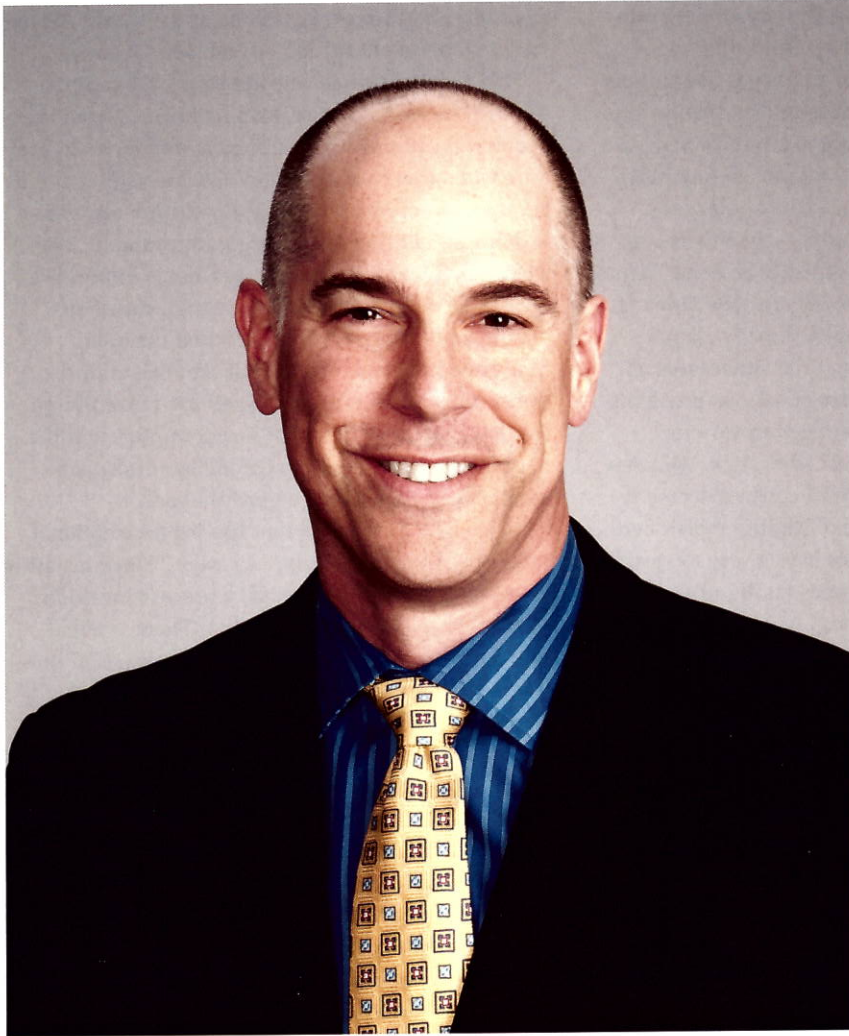


# Profiles



## Jonathan Aronie '93

**A**T A TIME OF RISING NATIONAL CONCERN about police-community relations and fairness in the criminal justice system, Jonathan Aronie '93 has been integrally involved in overseeing the transformation of what has historically been one of the nation's most troubled law enforcement agencies.

In 2011, an investigation of the New Orleans Police Department by the U.S. Department of Justice found a lack of clear policies, accountability, training, and public confidence, as well as routine violations of civil rights. Entrenched practices had given rise to a pattern of unconstitutional conduct and violations of federal law, the DOJ report said. A subsequent consent decree between the City of New Orleans and the Justice Department mandated sweeping reforms and oversight by U.S. District Judge Susie Morgan, which the NOPD has spent the last three-and-a-half years implementing.

As the head of a 10-person team appointed to monitor the NOPD's compliance with the consent decree, Aronie has been "the court's eyes and ears" in reviewing,

auditing, and assessing the progress of reform, says Judge Morgan. The co-managing partner of Sheppard Mullin's Washington, D.C., office, Aronie spends hours every week keeping a multitude of complicated monitoring tasks moving forward. He also typically spends one week each month in New Orleans, talking to and riding along with police officers, meeting with citizens and business leaders, and often working out of the conference room in Judge Morgan's chambers.

Aronie, who specializes in government contracts, internal investigations, and fraud defense in his practice, says there's no other way to do the job. "Anyone who tries to do a project this big from a desk will fail. We need to understand what is affecting people's lives on the street, not how things look on paper." Besides, he adds, the case involves key constitutional issues of the day: "We treat it, and the judge treats it, no differently from a voting rights or school desegregation case. And the idea that I get to help protect the constitutional rights of 380,000 people, is pretty darned cool."

