance when requested by NOPD, the Department of Justice, and/or the Court. (CD 455) Over the past two quarters, the Monitoring Team has provided such Technical Assistance to support the Department’s efforts relating to hiring, training, use of force investigations, and citizen complaint intake. Our Technical Assistance has included, but has not been limited to, specialized training for NOPD FIT investigators, specialized training to PIB intake personnel, support to Academy leadership, and support to the Department’s efforts to restructure its new officer selection process. Additionally, the Monitoring Team is scheduled to provide additional





training to PIB, SWAT, the Academy, and NOPD Communications in late January 2016, which will cover, among other things, “Decision Point Analysis,” conducting pre- and post-shooting incident investigations, and the mechanics of an administrative investigation.

### **C. Comprehensive Re-Assessment**

As NOPD now has entered its third year under the Consent Decree, the Consent Decree requires “a comprehensive assessment to determine whether and to what extent the outcomes intended by this Agreement have been achieved, and any modifications to the [Consent Decree] that are necessary for continued achievement in light of changed circumstances or unanticipated impact (or lack of impact) of the requirement.” (CD 456) The Monitoring Team, the Department of Justice, and the NOPD met in January to initiate this “comprehensive re-assessment.” The results of this project will be reported in a future Report.

### **D. Coordination with IPM**

The Monitoring Team continues to work closely with the IPM, and continues to be pleased with the level of cooperation from Ms. Hutson and her colleagues.

### **E. NOPD Consent Decree Implementation Unit**

The Monitoring Team continues to work closely with the NOPD Compliance Bureau, and continues to be pleased with the skill, dedication, and level of cooperation from the Bureau’s staff. While the entire Compliance Bureau has proven itself committed to reform since their engagement, one member of the Compliance team warrants special mention here. Commander John Thomas has served as a core member of the Compliance Bureau and the key liaison between the Bureau and NOPD’s sworn personnel for approximately one year. Commander Thomas has been a great asset to the Monitoring Team and has served the citizens’ interests – and, thus, the interests of the NOPD – in the process. He has tirelessly promoted the requirements of the Consent Decree and worked hard to bring NOPD into compliance at every turn. His efforts have gone a long way to bringing NOPD into compliance in several areas.

To his credit – and, frankly, to the credit of Superintendent Harrison – Commander Thomas recently was promoted to Deputy Chief over the NOPD Management Services Bureau, the Bureau responsible for the Police Academy. While this is a loss to the Compliance Bureau, it is a gain for the Academy. It also is a clear reflection of the current NOPD leadership’s commitment to reforming the Department and achieving the requirements of the Consent Decree. It has been said that one can assess a police department’s – like any organization’s – commitment toward change by looking at who gets promoted. That the Department has chosen a member of its Compliance Bureau for promotion is a good sign. The promotion not only is well deserved by Commander (now Deputy Chief) Thomas, but it speaks volumes of the



Page 88 of 100  
February 26, 2016  
www.consentdecreemonitor.com



Department's recognition of the work that still needs to be done at the Academy and its commitment to reward those who are committed to reform.

The Department recently announced that Commander Otha Sandifer would be filling Deputy Chief Thomas's shoes within the Compliance Bureau. The Monitoring Team looks forward to working with Commander Sandifer.



## **XIX. TRANSPARENCY AND OVERSIGHT**

A core goal of the Consent Decree is to “increase public confidence in the New Orleans Police Department.” (CD Introduction) One finds this concept throughout the Consent Decree. NOPD officers are required to deliver services that are “equitable, respectful, and bias-free” in order to promote “broad community engagement *and confidence in the Department.*” (CD VIII) The Department must “promote and strengthen partnerships within the community” to, among other things, “*increase community confidence in the Department.*” (CD X) Police managers are obligated to ensure the Department’s performance evaluation process is tailored to capture poor performance that could undermine “public safety *and community trust.*” (CD XIV) And supervisors are required to ensure their officers “are working actively to engage the community and *increase public trust and safety...*” (CD 306) In short, the concepts of “confidence” and “trust” weave their way throughout the Consent Decree and underlie almost every obligation the NOPD has taken on.

