

## ARTICLE XIV. - OFFICE OF THE INDEPENDENT POLICE MONITOR

### Sec. 2-1121. - Office of independent police monitor.

- (1) *Creation of the independent police monitor.* Pursuant to section 9-403 of the Home Rule Charter of the city, this article establishes the city office of independent police monitor. The independent police monitor shall be assisted by a deputy independent police monitor, an executive director of community relations, and other necessary staff in accordance with applicable civil service law.
  - (a) *Appointment procedures.*
    1. In the case of a vacancy in the position of independent police monitor, the ethics review board shall be responsible for appointing a new independent police monitor.
      - a. The appointing authority shall convene within 60 days of a vacancy in the position of independent police monitor to initiate the selection process for a new independent police monitor.
      - b. The appointing authority shall conduct a nationwide search to fill the position of independent police monitor.
      - c. Appointment of an independent police monitor shall be by an affirmative vote of a majority of all the authorized membership of the appointing authority.
      - d. The chairperson of the appointing authority may appoint an interim independent police monitor to serve until time as a successor independent police monitor is appointed.
        - i. The eligible candidates for interim independent police monitor are: an existing deputy independent police monitor or other office of independent police monitor management personnel.
        - ii. The appointing authority may, by a majority vote of all of its members, overrule the chairperson's appointment and appoint an alternative eligible candidate as interim independent police monitor.
    2. The ethics review board shall approve the independent police monitor's annual salary each year at a meeting of its board.
  - (b) *Term of office.*
    1. The independent police monitor shall be appointed for a term of four years. The initial term shall begin January 1, 2018. Thereafter, each term shall begin when the independent police monitor begins employment with the city.
    2. The independent police monitor may be reappointed to subsequent four year terms at the discretion of the ethics review board.
- (2) *Qualifications.* The independent police monitor shall be an attorney with substantial experience in criminal, civil rights, and/or labor law, or corporate and/or governmental investigations; or an individual with at least five years' experience in law enforcement oversight, preferably with a graduate degree. Knowledge of law enforcement, particularly of internal investigations of wrongdoing and uses of force, is essential. The monitor shall possess impeccable integrity, sound judgment, and an ability to relate effectively with all those who have a stake in law enforcement including, but not limited to, residents of and visitors to New Orleans, the police department, other law enforcement agencies, and relevant parts of city government. The monitor shall possess an understanding of the city's ethnic diversity, cultural traditions, and socio-economic situation.
- (3) *Duties and responsibilities.* The independent police monitor shall monitor the New Orleans Police Department, particularly in the areas of: civilian and internally-generated complaints; internal investigations; discipline; use of force; critical incidents; and in-custody deaths. The independent police monitor shall review and analyze the numbers and types of complaints; assess the quality and timeliness of New Orleans Police Department investigations; review the adequacy of data collection

and analysis; review the public integrity bureau's policies, procedures, and resource needs; conduct risk management reviews; review the operations and effectiveness of New Orleans Police Department "early warning system"; review specific issues regarding supervision, training, and discipline; and conduct relevant pattern analysis.

- (4) *Complaints.* The independent police monitor shall receive complaints alleging misconduct by New Orleans Police Department personnel that he will refer to the New Orleans Police Department Office of Internal Investigations for investigation. The independent police monitor shall develop relationships with community and civic groups that may receive civilian and anonymous complaints against New Orleans Police Department personnel as a supplement to existing complaint intake mechanisms.
- (5) *Investigatory power.* The New Orleans Police Department will advise the independent police monitor within seven days of receipt by the New Orleans Police Department of any complaint of misconduct, classified as a formal disciplinary investigation, disciplinary citation, informal disciplinary investigation, or information documentation. The independent police monitor shall have the power to review the classification of all internal investigations and, in circumstances where the independent police monitor believes an investigation was misclassified, to recommend to the New Orleans Police Department that it be reclassified.
- (6) *Public reporting requirements.* The independent police monitor shall have the power to recommend that an internal investigation be reopened if he determines that the investigation was not thorough or fair. The reopening-of-case-recommendation provision only applies to the very limited instance where the statutory time limit permits. If the New Orleans Police Department declines to accept the recommendations of the independent police monitor relative to the classification of an investigation, a line of questioning, reopening an investigation not deemed to have been appropriately completed, or any other recommendation, the independent police monitor shall issue a public report relative to the refusal. All completed investigations reviewed by the independent police monitor shall be accompanied by a report in writing to the New Orleans Police Department stating whether the investigation was considered fair, thorough, timely or insufficient.
- (7) *Police commendations.* The independent police monitor shall also compile data regarding commendations and shall identify officers, units, and precincts that have been commended by the public for doing exceptional work. Such information shall be presented in public reports. The independent police monitor will note patterns in commendations and urge the New Orleans Police Department to share commendation information widely within the department and identify practices and initiatives that should be emulated broadly throughout the department. No provision of this section shall violate the Police Officers' Bill of Rights.
- (8) *Civilian complainants.* Civilian complainants who have tried unsuccessfully to obtain a meaningful status report on a complaint they initiated, may, upon request, receive such a status report from the independent police monitor. Civilian complainants who are dissatisfied with the outcome of an investigation they initiated may request a review by the independent police monitor of the completed New Orleans Police Department investigation. When he deems it appropriate, the independent police monitor may recommend that such an investigation be reopened and report to the complainant whether he has recommended any further investigation. The reopening-of-case-recommendation provision only applies to the very limited instance where the statutory time limit permits.
- (9) *Civil claims and lawsuits.* The independent police monitor shall review patterns relating to civil claims and lawsuits alleging New Orleans Police Department misconduct, payout amounts over time, units disproportionately represented as subjects of claims and lawsuits, related training, and other issues. The independent police monitor shall review the investigation of the underlying incidents described in such claims and lawsuits, whether those investigations predated the filing of a claim or lawsuit or the investigations were initiated following such filings.
- (10) *Recommendations to police superintendent.* The independent police monitor shall evaluate complaint trends and other information and investigation practices. The independent police monitor

