

# CITY OF NEW ORLEANS

ED QUATREVAUX, INSPECTOR GENERAL



September 24, 2015

Ethics Review Board  
City of New Orleans  
525 St. Charles Avenue  
New Orleans LA 70130

Re: Recommendation to Terminate the Employment of Susan Hutson

Dear ERB Members,

I write to you today to recommend the termination of the employment of Susan Hutson, the Independent Police Monitor (IPM) for the City of New Orleans. The function of a police monitor is critical to the City of New Orleans, and the city deserves a police monitor who can competently and effectively carry out those important duties.

This recommendation is made pursuant to City Code Sec. 2-1121(20) which states that “The independent monitor shall only be removed based on the recommendation of the Inspector General and approved by a majority vote of the Ethics Review Board.”

The IPM’s job description states that “The independent police 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.”

Using this standard, this letter will show that Ms. Hutson has engaged in ethical misconduct in office; unprofessional conduct; has failed to relate effectively with law enforcement; and other acts tarnishing the integrity of the Independent Police Monitor Division (IPMD).

## **Refusal To Comply With A Federal Judge Resulting In Impairment to Office**

The most recent and most egregious example of Ms. Hutson’s ethical misconduct and unprofessional conduct was so severe that it resulted in a federal judge restricting her access to NOPD videos and other documents. On July 14, Judge Susie Morgan, Eastern District of Louisiana, called a meeting in her chambers to discuss the release of NOPD videos because she was concerned about the release by the IPM of a video on July 1.<sup>1</sup> Judge Morgan wanted to ensure that videos were released as soon as possible, but only within the confines of the law, and asked the parties to develop a protocol. All attendees agreed on a protocol for earliest

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<sup>1</sup> Attending this meeting were Sharonda Williams, City Attorney; Arlinda Westbrook, NOPD; Graymond Martin, First Assistant District Attorney; Tracy White, U.S. Attorney’s Office; Jonathan Aronie, Federal Consent Decree Monitor; Simone Levine, former Deputy Police Monitor; and Ms. Hutson.

release of videos except for Ms. Hutson. The judge told Ms. Hutson that she did not appreciate Ms. Hutson's prior behavior regarding release of the July 1<sup>st</sup> video. One witness stated that the judge described the release as "inappropriate"; another witness stated that the judge said that the IPM's release of the video "appeared to be for publicity purposes." Ms. Hutson was combative with the judge and refused to agree to any protocol regarding release of information and stated that she would unilaterally release information without any coordination. The judge stated that it appeared as though Ms. Hutson was attempting to "sensationalize" police incidents and directed NOPD to restrict the Independent Police Monitor Division to "view only" access because of Ms. Hutson's stated intention to release information in violation of the judge's directive.

**Ms. Hutson's refusal to follow Judge Morgan's directive has impaired the ability of her office to perform its duties as required by law.** Unrestricted access to documents is essential to any oversight function; Ms. Hutson has critically impaired the ability of the Independent Police Monitor Division to obtain documents or video evidence because of her refusal to comply with a federal judge's instructions. Per the judge's directive, the NOPD will no longer allow the police monitor anything other than "view only" access for any videos or documents in the NOPD's possession.

This unethical and unprofessional behavior, which has crippled the ability of the IPM to do its job by restricting access to documents, is sufficient by itself to merit termination. However, this is far from the first time that Ms. Hutson has acted unethically and unprofessionally or failed to comply with the law.

**Unethical Conduct** Ms. Hutson has made false public statements that she has failed to correct. In 2013, she participated in a television interview that reported that Ms. Hutson had received "dozens" of complaints regarding downgrading of crimes in the French Quarter. Ms. Hutson elaborated, stating that "there is kind of a pattern to the allegations and it usually has to do with a member of the public, someone visiting the city who has a crime perpetrated against them and it's downgraded because the chances of that person coming back are very slim." On further investigation by the OIG, it turned out that there was perhaps one unsubstantiated complaint that had been received by the IPM, not "dozens". When the OIG questioned Ms. Hutson about the accuracy of her statement, she responded: "I had not vetted the list that my volunteer put together, so I am not surprised that it may not be right on point." National Guidelines for Police Monitors provide that "the monitor and monitoring team must rigorously check facts" and "monitors should publish corrections in all cases where a publicly reported assessment proves to have been inaccurate or is otherwise subject to revision." Ms. Hutson, even while admitting that her statement was not based in fact, refused to correct her public statement.