One means of increasing public trust in any police department is by moving the department’s activities out from the shadows and into the sunlight. The NOPD Consent Decree embraces such a move by, among other things, obligating NOPD to “collect and maintain all data and records necessary to facilitate and ensure transparency and wide public access to information related to NOPD decision making and activities, as permitted by law.” (CD 429)

As noted earlier in this report at page 19, in an effort to promote transparency in a manner consistent with legitimate law enforcement needs, U.S. District Court Judge Susie Morgan recommended NOPD develop a written policy governing the release of NOPD video recordings of critical incidents (*e.g.*, officer involved shootings, in-custody deaths, etc.). Specifically, Judge Morgan sought a policy that would facilitate the prompt, pro-active release of video recordings of critical incidents involving the NOPD so long as the release is consistent with the legitimate needs of ongoing law enforcement operations.

In December 2015, the City, the NOPD, the District Attorney’s Office, and the Department of Justice worked together to develop a policy consistent with Judge Morgan’s recommendation. The Monitoring Team has reviewed the policy and believes it represents a well thought-out approach toward promoting transparency, while protecting privacy rights as well as the legitimate interests of law enforcement. The final policy was approved by the Monitoring Team and the Department of Justice in January, and will be implemented shortly by NOPD as a PIB Directive. The Directive is attached to this Report as Attachment 4.

As the use of Body Worn Cameras by police officers becomes more commonplace, police departments across the country are struggling with a host of collateral issues, including, among many other things, whether, when, and how to release video recordings to the public. The national news has shown us all the power of video footage in the context of justified police shootings and unjustified police shootings. While we don’t for a moment pretend the release of

Page 90 of 100  
February 26, 2016  
www.consentdecreemonitor.com



often troubling video footage is not without its risks, NOPD deserves great credit for placing itself at the forefront of this ongoing debate by embracing a policy that champions transparency and public knowledge.

Page 91 of 100  
February 26, 2016  
www.consentdecreemonitor.com



**XX. ATTACHMENTS**

Page 92 of 100  
 February 26, 2016  
 www.consentdecree.com



**ATTACHMENT 1**

**SVU INVESTIGATION OCDM REVIEW CHECKLIST**

**Item Number:** \_\_\_\_\_  
**Monitor:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

**NA = Not Applicable**  
**Y = Compliant**  
**N = Not compliant**  
**U = Unknown**

+	
1. Is there BWC video applicable to this case?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
2. Was there an on-scene response by <u>SVS</u> ?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
3. Is there an Incident Report in the case file?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
4. Is there a <u>MORF</u> in the case file?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
5. Is there a Supplemental Report?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
6. Is there a victim statement (video, audio, or transcribed)?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
7. Is there evidence of attention to the victim's needs?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
8. Was there a follow-up interview after the initial on-scene investigation?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
9. Was the follow-up interview after at least one sleep cycle?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
10. Are there documented witness (video, audio, or transcribed) statements?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
11. Is there a communications log?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
12. Is there a 911 recording available?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
13. Are there crime scene photos?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
14. Is there documentation of MOTION/ <u>Coplink</u> usage?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
15. If there is evidence of a drug-facilitated sexual assault with follow up according to policy?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
16. Is there a medical and/or SANE report?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
17. Is there a documented referral to <u>NOFIC</u> staff?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
18. Is there documentation of a <u>CODIS</u> hit notification in the file?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
19. Is there arrest or search warrant documentation?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
20. Is there a suspect statement (video, audio, or transcribed)?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U

Page 93 of 100  
 February 26, 2016  
 www.consentdecreemonitor.com



21. Was there notification to the DA for a reported rape?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
22. Was DA notified for victim/witness safety related concerns?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
23. Is evidence collection documented in a report?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
24. Was evidence submitted with evidence and property receipts?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
25. If evidence was not submitted for testing, was the reason documented in a report?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
26. Are there crime lab reports?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
27. Is there documentation of a search of surveillance video?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
28. Is there documented evidence of a witness canvas?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
29. Are there composite sketches relative to the case?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
30. Did the Detective utilize the Case File Index from n opd.org?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
31. Was the incident appropriately classified?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
32. Was there documented authorization for a Signal change if required?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
33. Is there documented supervisory review of reports and dispositions?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
34. Did OCDM listen to recordings of the victim interview(s)?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N
35. Did OCDM listen to suspect interview(s)?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N

