



**Administrative
Report**

2021

OFFICE OF PUBLIC INTEGRITY
MONROE COUNTY, NEW YORK



e) Determine the significance and rank of each risk within the entity.

The significance of risks varies between entities that utilize risk assessment. The significance and rank of each risk depends on an entity's objectives. Within the County, OPI has ranked the eight risk attributes as follows: 1) dollar amount of fees for service, 2) control over off-book accounts, 3) dollar amount of equipment and inventory, 4) number of employees, 5) dollar amount of appropriations, 6) type of customers, 7) type of service, and 8) dollar amount of federal and state aid.

f) Calculate an overall risk factor for each auditable unit.

Upon multiplying the significance of each risk attribute by the magnitude and likelihood of occurrence, a risk factor is created by which every auditable unit can be ranked for risk within the County. The risk factor scale, intrinsic to Monroe County, is from 0.00 to 3.00.

g) Compare risk factors of the auditable units in order to identify the areas of highest risk.

Auditable units with risk factors that approach 3.00 should be included on the annual audit plan, unless the auditable unit was recently audited and contained no significant findings.

Future Activities

OPI will continue to 1) provide training on ethics to County employees and contractors, 2) conduct risk and control assessments with departments, 3) perform audits of County operations and contractors, and 4) perform investigations of suspected misconduct, fraud, and unethical behavior. Future audits could include, but not be limited to, the following areas, as highlighted through risk assessment: the procurement process, construction projects, emergency medical services, fire districts, the Public Safety Training Center, cell towers, fuel purchases, revenue-producing functions, travel expenses, and a cost-recovery audit of utility expenses.

OPI plans to perform audits involving at least 6 County departments in 2022.

Submitted by:



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TEAM OPI

Janson D. McNair became the director of the Office of Public Integrity in January 2021, after serving 25 years in the Monroe County Sheriff's Office. Director McNair retired from the Sheriff's Office as Commander of the Staff Service Bureau. He served 4 years in the United States Army during Operation Desert Storm. Director McNair has extensive institutional knowledge of Monroe County government to supplement his career in the military and law enforcement. He holds an Associate's degree in Liberal Arts from Monroe Community College, a Bachelor's degree in Communications from SUNY Brockport, and a Master's degree in Criminal Justice Administration from Keuka College. Director McNair is a Certified Inspector General. He is also an active instructor with the New York State Division of Criminal Justice Services, where he currently instructs Officer Wellness and Suicide Prevention.

Eric Leinenbach, a Certified Inspector General Auditor, and a Certified Inspector General Investigator, has served Monroe County in multiple roles in the past 26 years. Prior to joining the Office of Public Integrity, he served as the County Controller, the Internal Audit Manager, and the Fiscal Coordinator for the Office of Mental Health and the Office of Probation. After graduating from Alfred University, he worked in the D.C./Maryland area as a certified public accountant and corporate accountant. He is a past president of the Rochester Chapter of the Institute of Internal Auditors.

Steve Peglow is a Certified Inspector General Investigator. Prior to joining OPI, he served over 20 Years with the Monroe County Sheriff's Office and other New York State police departments, working as a deputy in Road Patrol, Warrant Services and in plain-clothes capacities. His last 10 years were as a Major Crimes Investigator for the Sheriff's Office before retiring in 2016. Since 1999, he has also served the MCC Public Safety Training Facility as a defensive tactics instructor and as a classroom teacher. He works part-time for OPI and part-time as a private investigator for other entities.

John Melville is a Certified Inspector General Investigator, having recently retired as a welfare fraud investigator for the Monroe County Department of Human Services after 23 years of service. A licensed Private Investigator for 12 years, he was also an Executive Board member of the New York Welfare Fraud Investigator's Association from 2006-2015, serving as president for three terms. In 2017 he received the NYWFIA Annual Service Award, acknowledging his dedication to the organization. He has presented training on numerous topics, including field safety, interviewing techniques, use of computers and social media in investigations, report writing, and ethics.

Linda Gurtler is the Executive Secretary for the Office of Public Integrity, after having served Monroe County for 30 years, including 24 years with the Monroe County Sheriff's Office, followed by 3 years with the District Attorney's Office.