**Unprofessional Conduct** The FBI opened a federal criminal civil rights investigation on August 11, 2014, two days after Michael Brown was shot to death by Officer Darren Wilson, and

published its report of investigation on March 4, 2015. Ms. Hutson appeared on the Ringside Politics show on WGSO on November 25, 2014, while the investigation was being conducted. She questioned the officer's actions and said she thought he had other alternatives. She likened the encounter to a "fist fight" rather than an inherently dangerous situation. She speculated on the officer's guilt, finding his actions "questionable." Commenting on specific cases in other jurisdictions is poor practice as is commenting on matters for which the police monitor had no knowledge of the facts. The Department of Justice Civil Rights Division concluded quite differently from Ms. Hutson. "Not only do eyewitnesses and physical evidence corroborate Wilson's account, but there is no credible evidence to disprove Wilson's perception that Brown posed a threat to Wilson as Brown advanced toward him."

**Failures to Obey the Law** The IPM consistently attempted to enlarge her authority and jurisdiction beyond that of the law.

- On August 19, 2014, Ms. Hutson requested an administrative subpoena so that she could investigate a complaint made to her regarding a police officer. This is entirely outside the purview of what the police monitor is tasked by law with performing. The City Charter, Sec. 9-401, states that the police monitor is "charged with monitoring the operations of the New Orleans Police Department," and this is further spelled out in City Code Sec. 2-1121 as well as in the MOU between the IPMD and the NOPD. Upon receipt of a complaint, the IPMD's only role is to refer the matter to the NOPD's Public Integrity Bureau, which is tasked with investigations of police officers.
- Other incidents also show a pattern of disobedience of the law. Within a year of her appointment, Ms. Hutson issued a review of the investigation by the Louisiana State Police of Deputy Superintendent DeFillo's role in the Henry Glover matter. She had no legal authority to review a state police investigation or investigate DeFillo, both of which she did.
- Ms. Hutson maintains that the IPM ordinance does not mean what it says, that the "independent" in her title means that the Police Monitor is independent of the Inspector General. However, she understood at the time she was hired that "independent" meant independent from the NOPD. Ms. Hutson's stated belief in her independence changed after she was hired and has no basis in the law.
  - In an interview with the New Orleans Tribune in 2010, shortly after Ms. Hutson was selected for her position, she said, "**I will be working for the Inspector General**" and "**...I will be independent of the department (P.D).**"<sup>2</sup>
  - In the Memorandum of Understanding dated November 10, 2010, that Ms. Hutson personally developed with the NOPD, she provided an organization

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<sup>2</sup> The New Orleans Tribune, 2010. <http://id3410.securedata.net/theneworleanstribune/hutson.htm>; attached.

chart that shows that the Inspector General is the head of the organization and that the Independent Police Monitor reports directly to the Inspector General.<sup>3</sup>

- Those involved in the passage of that ordinance say that the independence was from the NOPD and the City's elected officials, not independence from the Inspector General. Legal opinions from the City Attorney, the City Council's external counsel, an external counsel hired by the Ethics Review Board to investigate the allegations made against me by Ms. Hutson, and OIG's General Counsel all said that she is not independent of the IG, but Ms. Hutson refuses to recognize these opinions.

#### **Lack of Timely Review/Violation of MOU**

The Memorandum of Understanding (MOU) which was signed in 2010 between the NOPD and the IPM states that the IPM shall complete its review of the results of PIB investigations **within ten days** of its completion or of the IPM's receipt thereof. In March 2012, Jonathan Sipp and Wendell Allen were shot to death in separate incidents by NOPD officers. The Public Integrity Bureau (PIB) criminal investigation into the Jonathan Sipp matter was closed on March 8, 2013, and a review board hearing on the administrative case took place on August 12, 2014. The IPM participated. The IPM has not issued a report, which not only violates the MOU, but also deprives the public of a timely review.