Office of the Consent Decree Monitor

Appointed By Order Of The U.S. District Court For The Eastern District of Louisiana



## ATTACHMENT 2

### DVU Case File OCDM Review Checklist

**DVU Case File Review**

**Item Number** \_\_\_\_\_

**NA = Not applicable**  
**Y = Compliant**  
**N = Not compliant**  
**U = Unknown**

1. Is there an incident report in the file?	<input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
2. Is there documentation that the investigator reviewed body worn camera footage if the incident report indicates a BWC recording would aid in the follow-up investigation?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
3. Is there documentation that either patrol or the investigator documented interviews by written or audio recorded statements, or by BWC?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
4. Does the file indicate that patrol handled the majority of the case and therefore some documentation would be included elsewhere (statements, photographic evidence, evidence receipts)?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
5. Is there documentation of the investigator making contact with the victim within one week of the DV incident, or within a reasonable period based on the circumstances?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
6. Is there documentation that the investigator attempted to or actually located the victim through various means (neighbors, employment, Advocate resources)?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
7. Do the elements of the crime support the actual charges?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
8. Is there documentation reflective of "continuing engagement" with the victim?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
9. Is there documentation in the file of the offender's "criminal history" or a "past history" check by either patrol or the investigator?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
10. Is there a victim Risk Assessment documented by patrol?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
11. Did the investigator probe for details regarding the Risk Assessment, or conduct a documented Risk Assessment when it was not indicated in the patrol officer's incident report?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
12. If there is documented evidence of potential victim risk, did the officer or investigator initiate follow-up action or document safety and/or protection advice?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
13. Does the file include documentation of a predominant aggressor assessment by patrol or the investigator?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
14. Is photographic evidence indicated in the case file by either patrol officers or the case follow-up investigator?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
15. If a dual arrest was made, is there documentation of supervisory approval?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U

Page 95 of 100

February 26, 2016

www.consentdecreemonitor.com



16. If injury is indicated, is there a copy of a medical records release form in the file?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
17. Are there copies of a Protection Order and/or TRO in the case file?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
18. Does the case file have documentation of a victim referral to the <u>NOFJC</u> ?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
19. Is there documentation that the victim was provided a Form #45 and Rights of Crime Victims brochures?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
20. Did the patrol officer or investigator document if the persons ever lived together?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
21. Did the officer or investigator document if the victim had difficulty breathing or a loss of consciousness to support DV strangulation charges?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
22. Did the officer or investigator document an attempt to have child witnesses of DV forensically interviewed?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
23. Are there any victim/witness statements documented in the case file?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
24. Is there documentation of or actual recordings of victim follow-up statements in the file?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
25. Are there documented observations of an <u>evident</u> crime scene in the file by the initial responding officer or the investigator if patrol did not initiate the investigation?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
26. Is there documentation that the responding officer(s) collected, preserved and documented evidence?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
27. Are there recordings and/or printouts of relevant voice mails, e-mails or text messages, etc. in the case file?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
28. Are warrant applications included in the case file for <u>investigator</u> 's cases?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
29. Generally, does the documentation in the file indicate the <b>initial</b> investigation was an overall pro-active, victim-oriented and professional response?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
30. Generally, does the documentation in the file indicate the <b>follow-up</b> investigation was an overall pro-active, victim-oriented and professional response?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
31. Is there documentation in the file that the case was reviewed by a DVU or SVU supervisor in cases where an officer determined there is probable cause that a crime was committed?	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
32. Did the case involve a department employee, a sworn law enforcement officer or a public figure?	<input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U

Office of the Consent Decree Monitor

Appointed By Order Of The U.S. District Court For The Eastern District of Louisiana





