

OFFICE OF INDEPENDENT POLICE MONITOR
CITY OF NEW ORLEANS



SUSAN HUTSON
INDEPENDENT POLICE MONITOR

March 10, 2016

Michael Harrison
Superintendent of Police
New Orleans Police Department
715 South Broad Street, 5th Floor
New Orleans, LA 70119

RE: NOPD and March 4, 2016 Rally for Presidential Candidate Donald Trump

Dear Superintendent Harrison:

As we know, the core of the Consent Decree between NOPD and the U.S. Department of Justice is adherence to constitutional law and elimination of a pattern and practice of civil rights violations. As NOPD has made marked progress in this regard, recent events of NOPD working with other law enforcement agencies present a risk of jeopardizing our community's investment in NOPD. The OIPM is writing this letter to document some concerns and recommendations regarding the NOPD's protection of and respect for the First Amendment right to assemble.

Background:

Recent events with Louisiana State Police, the Jefferson Parish Sheriff's Office, the Levee District Police, and Secret Service have raised questions in our community about how NOPD works with outside law enforcement agencies that come into the city of New Orleans and about NOPD's jurisdiction. NOPD has made great strides correcting past patterns and practices of violations of constitutional rights and mending police-community relationships. NOPD's reform work has created an improved standard for policing that honors both the United States Constitution and this community's expectations for its police department and provides for a safer, better trained, and more effective police force. This benefits the police department in several ways in regards to efficient use of resources, public safety, officer and civilian safety, officer morale, and trust and confidence in NOPD resulting in more cooperation with the community to solve crime.



Description of Events:

On March 2, 2016, community members contacted the Office of the Independent Police Monitor and requested our presence to observe the events on the evening of March 4, 2016. In light of well-publicized violence against civilians, use of force, and threats in other cities at such events with this presidential candidate, we agreed to the community members' request. ¹ I also spoke to you that morning to find out about NOPD's role at the event.

On the afternoon of March 4, 2016, community members who both had tickets to the event and others who were there to protest the rally were not being allowed entrance into the lakefront airport area for the rally nor even the parking lot adjacent to the facility which provided ample safe space. Around 5:30 pm on March 4th, an OIPM staff member, Alison McCrary, arrived in the area about a mile away from the event. Dozens of demonstrators were walking back to their cars stating that NOPD was not allowing them to cross over the highway area to head in the direction of the area where other protesters were gathered outside of the airport building in the parking lot. Another hundred or so protesters and event goers were told by NOPD that they had to stay on the median or neutral ground and could not cross the four-lane road to head into the airport parking lot. Staff with the ACLU and attorneys from the National Lawyers Guild were also present documenting the constitutional rights violations.

Upon learning of the conflict, the OIPM staff member met with the NOPD officers present to better understand the situation, the safety concerns, and the risks. NOPD informed her that they received instructions from the Levee District police who have jurisdiction over the Lakefront airport area. However, NOPD was on the street and likely not in Levee District boundaries of jurisdiction. The NOPD officers informed the OIPM staff member to contact the Levee District Police who then instructed her to communicate with Secret Service who allegedly gave them instructions to not allow more demonstrators into the parking lot or other areas closer to the event about one half of a mile away. Upon bringing the Levee District Police Commander together with the head of Secret Service for the event, neither law enforcement agency took responsibility for the communication to NOPD to not allow demonstrators to cross the street and not enter the area. In fact, both denied being the source of that instruction to the NOPD who were present or in command at the event including Lieutenant Samuel Palumbo.

¹ In Michigan, New Hampshire, Kentucky, Virginia, and Texas for example.
<http://www.washingtontimes.com/news/2016/mar/5/donald-trump-gives-supporters-permissions-be-viole/>



Ultimately, we were able to effectively intervene on March 2, 2016 but there is a risk of future violations of constitutional rights and, consequentially a risk of jeopardizing NOPD's improved relationship with the community and its compliance with the Consent Decree.

Because of the recent incident with the Jefferson Parish Sheriff's office^{2 3}, several incidents with the Louisiana State Police^{4 5}, and this experience last week, we express the following concerns and offer recommendations for your consideration.

Concerns:

The First Amendment right violations of civilians on March 4, 2016 at the intersection of Leon C. Simon and Downman Road are a risk to NOPD, its officers and New Orleans. Although the Trump rally took place on private property, the surrounding radius is a public thoroughfare.

We work hard to uphold the established standards of policing that protect constitutional rights to democratically engage, peaceably assemble and make legal redress of grievances. We have made progress in advancing those standards in this city with NOPD and need to maintain those standards as other agencies come into the city.

Recommendations:

We recommend that NOPD allow the right to assemble and political demonstrators into events or event areas and facilitate public safety measures in those spaces. In the event of safety concerns or a constitutionally allowable reason to prevent peaceable assembly, NOPD should document and publish its reasons.

We recommend that NOPD have written agreements with any law enforcement agency before their arrival into the City of New Orleans, for any agency known to be coming into the city, or any agency that may potentially come into Orleans Parish at a future time.

We recommend that NOPD brief law enforcement agencies on Consent Decree requirements, standards, and relevant NOPD policies and practices before an event or before the agency enters the city of New Orleans.

² http://www.nola.com/crime/index.ssf/2016/02/jpso_deputies_fatally_shoot_ma.html

³ http://www.nola.com/crime/index.ssf/2016/01/jpso_deputy_shot_new_orleans.html

⁴ <http://legacy.wvltv.com/story/news/local/investigations/mike-perlstein/2015/09/23/man-claims-police-brutality-in-mistaken-identity-case/72705402/>

⁵ <https://www.indiegogo.com/projects/justice-for-lyle#/>



Michael Harrison
Superintendent of Police
March 10, 2016
Page 4

We recommend that NOPD refuse to take orders from a law enforcement agency that would violate municipal law, state law, or the constitutional rights of civilians.

We recommend that NOPD consult with and brief the OIPM on any matters related to an event that may be in violation of a policy or law or be perceived to be in such violation. We further recommend that NOPD amend Policy 52.1.1 paragraph 14 requiring officers to report misconduct to include any law enforcement officer from any agency.

Ultimately, NOPD's cooperation and OIPM's interventions resulted in a safe evening in which civilians were able to exercise their constitutionally protected rights to peaceable assembly. We thank all the involved commanders, supervisors, and officers for their assistance.

These officers work hard to adapt to new policies and training, a shifting NOPD culture, and to repair their relationships with the community to regain trust and confidence. As New Orleans welcomes all visitors, including visiting law enforcement agencies and we should continue to do so, we must maintain our standards of service, regardless of the influence of other law enforcement agencies.

Please reply to this letter on or before March 21, 2016 (7 business days) with any questions, concerns or feedback as well as your timeline for implementing these recommendations.

Sincerely,



Susan Hutson
Police Monitor

