

OFFICE OF INSPECTOR GENERAL
CITY OF NEW ORLEANS



SUSAN HUTSON
INDEPENDENT POLICE MONITOR

May 24, 2013

The Honorable Susie Morgan
U.S. District Court for the Eastern District of Louisiana
500 Poydras, C508
New Orleans, LA 70130

RE: Civil Action No. 12-1924; United States of America vs. The City of New Orleans, Consent Decree; RFP for the Consent Decree Court Monitor Selection

Dear Judge Morgan:

I thank you for allowing the Office of the Independent Police Monitor (OIPM) and the public a meaningful opportunity to share our views on the court monitor applicants prior to your approval of the court monitor for the consent decree.

As the entire community seeks significant reforms in the performance of the New Orleans Police Department (NOPD), it is in the best interest of all parties to identify the best prospective court monitor.

Toward that end, the OIPM has provided our input on the two final candidate teams and some individuals from these and from other teams.

Sheppard Mullin

The OIPM believes that Sheppard Mullin brings a great depth of experience to this position. The OIPM notes that the Sheppard Mullin's team includes a selection of former and current police chiefs, those whom have experience both as the subjects of monitoring as well as those whom have experience as monitors of other police departments. If selected, this experience will serve Sheppard Mullin well.

Moreover, many of the law enforcement representatives on the Sheppard Mullin team have familiarity with community policing, use of force standards, and early warning systems. Sheppard Mullin appears to be a group of forward-thinking officials who will work effectively with the NOPD to push for genuine reform in accordance with the consent decree. Similarly, we have been thus far impressed by the group of academics Sheppard Mullin has recruited. Professors Alpert and Carmen are true leaders in their fields.



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Finally, we appreciate some of the actions Sheppard Mullin has already taken in preparing their proposal. These actions include lining up a local translation service, reading the latest OIPM annual report, and expressing a willingness to work with our office. We believe whomever becomes the federal monitor, will greatly benefit by working with our office.

That being the case, the OIPM is not without questions for the Sheppard Mullin group. In both the Sheppard Mullin proposal and when questioned publicly, Sheppard Mullin was noncommittal about the amount of time they are planning to spend in New Orleans. An absentee monitor will simply not work in the context of New Orleans and the NOPD consent decree. Specifically, New Orleans will need the full attention of the lead monitor. It would appear from Sheppard Mullin's proposal that the lead monitor candidate, Mr. Aronie, will continue to manage a large law firm while acting as lead monitor. New Orleans needs the strong commitment of Mr. Aronie's presence in New Orleans if Sheppard Mullin is chosen to implement the New Orleans Police Department Consent Decree.

Second, we have questions about former Pittsburgh Police Chief Robert McNeilly. Because of our anticipated working relationship with the court's monitor, we have reached out to obtain information about his experiences with police oversight. We were provided with several media reports which chronicled that McNeilly may not have cooperated with the local oversight agency in Pittsburgh, the Citizens Police Review Board (CPRB). According to information we obtained, McNeilly allegedly failed to order officers to comply with the CPRB and its lawful mission. Additionally, McNeilly is alleged to have discounted CPRB disciplinary and training recommendations.

Finally, we question Sheppard Mullin's strategy for working with the community and achieving true "buy in" from the people of New Orleans. We are greatly concerned with Sheppard Mullin's local presence on the initial monitoring team being limited to that of a local law firm. In such a small legal community, many law firms in New Orleans have some ties to the city and their legitimacy would be instantly challenged. If selected, Sheppard Mullin must work with community groups in order to effectively receive input from the citizens of New Orleans who currently and historically are most affected by unconstitutional policing.

The community is truly concerned about the court monitor having a strong community presence and being made up of strong team members. Therefore, we respectfully request that the Court fully vet Sheppard Mullin on the issues raised herein.



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Hillard Heintze

All three of Hillard Heintze's main candidates for monitor and deputy monitor have significant backgrounds in law enforcement: Mr. Terry Hillard spent decades in the Chicago Police Department; Ms. Kathleen O'Toole worked as the Boston Police Commissioner; and Mr. Robert Davis became Chief of Police for the San Jose Police Department.

A majority of the other members of the Hillard Heintze team also have backgrounds in law enforcement, but only two of the twenty advisors have legal experience. A few members of the team do have a record of involvement with important organizations such as NACOLE, COPS, the ACLU, and the NAACP.

