



SUPERINTENDENT'S COMMITTEE HEARING

A Superintendent's Committee Hearing is conducted by a panel of three hearing officers, Deputy Superintendents. The hearing is an opportunity for the accused officer to respond to the allegations of misconduct and provide mitigating information. The accused officer cannot waive a Superintendent's Committee Hearing. After considering the investigation and the information presented by the accused officer, the hearing officers will issue findings on the allegations and determine appropriate penalties under the disciplinary matrix. This penalty recommendation is not final until the Superintendent of Police issues a letter.

The OIPM attends Superintendent's Committee Hearing to ensure fairness, consistency, accountability, and compliance with the Federal Consent Decree.

SUMMARY OF THE ALLEGED MISCONDUCT

Sergeant Smothers was accused of using unauthorized force against a man and then improperly using prohibited restraint methods to handcuff and transport the man once arrested. Sergeant Smothers was accused of hitting a man with a baton in the legs and spinal region without justification when the man was resisting being put into the back of the squad car. Sergeant Smothers was accused of eventually using a restraint method called "hogtying" which is prohibited by NOPD policy. The incident was only partially captured on Sergeant Smothers's Body Worn Camera and Sergeant Smothers was accused of not utilizing the camera, though it was learned during the investigation that the camera fell off the mount during the shuffle and was accidental. Ultimately, the Superintendent's Committee determined Sergeant Smothers used unauthorized force and the prohibited restraint method, but it was not his fault that his Body Worn Camera fell off his mount during the arrest.

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.

OIPM FEEDBACK / RECOMMENDATIONS



The OIPM provided the NOPD with a couple recommendations prior to the hearing regarding policy and practice. First, the OIPM was agreement with the recommendations put forth by the investigating sergeant. The OIPM highlighted that the training recommendations were comprehensive and necessary, particularly on how to safely and legally restrain and transport combative arrestees. This would include utilizing CIT (crisis intervention tactics) and how to safely conduct crowd control. Second, the OIPM recommended and appreciated the efforts made by the investigating sergeant that responding officers be provided list of services and resources available when needed. Third, the OIPM recommended the NOPD consider how mental health may factor into CIT and de-escalation training. Fourth, the OIPM supported the equipment recommendations made by the investigating sergeant. Finally, the OIPM recommended that all officers be reminded of their responsibility to fully document all force when participating in use of force and misconduct investigation.

SUPERINTENDENT'S COMMITTEE OUTCOME

During the Superintendent's Committee, the three presiding Deputy Superintendents 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.

Below are the outcomes of the allegations and the recommended penalties:

ALLEGATIONS	COMMITTEE FINDING	OIPM RECOMMENDATION
Rule 2 Par. 6: Unauthorized Use of Force	Sustained 60 Days Suspension	Sustained
Rule 4 Par. 4: Neglect of Duty (c)6: Failing to Comply with Instruction NOPD Chapter 1.3.1.1: Handcuffing and Restraints (Hogtying)	Sustained 3 Days Suspension	Sustained
Rule 4 Par. 4: Neglect of Duty (c)6: Failing to Comply with Instruction NOPD Chapter 41.3.10: Body Worn Camera Para. 31 (BWC)	Exonerated	Exonerated



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



2714 Canal Street, Suite 201 | New Orleans, Louisiana | 70119
Phone 504.309.9799 | Fax 504.309.7345

www.nolaipm.gov