shall make recommendations to the superintendent to improve upon policies and practices based on national best practices.

- (11) *Training review.* The independent police monitor shall periodically review training sessions and schedules to identify best practices and any need for improvements to training curriculum or frequency.
- (12) *Public accountability.* The independent police monitor shall distribute information about its office, duties and functions. The independent police monitor shall issue complaint and commendation forms in languages and formats accessible to residents. The independent police monitor shall be required to hold at least one public outreach meeting in each council district of the city at least once every four months. The independent police monitor shall be required to meet with each police association a minimum of three times each year.
- (13) *Civil service commission to establish rules and regulations.* The New Orleans Police Department and the civil service commission shall work cooperatively to establish rules and regulations that require both to cooperate with the independent police monitor as he actively monitors disciplinary and nondisciplinary proceedings. Those policies shall provide for, among other things: timely notification prior to disciplinary proceedings; complete access to the proceedings of departmental boards and civil service hearings involving the disciplining of officers; and complete access to all materials to which those boards and the civil service commission have access. The policies shall also provide for the ability of the independent police monitor to attend disciplinary and nondisciplinary proceedings, to review disciplinary and nondisciplinary documents, to make determinations as to whether departmental rules or policies have been violated, to make recommendations regarding appropriate discipline, and to review the appropriateness of disciplinary sanctions. The independent police monitor in conjunction with the New Orleans Police Department internal investigations office shall make recommendations to the civil service commission relative to improving police disciplinary procedures.
- (14) *Review of data collection and analysis.* The independent police monitor shall review New Orleans Police Department data collection and analysis to enable it to track trends in relation to types and sources of civilian and internally-generated complaints, processing and investigation, and determinations stemming from complaints, discipline imposed by type of complaint, use of the early warning system to intervene with an officer in need of additional training, supervision, or other issues of concern that arise during a review by the independent police monitor. The New Orleans Police Department shall provide the appropriate database and personnel to facilitate this section.
- (15) *Mediation of civilian complaints.* The independent police monitor shall establish and administer a mediation program for civilian complaints, guided by best practices identified in other jurisdictions with such mediation programs. Consent of the civilian complainant, the police officer involved, and the New Orleans Police Department shall be required before a case can be scheduled for mediation by a trained neutral mediator from outside the New Orleans Police Department.
- (16) *Public reporting requirement.* The independent police monitor shall be required to issue at least one public report each year, by May 30, to the ethics review board and New Orleans City Council detailing its monitoring and review activities and the appropriate statistical information from the internal investigations office, and other divisions of the New Orleans Police Department. The independent police monitor shall be required to report upon problems it has identified, recommendations made and recommendations adopted by the New Orleans Police Department. The report shall also identify commendable performance by the New Orleans Police Department and improvements made by the department to enhance the department's professionalism, accountability, and transparency. The criminal justice committee of the New Orleans City Council shall conduct a hearing on each annual report within 30 days of submission. Additional reports relating to policy and training recommendations, matters of significant public interest, or other concerns may be issued throughout the year, such reports shall be submitted to the ethics review board and criminal justice committee of the New Orleans City Council and simultaneously released to the public. The committee will have discretion as to whether to conduct a public hearing relating to such reports.