III. RISK ASSESSMENT AND FUTURE ACTIVITIES

The inherent and unique responsibility of the Office of Public Integrity is to follow-up and respond to any concerns that are reported through the County's hotline. However, to maximize its effectiveness, OPI also takes a proactive approach in mitigating the various financial and operational risks to Monroe County. To accomplish this, OPI uses a comprehensive approach to risk assessment that includes OPI's knowledge of County operations, prior audit results, and management's immediate concerns. For purposes of this section, management is defined as any employee or elected official of Monroe County, who is responsible for establishing policy or providing services to the public.

Risk Assessment

Risk assessment is one of the five essential internal control components for any entity. For management, assessing risk can allow them to identify and implement internal controls that are most cost-efficient in minimizing those risks. For auditors, assessing risk allows for the development of an annual audit plan which is logical, reasonable, and maximizes the effectiveness of available resources.

In order to assess risk, the following steps (*italicized*) are performed.

a) Determine management's objectives.

The County's objective, per its vision statement, is to make Monroe County a community of choice. To meet this objective, management strives to provide governmental services in an efficient manner so as to minimize the tax burden on County residents.

b) Identify risks related to management's objectives.

Risk is defined as any event that could prevent management from meeting its objectives. Various risks exist that could prevent the County from meeting its objective of providing services in an effective and efficient manner. These risks are related to, but are not limited to, employees, vendors, customers, and the environment. These risks can potentially impact revenues, expenditures, assets, and services. While OPI can identify the general risks of each auditable unit, management is responsible for identifying and controlling all risks, especially those specific to their units.

c) Assess the magnitude of the risks.

Each risk has various attributes that can be quantified. Using data from the Budget Office and the Controller's Office, OPI has quantified the magnitude of each of the eight risk attributes that have been included in Monroe County's risk assessment. After quantifying the risk attributes, it becomes possible to compare the risks of auditable units.

d) Assess the likelihood of the risks.

In addition to magnitude, the likelihood of occurrence must be determined in order to have an overall sense of each risk and its relationship to other risks within the County. However, assessment of likelihood can be more subjective if historical data is not available. To date, an objective assessment of likelihood of each risk is pending.

OFFICE OF PUBLIC INTEGRITY

MONROE COUNTY, NEW YORK



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Administrative Report 2021

Administrative report for the Monroe County Legislature for the twelve months ending December 31, 2021

Examples of certain recurring auditing and monitoring activities include:

- Residency requirements for employees who are not eligible for waivers.
- Confirming the MWDBE status of subcontractors listed on legislative referrals.
- Financial Disclosure forms for employees in management and professional positions.
- Compliance with equipment-use policies, including, but not limited to, vehicles and portable electronic devices.
- Compliance with County procurement policies, with emphasis on professional service contracts and publicly bid contracts.
- Inventory management of County assets, such as public safety equipment provided to Emergency Medical providers and Fire Districts.
- Intermunicipal agreements for functions such as the Public Safety Training Center, the 911 Center, cell towers, and fuel purchases.

During 2021, OPI completed 11 audits, and another 5 audits are active as of year-end.

The completed audits are as follows:

1. Cost-recovery audit of utility expenses
2. Contract with Riedman Associates for providing facilities for Appellate Court
3. Contract with the University of Rochester for Nurses at the Monroe Community Hospital
4. Contract with Nardozzi Paving and Construction for Mendon Center Road Improvements
5. Contract with Nardozzi Paving and Construction for North Road in Wheatland Improvements
6. Contract with Nardozzi Paving and Construction for Brooks Road Culvert Replacement
7. Contract with Nardozzi Paving and Construction for Lake Road Improvements
8. Contract with Ramsey Constructors for East Street Culvert Replacements
9. Residency audit for 2021
10. Employee compliance with the Portable Electronic Device policies for 2021
11. Risk Assessment of the Department of Public Safety – Weights and Measures Unit

Complete audit reports are available upon request.