Hillard Heintze specializes in strategic security and human resources. Hillard Heintze's experience with risk management ranges from commercial property risk to private event security and data security.¹ Hillard Heintze has also advised the Department of Defense on matters of human resources and IT vulnerability and helped define the role of the Office of Law Enforcement Oversight for the King County Sheriff's Office.²

Some of Hillard Heintze's experiences might be likened to policing or police oversight -- for example, serving as security at the State Capitol or serving as Inspector General for Chicago's Metra Rail System; however, the OIPM questions whether Hillard's experience will translate into providing monitoring to the New Orleans Police Department.

The OIPM reached out to our sister oversight office in Chicago for information about their interactions with Superintendent Hillard. My colleague, the Chief Administrator of the City of Chicago's Independent Police Review Authority, advised that she is a supporter of Superintendent Hillard and noted that he supported civilian oversight when the city was contemplating its termination.

However, the OIPM has some concerns about lawsuits against former Superintendent Hillard. We note that the lawsuits contain allegations of the personal knowledge and the involvement

¹ hillardheintze.com

² Hillard Heintze NOPD Consent Decree Proposal



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of Superintendent Hillard in unconstitutional policing,³ unlawful promotion/demotion practices,⁴ and failing to ensure that the Chicago Police torture cases were fully investigated and all available parties held accountable.⁵

The OIPM notes that constitutional policing, fair promotions, and a strong accountability system are the subject of many paragraphs in the NOPD consent decree, to which Superintendent Hillard seeks to require the NOPD to comply. Pursuant to the consent decree, these types of allegations made in litigation against an NOPD officer would cause that officer to alert the early warning system. It is for this reason that we are concerned about these allegations made against Superintendent Hillard.

Hillard Heintze's candidates for monitor and deputy monitors have a great deal of experience as police executives, but much less experience in being a part of a monitored agency or as monitors of a police department. As former law enforcement supervisors, Hillard Heintze can bring credibility to their interactions with the NOPD, its supervisors, and its officers. The OIPM does not underestimate the importance of helping to garner officer buy-in. However, the OIPM does have questions about the ability of Hillard Heintze to manage a consent decree of such massive size and breadth. Hillard Heintze isn't being asked to run the NOPD, but to ensure NOPD compliance with this very complicated and detailed legal document. My professional experience in Los Angeles in complying with a consent decree of fewer paragraphs and less detail but of many legal challenges, has caused me to conclude that a monitor with legal experience is absolutely necessary. In fact, the commanding officer of the LAPD's consent decree bureau was a lawyer; the commanding officer's skills and experience greatly aided in compliance with the consent decree.

Hillard Heintze has secured local community members for assistance, if selected by the Court. Although some of their selections have been controversial, we respect that they have reached out to the community.

³ Vodak v. City of Chicago, 639 F.3d 738, 744 (7th Cir. 2011)

⁴ Doyle v. City of Chicago, No. 12 C 6377, 2013 WL 1855842 (N.D.Ill. May 1, 2013)

⁵ Report of the Special State's Attorney, Edward Egan and Robert Boyle, page 112, July 19, 2006.



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We also respectfully request that the Court fully vet the issues raised herein regarding this candidate.

Specific Team Members

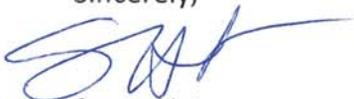
The OIPM does note that in addition to having very experienced law enforcement executives, the Hillard Heintze team has Kathleen O'Toole, who is impressive in her own right. Although, the OIPM has some concerns with Ms. O'Toole's ability to balance a commitment to NOPD reforms, while at the same time continuing her work in both a private law firm and education in Dublin, Ireland, Ms. O'Toole is one of only two individuals on the twenty-person team who are members of a state bar. Ms. O'Toole was also a Joint Compliance Expert for the DOJ.

Additionally, the OIPM has worked with Dr. Peter Scharf and Murphy Paul, other members of the Hillard Heintze team. Although at times the OIPM has not been in agreement with Dr. Scharf's perspective on policing issues, we want to recognize his commitment to help policing and oversight all over the country. We have found that Murphy Paul has exhibited professionalism and commitment to accountability during his tenure with the Louisiana State Police.

Furthermore, the OIPM is extremely impressed with the credentials and the force of character of Michael Bromwich and believe that Mr. Bromwich could be helpful to the Court in its efforts to achieve compliance with this consent decree. The OIPM is in contact with our sister oversight agency in Washington, D.C. and have been advised of the strength and leadership of Mr. Bromwich during the duration of that consent decree.

These proceedings will have a significant impact on New Orleanians' daily lives for years to come. The OIPM and the court's monitor should be partners in the reformation process. We trust the Court to weigh all factors accordingly and we respectfully request that the Court consider the OIPM's comments contained herein.

Sincerely,



Susan Hutson
Independent Police Monitor