The Public Integrity Bureau (PIB) investigation into the Wendell Allen matter was completed on June 24, 2014, and the IPM was provided with all documentation at that time. The IPM released its report on the PIB's Wendell Allen investigation on June 29, 2015, **over one year after** the PIB completed its investigation and after PIB had supplied all documents to the IPM. This not only violated the MOU, but also deprived the public of a timely review.

The timing of the release of the Allen report, one day prior to the scheduled sentence reduction hearing of Officer Joshua Colclough, created the appearance that the report was released just ahead of the hearing in order to influence the outcome; the hearing was postponed as a result.

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<sup>3</sup> Independent Police Monitor Organization Chart; attached.

### **Conclusion**

The IPM's job description states that "The independent police 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."

Ms. Hutson has used poor judgment and acted unethically on numerous occasions, and she has consistently failed to relate effectively with the police department and other law enforcement agencies, most notably the Federal court overseeing the NOPD consent decree.

Any of the actions described above would warrant termination of employment on its own, but this short list of Ms. Hutson's serious breaches illustrates a pattern of extralegal, unethical and unprofessional actions. The citizens of New Orleans deserve ethical, effective, and functional oversight of the police department; Ms. Hutson has shown that she is not able to provide this critical function. I urge you to accept my recommendation for her termination today.

Regards,

A handwritten signature in black ink, appearing to read "E.R. Quatrevaux", with a stylized flourish at the end.

E.R. Quatrevaux

## **The New Orleans Tribune catches up with Susan Hutson, New Orleans' new Independent Police Monitor**



*Susan Hutson was recently selected by New Orleans Inspector General Ed Quatrevaux as the new independent police monitor for the city of New Orleans. A Texas lawyer who was working as an assistant inspector general while overseeing the Los Angeles Police Department, Hutson is no stranger to New Orleans, having graduated from Tulane University's Law school.*

*The Tribune caught up with Ms. Hutson over lunch recently out in Pasadena, Ca. And while the surroundings at the Langham Hotel exuded elegance and distinction—the newly tapped independent police monitor made it clear that she knew that she was not headed for a tea party or easy picnic in New Orleans.*

**Tribune:** Could you define for our readers what your exact duties are going to be with respect to your title of independent police monitor for the city of New Orleans?"

**Ms. Hutson:** "I will be working for the inspector general whose job is to more or less audit the city of New Orleans; my job for him is to audit the New Orleans Police Department...their investigations of themselves, the P.I.B. Investigations and lastly to review their policies and procedures. For instance; let's say there is a shooting; I am going to look at things such as tactics. How and when are they allowed to draw their weapons, to shoot, etc. It's the job of the independent police monitor to make recommendations about changes to their departments' policies and procedures, as well as how they investigate themselves."

[...]

**Ms. Hutson:** "I'll base my answer on my experiences while in Los Angeles when dealing with consent decree, which will basically outline our duties. That decree will govern what we do on a day-to-day basis. There will be requirements of the police department as well as requirements of the inspector general's office that we will have to meet.

A consent decree is all about compliance. You have to be able to show that you are making change- you have to write reports in order to show compliance. You normally don't deal with those on the federal level on a daily basis, but these reports are due within a certain time period"

**Tribune:** What specific challenges do you feel await you in your new role?

**Ms. Hutson:** "It all revolves around trust. The trust that others can count on me to do what I have said that I am going to do-that; I won't be a talking head or in cahoots with the police department. People should know that I will be independent of the department (P.D.) and will be hard in critiquing them. I shall be straightforward; I want complete investigations.

Also, the police department will have to trust me in what I write back to them, that this is what I have found. They will need to be able to trust me and say yes, this is what actually went on according to her findings. Lastly, the department will be able to relate to me. I have no problems talking with anyone at any level. I have nothing to hide in this process, and want the police department to know exactly what we are doing-so if I can shine a brighter light on that process, I will be glad to do it.

**INDEPENDENT POLICE MONITOR ORGANIZATION CHART**