Investigations

OPI opened 80 investigations in 2021, with 73 based on contact from whistleblowers. OPI completed 93 investigations and had 1 active case at year end. Seventy-six (76) cases were closed within 30 days (82%) and another 13 were closed within 90 days (96%). Thirty-six (36) allegations were either unprovable or unfounded (39%).

The 93 completed investigations and their dispositions were as follows:

- Fifty-six (56) involved employee misconduct; 28 were referred to the County departments and/or Human Resources for employee disciplinary actions, including 1 termination, 12 were unprovable, 14 were unfounded, and 2 were resolved without discipline.
- Six (6) involved COVID complaints; 4 were referred to the NYS COVID Task Force, 1 was referred to the Sheriff's Office, and 1 was provided information.
- Four (4) involved privacy violations; 1 was sustained and 3 were unfounded.
- Four (4) involved protection of a County asset; 1 was referred to the Sheriff's Office, 1 was referred to the Federal Bureau of Investigation, 1 was referred to the County's Law Department, and 1 was unfounded.

- Two (2) involved creating a hostile work environment and were unfounded.
- Two (2) involved code of ethics violations; 1 was referred to the Monroe County Board of Ethics, and 1 was unfounded.
- Two (2) involved procurement; 1 was exonerated, and 1 was unfounded.
- Two (2) involved compliance with American's with Disabilities Access; 1 was referred to the department for corrective action, and 1 was unfounded.
- One (1) involved the County's hiring process and was unfounded.
- One (1) involved a contractor and was referred to the department for corrective action.
- One (1) involved a daycare center and was referred to the NYS Office of Children and Family Services.
- One (1) involved a restaurant and was referred to the Monroe County Department of Public Health.
- One (1) involved allegations of welfare fraud, was sustained, and referred to DHS.
- One (1) involved violations of the County's residency requirement and was referred to the department for disciplinary action.
- Nine (9) involved miscellaneous complaints and were resolved by providing the complainant with additional direction or information.

Confidentiality

Any questions regarding OPI's investigations are welcome, with the understanding that it is OPI's responsibility to maintain a proper balance between transparency regarding its activities and reports and confidentiality regarding its complainants, informants, and evidence. OPI has established procedures for safeguarding the identity of confidential sources and for protecting privileged and confidential information, and can disclose such items if such disclosure is required by law or necessary to further the purpose of an audit, investigation, inspection, evaluation, review, or other inquiry. A variety of federal, state, and local government legislation governs this area of activity.

Other Accomplishments

In 2021, Director McNair became a Certified Inspector General through the Association of Inspectors General (AIG). All investigative and auditing staff, consisting of Director McNair, Eric Leinenbach, Investigator Peglow, and Investigator Melville, have been certified by the AIG. Certification requires forty (40) hours of Continuing Professional Education over a two-year period, and each certified employee has maintained this level of training.

The AIG establishes and maintains the "Principles and Standards for Offices of Inspectors General." Also known as the "Green Book", the AIG's Principles and Standards establish criteria for creating and administering inspector general offices consistent with best practices within the inspector general profession. Currently, approximately 4,500 people are certified as either investigators, auditors, or inspector generals by the AIG. This compares to 669,130 actively licensed Certified Public Accountants as of August 24, 2021 per the National Association of State Boards of Accountancy.



II. Accomplishments

OPI's accomplishments include activities that occur one-time and activities that are on-going, such as ethics training and certain audits. While the impact of an enhanced ethical environment cannot always be easily quantified, certain financial benefits of audits and investigations can be readily calculated and are included below.

Financial Benefits to the County

Cost Savings (\$425,476 in 2021, \$564,447 for 2017-2021)

During an annual audit of employee and vendor compliance with the County's policy for Portable Electronic Devices, OPI identified 18 phones and aircards to eliminate, along with a cost savings of \$23,150 annually, beginning in 2021.

OPI contracted with Troy & Banks, Inc. to perform a cost-recovery audit for utility expenses. While actual recoupments are stated below, the contractor also obtained future savings of \$12,326 for the County.

Based on the initiative taken by the County's Department of Planning and Development – Division of Economic Development, OPI was able to assist and prevent \$390,000 in Federal pass-through funds from being disbursed through fraudulent grant applications.