Judge Morgan calls Aronie an "invaluable asset," both to her and to the police department in implementing the decree. "He has given me not only advice on policies but insight into the day-to-day operations of the police force and how to change the culture of a department with a troubled past," she says.

### **A bleak history, an expansive plan for reform**

The consent decree Aronie helps administer is the result of a lengthy investigation into NOPD practices and policies by the DOJ's Civil Rights Division launched in May 2010 at the request of the city's mayor. Reporting on its findings in March 2011, the DOJ cited patterns and practices of excessive force; illegal stops, searches, and arrests; gender discrimination due to under-enforcement and under-investigation of violence against women; and "strong indications of discriminatory policing" based on racial, ethnic, and LGBT bias, and a failure to provide police services to members of language minorities.

A misguided "organizational focus on arrests," for example, combined with poor training and policies, encouraged "stops without reasonable suspicion, illegal pat downs, and arrests without probable cause," including a "staggering volume" for low-level crimes, the report stated. And one finding of discriminatory



## Profiles

policing is revealing: In 2009, the rate of arrest for African American young people under the age of 17 for so-called serious offenses compared to their white counterparts was 16-to-one, a stark contrast to the national rate at the time of about three-to-one.

After extensive negotiations, the city entered into the consent decree with the DOJ. Outlining 492 separate points for reform over 122 pages, it amounts to the most comprehensive police reform plan in the country. But even after agreeing to a reform plan, the city contested it for another six months before Judge Morgan signed it into effect as a court order.

“‘Consent’ makes it sound easy — like there was clear agreement about what needed to be done,” says Mary Howell, a civil rights attorney in New Orleans who has represented and counseled many clients over NOPD abuses. “That wasn’t the situation at all.

“We’ve been through decades of serious problems with our police department, along with various reform efforts which never seemed to stick. We knew from experience that we needed a consent decree if we wanted to have any chance of lasting reform here. We also knew that if we did not have a very top team in here to ensure that the changes taking place were real, that we would not succeed.”

### Putting private-practice skills to public use

The search for a consent decree monitoring team came about just as Aronie felt the pull to take on a public interest case. A decade before, he had served as deputy independent monitor over the Metropolitan Police Department pursuant to an agreement between the DOJ and the District of Columbia, and he welcomed another chance to put his extensive experience with complex internal investigations to public use.

“I saw this as something within my skill set that I could really contribute to and, in that way, give back to the community,” he says. “So I decided I’d put a team together and see if people were interested in our services.” The team received the endorsement of the DOJ before prevailing over 11 others (and one other finalist) in a competitive bidding and public vetting process for the monitorship. Dennis Nowicki, the former police chief of Charlotte-Mecklenburg, N.C., with whom Aronie had worked on the earlier police oversight, and Aronie’s law partner, David Douglass, a former federal prosecutor with civil rights expertise, are the deputy monitors on the 10-member “Sheppard Mullin team.”

Since their appointment, Aronie, often with other members of his team, has been highly visible in New Orleans. He is adamant about the importance of transparency to the process as well; all significant

documents, developments, and minutes of community meetings relating to the consent decree and the monitorship are posted online.

At quarterly public meetings, Aronie and his team offer updates on progress and invite community feedback, and they get it. It’s one of the things Aronie says he loves about the job — and New Orleans.

“It’s a city of people who are very loyal and passionate,” he says. “The passion that comes from the people who attend our meetings is wonderful to see, even when those passionate people are yelling at me because sometimes they might not think my team is doing something fast enough, for example. Even when I’m being yelled at, the passion is impressive.”

Says Howell: “This was a very high stakes situation, and it was very fraught when Jonathan first came in. There was a lot of skepticism in the community about whether the efforts to transform the department were real or just going through the motions. This whole effort could have easily gone awry in less skilled or thoughtful hands.

“The team he put together has been exceptional, as has been his leadership,” she says. “You constantly get a sense that this is not just a process in which they are checking things off a list. There is a real commitment to struggling with these issues of how do you actually change culture, how do you actually change attitudes, how do you change behavior, and what’s the role of the police, the city, and the community in that process?”

