

## PREDISPOSITION CONFERENCE

A Predisposition Conference is conducted by one hearing officer and is an opportunity for the accused officer to respond to the allegations of misconduct. The accused officer may waive the predisposition and if waived, the officer proceeds directly to a pre-disciplinary hearing. At the predisposition conference, the officer, or the officer's representative, may respond to the allegations but is not to provide any mitigating information.

The OIPM attends Predisposition Conferences conducted at the Public Integrity Bureau to ensure fairness, consistency, accountability, and compliance with the Federal Consent Decree.

## SUMMARY OF THE ALLEGED MISCONDUCT

*Lieutenant O'Brien stood accused of strip and cavity searching a man, the subject of a drug related investigation, without a warrant or consent. Lieutenant O'Brien was investigating a person who the NOPD believed was selling drugs in the neighborhood. Lieutenant O'Brien received a search warrant to search the individual's car. When Lieutenant O'Brien went to initiate the warrant and pulled over the car, there was a child in the car. The Hearing Officer of the Predisposition Conference determined Lieutenant O'Brien improperly ordered a search of the child's pockets and shoes. The Hearing Officer also determined Lieutenant O'Brien improperly searched the man (the focus of the investigation), conducting a strip search and cavity search of the man in the station, and recorded this search with a camera. The Office of the Independent Police Monitor shared concerns regarding whether the man was also falsely imprisoned while searched.*

## KEY QUESTIONS ASKED BY THE OFFICE OF THE INDEPENDENT POLICE MONITOR (OIPM)

1. Are there any different disciplinary charges that should have been investigated?
2. Was the police officers' Bill of Rights followed in the investigation?
3. Was the NOPD's compliant with the Federal Consent Decree Section XVII, Subsection L: Discipline Process and Transparency?
4. Does the investigation involve whistle-blower or retaliation issues?
5. Any concerns with respect to any particular allegation?
6. Should training or other programs be required of the accused employee?
7. Are there any additional potential constitutional or other legal issues that should be examined?
8. Are there any policy, procedure, other risk management, or liability issues that were not adequately addressed by the Department?

With this report and report summary, the Office of the Independent Police Monitor (OIPM) shows its commitment to building public confidence in law enforcement through transparency, accountability and fairness. With our oversight and recommendations, OIPM hopes to lower the risk level posed to the community, the Department and liability.

# ALLEGATIONS

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## PIB FINDING

## OIPM RECOMMENDATION

1. Adherence To Law (RS 14:46 False Imprisonment)	●	1. Not Sustained	●	1. Sustained
2. Neglect of Duty; Failing to comply with Instructions (Policy 344.1.1 Report Preparation)	●	2. Sustained	●	2. Sustained
3. Neglect of Duty; Failing to comply with Instructions (Strip Searches)	●	3. Sustained	●	3. Sustained
4. Neglect of Duty; Failing to comply with Instructions (Body Cavity Search)	●	4. Sustained	●	4. Sustained
5. Performance of Duty; Supervisory Responsibilities (Arrest Recommendation)	●	5. Not Sustained	●	5. Not Sustained
6. Performance of Duty; Supervisory Responsibilities (Search & Seizure)	●	6. Sustained	●	6. Sustained
7. Moral Conduct; Adherence to Law (Appearance Upon Arrest)	●	7. Sustained	●	7. Sustained
8. Performance of Duty; Supervisory Responsibilities (Search & Seizures)	●	8. Sustained	●	8. Sustained



## OIPM FEEDBACK / RECOMMENDATIONS ON THE INVESTIGATION

The OIPM provided the NOPD with a couple recommendations prior to the hearing regarding policy and practice. First, the OIPM recommends that the NOPD clarify officer expectations when returning minors to guardians to ensure the transfer is proper and safe. Second, the OIPM highlighted confusion around the department's policies and guidelines regarding 4th amendment protections against illegal searches and seizures, including when there is probable cause for arrests, searches, and strip/cavity searches. The OIPM recommended the NOPD conduct department-wide training for officers and supervisors regarding their responsibilities in conducting and approving searches particularly strip and cavity searches.

## PREDISPOSITION CONFERENCE OUTCOME

During the Predisposition Conference, there is a panel of one: a Hearing Officer. The Hearing Officer reviews the investigation and the allegations leveled against the accused employee. The accused individual has an opportunity to speak and present his / her side. A representative for the accused individual can also speak on the employee's behalf. The burden of proof is by a preponderance. This means it is more likely true than not true. This is different from a criminal burden of proof, which is beyond reasonable doubt.

The hearing officer sustained all allegations except for False Imprisonment and Approval of Arrest Recommendations.

OIPM agreed with the finding. This decision is not final until it reviewed and approved by the Superintendent of Police.