Recoupments and Additional Revenue

(\$446,587 in 2021, \$1,020,052 for 2017-2021)

As referred to under Cost Savings, OPI contracted with Troy & Banks, Inc. to perform a cost-recovery audit for utility expenses. In addition to future savings, the County also realized a net recoupment of \$150,799 from utility providers.

During a vendor audit, OPI identified \$210,236 that had been paid to the vendor but never claimed for reimbursement from the New York State Unified Court Administration (NYS UCA). OPI assisted the department with claiming \$204,666 from the NYS UCA and obtaining a credit of \$5,569 from the vendor.

During the course of a construction audit, OPI identified a recoupment opportunity of \$85,552.30 based on the contractor's failure to meet contractual requirements for Minority and Women Business Enterprise (MWBE) participation amounts. The method of recoupment will depend on the outcome of current litigation with the contractor.

OPI believes in setting a "tone at the top" and sharing this tone with employees and contractors through on-line ethics training and classroom-style presentations.

During 2021, OPI maintained the on-line ethics training course, which is deployed to all County employees through the Department of Human Resources. This training is intended for approximately 3,900 full-time employees, 600 part-time employees, and 100 contractors. This training covers various concerns, including confidentiality, and the Monroe County Law Department's criteria regarding the acceptance of gifts, and uses examples of issues identified during actual investigations.

In addition to employee/contractor on-line training, OPI, in conjunction with the County's Purchasing Unit, developed on-line ethics training for all vendors having professional service contracts and construction contracts with the County. OPI's objective is to have this training incorporated into Requests for Proposals and Public Bids beginning in 2022 and required in order to fully execute a contract.

In addition to the on-line training, OPI provides classroom-style trainings to employees through New Employee Orientation, Supervisory Training, and direct presentations to departments. Due to the COVID-19 pandemic, OPI was prevented from providing any classroom-style training sessions to employees in 2021.

Audits

Within the internal control environment of Monroe County, the Office of Public Integrity serves as a preventive and detective function. Accordingly, many of OPI's activities are recurring rather than simply one-time occurrences.

**MONROE COUNTY OFFICE OF PUBLIC INTEGRITY
ADMINISTRATIVE REPORT
FOR THE MONROE COUNTY LEGISLATURE
FOR THE TWELVE MONTHS ENDING DECEMBER 31, 2021**

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I. OVERVIEW



Formation and Legislative Authorization

The Monroe County Office of Public Integrity (OPI) was established in March of 2016 to fulfill a promise of greater accountability in County Government. With a focus on fraud, waste and abuse, OPI serves as an independent entity that performs internal audits and risk assessments of County departments and conducts investigations regarding suspected unethical or illegal conduct of County employees, contractors and anyone involved with Monroe County.

Mission

The mission of OPI is to promote and defend the integrity, efficiency and accountability of Monroe County and its operations. It is intended to build an office that is dedicated to assisting employees to do a better job, and provide guidance to employees to ensure that the decisions they make are lawful, ethical and further the public interest.

Independence and Political Affiliations

To ensure independence from County operations, the Monroe County Charter states that “the Director of the Office of Public Integrity shall be appointed for a fixed term of five years.”

The Charter also specifies the political activities that are prohibited beyond basic voting rights. Prohibited political activities include:

- a) being a member of a political organization other than enrollment and membership in a political party;
- b) being a member of any other group the principal purpose of which is to further the election or appointment of candidates to political office;
- c) participating in any political campaign for any office or permitting his or her name to be used in connection with any activity of a political organization;
- d) publicly endorsing or publicly opposing a candidate for public office;
- e) making speeches on behalf of a political organization or another candidate;
- f) attending political gatherings;
- g) soliciting funds for or making a contribution to a political organization or candidate;
- h) purchasing tickets for politically sponsored dinners or other functions.

OPI is located in the Times Square Building, away from all other County operations. This satellite setting offers anonymity for any County employee or resident who wishes to discuss their concerns or suspicions in private.

Scope and Subpoena Power

The Monroe County Charter states the scope and powers of OPI.