### ATTACHMENT 3

#### Domestic Violence OCDM Review Checklist

**Initial Patrol Response - (Chapter 42.4)**

**Item Number** \_\_\_\_\_

**NA = Not applicable**  
**Y = Compliant**  
**N = Not compliant**  
**U = Unknown**

1. Is there an incident report? (212)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
2. Is there body worn camera footage? (policy)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
3. How many <u>BWCs</u> were reviewed by OCDM?	<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6
4. If the call was Code 2, did two officers and a supervisor respond? (212)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
5. If there was a single officer response, did the officer request a supervisor's response? (212)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
6. Generally, did the officer(s) exercise due caution and reasonable care in providing for the safety of any officer(s) and parties involved? (213)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
7. Did officer(s) attempt to make contact with parties, witnesses and/or residents of the house/business? (213)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
8. Did the officer(s) separate the parties? (213)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
9. If child witnesses were present, did the officer(s) separate the child from the parties? (213)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
10. Did the officer(s) take appropriate action for a violation of a protection order? (214)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
11. Did the officer(s) assess for injuries (obvious or not readily apparent)? (213)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
12. Did the officer(s) conduct a Risk Assessment (4 Questions)? (213)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
13. Did the officer(s) attempt to determine the predominant aggressor? (213,214)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
14. Did the officer(s) ask follow-up questions to a self-defense statement? (214)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
15. If a dual arrest was made, was there supervisory approval? (214)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
16. Did the officer(s) follow policy for a suspect not on the scene? (212)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
17. Did the officer(s) explain the circumstances when an arrest was not made? (213)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
18. Did officer(s) refer victims to the <u>NOFJC</u> ? (216)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
19. Did the officer(s) provide victims with Form #45 and Rights of Crime Victims brochures? (213)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
20. Did the officer(s) make any statements contrary to victim assistance that would	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U

Page 97 of 100  
 February 26, 2016  
 www.consentdecreemonitor.com



discourage the victim? (212)	
21. If the signal was changed, was it approved by a supervisor? (212)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
22. Were victim/witness statements documented in the report? (213)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
23. Was a video or audio recording made of all statements? (212,213)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
24. Were observations of the crime scene noted? (213)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
25. Were signs and symptoms of strangulation noted? (213)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
26. Was a photo taken of injuries sustained? (213)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
27. Did the officer(s) follow policy for documenting risk information specific to felony cases? (212)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
28. Did the officer(s) collect, preserve and document evidence? (213)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U
29. Was the officer's investigation an overall pro-active, victim-oriented and professional response? (212,213,214)	<input type="checkbox"/> NA / <input type="checkbox"/> Y / <input type="checkbox"/> N / <input type="checkbox"/> U



## ATTACHMENT 4

# PUBLIC INTEGRITY BUREAU DIRECTIVE 41

## PIB Directive - Release Of Critical Incident Recordings

Effective: 02/18/2016

---

The City of New Orleans recognizes transparency facilitates increased trust between the New Orleans Police Department ("NOPD") and the New Orleans community. Consistent with this recognition, it is the policy of the City and the NOPD to facilitate the prompt release of video recordings of critical incidents involving the NOPD so long as the release is consistent with the legitimate needs of ongoing law enforcement operations. All releases of such recordings shall be made in accordance with the provisions of federal, state, and local laws.

1. **Definitions.** For purposes of this policy, these terms have the following meanings.
  - a. A "Recording" includes audio and/or video recording of a Critical Incident made by NOPD.
  - b. A "Critical Incident" is an event in which: an NOPD officer uses force resulting in hospitalization or death; an NOPD officer intentionally shoots his or her gun; an NOPD officer strikes someone in the head with an impact weapon, whether intentional or not; an NOPD police vehicle pursuit results in death or an injury requiring hospitalization; or an arrested or detained subject dies while in the custody of NOPD.
  - c. "Interested Parties" are (1) the Orleans Parish District Attorney's Office; (2) the New Orleans City Attorney's Office; (3) the NOPD Compliance Bureau; and (4) the United States Attorney's Office.
2. **Ownership and Custody Of Recordings.** All Recordings are the property of and in the custody of the City of New Orleans.
3. **Recommendation.**
  - a. Within 48 hours of a Critical Incident, the NOPD Public Integrity Bureau shall provide to the Interested Parties access to the Recording(s).
  - b. As soon as practicable thereafter, the Deputy Chief of the NOPD Public Integrity Bureau shall confer with the Interested Parties for the purpose of obtaining their input regarding the public release of a Critical Incident Recording.
  - c. No longer than seven (7) days after a Critical Incident, the Deputy Chief of NOPD Public Integrity Bureau shall make a written recommendation to the Superintendent of