### Embracing innovation

Aronie is quick to praise a number of NOPD initiatives and innovations. In a recent essay, he lauds several: the department’s appointment of a civilian independent police monitor to ensure community concerns are addressed; its embrace, since 2012, of body-worn cameras; its adoption and implementation of policies that conform with national best practices regarding vehicle pursuits, use of force, and misconduct investigations and discipline; and its recent implementation of a formal policy promoting “the prompt, voluntary public release of critical incident videos,” at a time when most police departments are not doing so. “Each of these actions shows courage, commitment, and confidence,” he writes.

About a peer-intervention training program initiated by the department he is nothing short of passionate. The “Ethical Policing is Courageous” peer-intervention program — “EPIC” — teaches officers to become “active bystanders” who intervene to stop fellow officers from making mistakes or engaging in actions or misconduct that might cause them to inappropriately escalate a situation, putting others’ lives (and their own jobs) at risk.

“I love my practice, but every once in a while, it’s helpful to say, ‘If I want to stay sharp, if I want to continue to better myself and my practice and my skills, I need to do something new.’”

— Jonathan Aronie '93



“The program identifies inhibitors to intervention and takes those head on. It trains officers how to overcome those inhibitors,” he says. Rank structure is one of the biggest: “A junior officer has a hard time intervening on a senior officer. One way EPIC addresses the problem is by creating a structure through which the senior officer signals that intervention is OK — he or she wears an EPIC pin. It gives the junior officer permission to intervene.

“That’s a very powerful concept: Once you realize you have permission, you are more likely to do it.”

Police have long trained to protect themselves against violence, but they are “far, far more likely to lose their jobs to misconduct than they are to lose their lives to violence,” Aronie adds. “That leaves a family without a wage earner, and the loss of a job can lead to depression, domestic violence, and stress. And considering how stressful police-community relations are now around the country, we can’t lose good cops.

“I have had police officers say to me, ‘If only a colleague had put his hand on my shoulder, I would still be employed.’ And I think if more communities and police departments engaged in programs like this on their own, there would be less need for the DOJ to come in and there would be fewer consent decrees.”

Aronie’s belief in the program is so firm that he supports its implementation pro bono, outside of his work as lead consent decree monitor.

“I believe the EPIC program will be essential to changing the NOPD and making sure that those changes remain in place after the consent decree has been satisfied,” says Judge Morgan. “This initiative would never have happened without Jonathan’s inspiration and his determination to see it through.”

### Finding the “magic formula” for change

Although Aronie admits impatience with the pace of progress during his first year as lead monitor, he says the process is now one of cooperation and commitment to reform.

“We have an active judge, a police department leadership team that is now truly committed to reform, a monitoring team that wants to ‘roll in the same direction’ with the police department, rather than be in conflict, and a Department of Justice team that also wants to work cooperatively with the police department,” he says.

“I think one of the key takeaways in these situations is that institutional and cultural change is very difficult. But it happens when the local community and the local government and the federal government and the monitor and the judge all work together. That really seems to be the magic formula.”



Photo: Ken Daley / The Times-Picayune

Aronie, right, and his law partner, David Douglass, a deputy consent decree monitor, at a public meeting in New Orleans

Judge Morgan gives Aronie tremendous credit for bringing about change.

“As a citizen of New Orleans, I am proud of the progress that our police department has made over the last few years,” she says. “As the Department of Justice acknowledged at our last public hearing, the NOPD is now setting an example for other departments. This is quite an astonishing change and one that Jonathan and his team can be proud of, as am I.”

### “Do one thing every day that scares you”

Aronie admits that taking on a project of the scope of the police monitorship is “not something that I ever saw myself doing early on.” He is grateful, he says, for the models of public service he saw in several of his law professors, such as that of James Coleman and Theresa Newman, who were deeply involved in death penalty and wrongful convictions work, and H. Jefferson Powell and Christopher Schroeder, who served at high levels of the executive branch during the Clinton administration.

“I am so thankful to them and others for leading me to be in a place where I can be a corporate lawyer, I can be a co-managing partner, and yet I can still see the importance of public interest work.”

Writing in the September issue of *The Federal Lawyer*, Aronie urged lawyers to periodically take on projects that take them out of their comfort zone. He began his essay with a quote from Eleanor Roosevelt: “Do one thing every day that scares you.”

“I love my practice,” he says, “but every once in a while, it’s helpful to say, ‘If I want to stay sharp, if I want to continue to better myself and my practice and my skills, I need to do something new. Although this project is scary and risky, I wouldn’t trade it for the world. And I’ll tell you, it’s made me a better corporate lawyer. After holding public meetings, there is not a boardroom in the world that can frighten me.’” — Frances Presma