- (17) *Penalties for violating this section.* It shall be the duty of all city employees, classified or unclassified to cooperate with the independent police monitor in his work pursuant to this section. Any city employee who violates any provision of this chapter shall be subject to investigation, and if warranted, to discharge or such other discipline consistent with civil service rules and procedures in addition to any other penalty provided in the City Charter or ordinances.
- (18) *Negotiation of protocols.* The independent police monitor and the New Orleans Police Department shall be required to negotiate protocols within 90 days of the appointment of the independent police monitor.
- (19) *Retention of powers by inspector general.* Nothing in this section shall be construed to limit the existing powers of the office of inspector general granted by statute, ordinance, rule or regulation. The office of inspector general shall retain all the powers and duties granted by federal and state statute, court ruling, ordinance, executive order, rule and regulation, contract or other means.
- (20) *Removal of independent police monitor from office.* Following a public hearing by the ethics review board, the independent police monitor shall be removed from office for cause by an affirmative vote of two-thirds of the entire authorized membership of the ethics review board, which must then publicly report the reasons for removal to the city council.
- (a) Causes for removal may include abuse of power or authority; conviction of a state or federal felony [charge]; entry of a guilty or nolo contendere plea to a state or federal felony charge; discrimination; ethical misconduct in office; unprofessional conduct; or other acts tarnishing the integrity of the office of independent police monitor.
- (21) *Records disclosure.* All records of the office of the independent police shall be exempt from public disclosure and shall be considered confidential, unless the independent police monitor is legally required to make such records public. Unauthorized disclosure of information by the independent police monitor or any employee of the office of the independent police is subject to review and disciplinary action by the appointing authority. The office of the independent police monitor is subject to all state laws concerning public records.
- (22) *External review of the office of the independent police monitor.*
- (a) Completed reports, inspections, performance reviews, public reports of investigation, and other records, shall be subject to an annual quality assurance review by a third-party advisory committee, known as the quality assurance review advisory committee for the office of the independent police monitor.
1. The quality assurance review advisory committee for the office of the independent police monitor shall include a representative appointed by the city council, who shall serve as chair of the committee; a representative appointed by the office of the mayor; and a representative appointed by the ethics review board.
    - a. The committee shall be renewed annually, although representatives may be reappointed at the discretion of the appointing entities.
    - b. The chair shall be responsible for:
      - i. Providing each committee member with materials for the annual review;
      - ii. Setting a public meeting at which the committee will present its written review. The public meeting shall take place after the publication of the office of the independent police monitor's annual report mandated by subsection (16), but before July 31;
      - iii. Presenting the committee's written review to the office of the independent police monitor at least 15 calendar days prior to the date of its public meeting.
    - c. Committee members must be domiciled in Orleans Parish.
    - d. A committee member may not hold any elective or appointed position with the city nor any other government or political party office, nor be employed by any entity that is

subject to review by the office of the independent police monitor. Additionally, a member may not have held any of these positions within two years before appointment to the committee.

2. As the entity being reviewed, the office of the independent police monitor does not participate on the committee, but will provide full cooperation, including access to all completed reports. The police monitor will appear before the committee at its annual public meeting.

(b) The office of independent police monitor shall be subject to an independent, external peer review every three years. Such peer review shall be paid for by the office of independent police monitor. When completed, the recommendations and findings of such peer review shall be submitted to the ethics review board and independent police monitor. The office of independent police monitor shall comply with the recommendations of the peer review within 90 days, provided that the recommendations and findings are accepted and approved by the ethics review board. Copies of the final report resulting from this peer review shall be furnished to the ethics review board, the clerk of the council, the city attorney, and the office of the mayor. The final report shall also be made available to the public.

(23) *Resources.*

(a) Pursuant to section 9-404 of the Home Rule Charter of the city, the office of independent police monitor shall be funded by an annual appropriation by the city council as part of the city's operating budget.

(b) The office of independent police monitor shall prepare and transmit an annual operating budget to the chief administrative officer, identifying in the budget all proposed expenditures for the following fiscal year."

(24) *Right to special counsel.* Pursuant to section 9-403(3) of the Home Rule Charter of the city, the office of the independent police monitor may retain special counsel to provide legal advice and representation on its behalf, notwithstanding the provisions of section 4-403 of the Charter.

(M.C.S., Ord. No. 23146, § 1, 7-18-08; M.C.S., Ord. No. 23886, § 1, 2-25-10; M.C.S., Ord. No. 24950, § 2, 7-12-12; M.C.S., Ord. No. 27308, § 1, 3-9-17; M.C.S., Ord. No. 27727, § 1, 4-5-18; M.C.S., Ord. No. 27746, § 1, 4-19-18)