the NOPD, with a copy to the Interest Parties, setting forth her recommendation regarding release of the Recording. The Interested Parties may submit their written objections to her recommendation, if any, to the Superintendent within 24 hours .

d. The Deputy Chief of NOPD Public Integrity Bureau shall include in her recommendation reasons the Recording should or should not be released to the public. If she recommends release of the Recording, she shall identify the Recording(s) or portions of Recording(s) which she believes should be released to accurately and sufficiently display the Critical Incident and identify any recommended redactions or blurring.

4. **Considerations for Disclosure.** The Deputy Chief of the Public Integrity Bureau and the Interested Parties shall consider the following non-exclusive factors when conferring regarding release of a Recording:
  - The nature of the incident/crime.
  - The location of the incident/crime, in a public or private space.
  - The safety or contamination of witnesses to the Critical Incident, including officers.
  - The public interest in protecting juveniles, the privacy rights of victims, witnesses, officers and other individuals with a reasonable expectation of privacy, to the extent blurring or redactions will not provide adequate protection.
  - The privacy protections afforded pursuant to Louisiana Revised Statute 40:2532 and whether redaction/blurring of identity adequately addresses any privacy concerns
  - The contribution release will make to building public trust by facilitating transparency.
  - The needs of law enforcement officials in the course of an ongoing investigation and whether release of the Recording would interfere with an ongoing investigation or where it could adversely affect the prosecution of an ongoing criminal matter or reasonably anticipated criminal litigation.
  - The input of the recipient of force at issue in the Critical Incident, witness, or, if warranted, the family members of the recipient of force at issue in the Critical Incident
5. **Determination.** Within 48 hours of receiving a written recommendation regarding release of the Recording(s), the NOPD Superintendent, on behalf of the City, shall determine whether the Recording(s) shall be released to the public under this Directive or withheld, subject to the Court's review as set forth in section 9.

**Domestic Violence or Sexual Assault**

6. No Recording, whether from public or private locations, will be released to the public in cases of domestic violence or sexual assault.



**Confidential Sources**

7. No Recording, whether from public or private locations, that may impart the identity of any confidential source will be released to the public.
8. **Means of Release and Redactions or Blurring.**
  - a. Recordings of Critical Incidents to be released shall be made available as soon as practicable following the determination of release.
  - b. NOPD may redact or blur portions of a released Recording as necessary to a) protect juveniles; b) protect the reasonable expectations of privacy of victims, witnesses, or suspects if applicable; and c) ensure the safety and security of all involved in the Critical Incident. NOPD shall ensure that the released Recording adequately and sufficiently reveals the Critical Incident. NOPD shall identify redacted or blurred portions of a released Recording .
9. **Review.** During the duration of the NOPD Federal Consent Decree entered in *United States of America v. The City of New Orleans*, Eastern District of Louisiana, CV 12-1924, any determination by the City not to release a Recording of a Critical Incident shall be reported by the City or NOPD to the Court, the Department of Justice, and the Monitoring Team within 24 hours after the date of determination. The City and NOPD will request that the Court confer with the City, Interested Parties and the Department of Justice prior to entering any order reversing a decision regarding release. Nothing in this policy shall be construed as restricting the City or the Orleans Parish District Attorney's Office from appealing a decision of the Court. The Court's decision will not be stayed unless stayed by the District Court or by the U.S. Court of Appeals at the request of the City or DOJ.
10. **No Third Party Rights Created.** This policy establishes no new rights in any third party with respect to the release of a Recording. Public requests for the release of a Recording are governed by the Louisiana Public Records Act. Nothing in this policy shall be construed to affect the rights of the City under La. R.S. 44:3.