OPI’s scope includes the ability to examine all County operations independently and to have the full authority to report its findings to law enforcement, when necessary, and to provide recommendations to improve effectiveness, efficiency, and accountability. OPI’s scope also includes any concerns received from Monroe County residents regarding their government. OPI’s power includes: 1) the authority to require any County employee, head of a department, or a member of a board or commission to furnish such data, information or statements as may be necessary, unless prohibited or limited by law, and 2) the authority to subpoena witnesses, administer oaths or affirmations, take testimony and compel the production of such books, records and documents, including electronic data from any private vendor, including Local Development Corporations (LDCs), doing business with the County or that receives funds from the County, relative to that private vendor or LDC’s involvement with the County.

OPI is lead by the Director, who is supported by a team comprised of an Executive Secretary, an Auditor, and two part-time Investigators.

OPI maintains collaborative working relationships for investigations and prosecution with teams from the Federal Bureau of Investigation, the New York State Attorney General’s Office, the Monroe County Sheriff’s Office, and the Monroe County District Attorney’s Office. In addition, OPI engages with the community by providing ethics education and outreach to civic groups, neighborhood organizations, and other local municipalities.

OPI provides an annual report of its activities to the County Legislature and County Executive, and other reports that the Director deems necessary for departments to take corrective action and implement recommendations.

Framework for Audits

OPI’s audits are based on the following 5 Control Objectives:

- Compliance with laws, regulations, and contracts
- Accomplishment of goals and objectives
- Reliability and integrity of financial and operational information
- Effectiveness and efficiency of operations
- Safeguarding of assets

Based on OPI’s 5 Control Objectives, audit plans are developed to assess whether:

- All eligible customers are being served
- Revenues are maximized
- Receivables are collected
- Expenditures are proper and authorized
- Assets are safeguarded
- Employees are trained and competent
- Liabilities are minimized and laws are complied with
- Financial and operational reports are timely, relevant and accurate

Activities

To meet its objectives, OPI performs the following activities: Ethics training to employees and contractors through presentations and on-line courses. Risk and control assessments with departments. Operational and financial audits of County operations, employees and contractors. Investigations regarding suspected unethical or illegal conduct of employees and contractors.

Quality Standards

To ensure the highest quality in its audits and investigations, OPI incorporates the applicable concepts from the following standards as promulgated by their authoritative bodies: Principles and Standards for Offices of Inspector General issued by the Association of Inspectors General International Standards for the Professional Practice of Internal Auditing issued by the Institute of Internal Auditors Government Auditing Standards issued by the Comptroller General of the United States

Note: Generally Accepted Auditing Standards issued by the American Institute of Certified Public Accountants are applicable to audits of financial statements, and will be adhered to when applicable to OPI’s scope.

Hotline and Whistleblower Protection

A whistleblower is an individual that believes and reports that his or her organization is engaged in or willfully permits unethical or unlawful activities.

Any suspicions of unethical or unlawful activities can be reported to the Office of Public Integrity using the following methods:

- Hotline:** (585) 753-3105
- In person:** Times Square Building, 45 Exchange Street, Suite 888, Rochester New York 14614
- Email:** whistleblower@monroecounty.gov
- Office Phone:** (585) 753-3100

Regardless of the method used to contact OPI, **the whistleblower’s identity is kept confidential.**

- Suspicious activity may include instances of fraud, waste, and abuse, and may include the following:
- Violations of County procurement policy or contract fraud
 - Tampering with government records
 - Obstructing, retaliating against, or tampering with a public servant
 - Theft or misappropriation of County resources
 - Falsification of official documents or reports
 - Corruption or official misconduct, including misuse of County information, conflicts of interest, or offering or accepting bribes
 - Personal use of County-owned vehicles, equipment or supplies
 - Conducting personal business on County time
 - Residency violations
 - Confidentiality violations

Whistleblowers are protected by the laws of the State of New York and Chapter 8 of the Monroe County Administrative Code. Under this code, employees may seek protection through the Office of Public Integrity and/or the County’s Law Department. Accordingly, the County shall not take any adverse personnel action against an employee because of such employee disclosing a violation of a law, rule or regulation of which constitutes an improper governmental action.

