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OFFICE OF THE INDEPENDENT POLICE MONITOR
CASE REVIEW: 2018-0543-P

The Office of the Independent Police Monitor (OIPM) is an independent branch of city government responsible for providing oversight to the New Orleans Police Department (NOPD). The OIPM provides transparent assessments of the NOPD’s work, progress, and obstacles. Based on those assessments, the OIPM provides the NOPD with detailed recommendations on policy, practice, and how to become or remain compliant with the Federal Consent Decree. Most importantly, at the center of the OIPM’s work is the community. The OIPM is responsible for issuing public reports to the people of New Orleans and the NOPD regarding the state of policing in New Orleans. This case review is one such example and is created in conformity with the Memorandum of Understanding between the NOPD and the IPM executed on November 10, 2010; as well as being consistent with La. R.S. § 40:2531 Chapter 25 and Municipal Code of Ordinances, Part II, Chapter 2, Article XII Section 2-1121.

The purpose of case reviews is to examine the misconduct investigations conducted by the NOPD to ensure they are compliant with law and internal policies, including Chapter 26.2: Adjudication of Misconduct, Chapter 26.2.1: Disciplinary Matrix / Penalty Schedule, Chapter 52.1.1: Misconduct Complaint Intake and Investigation, and Chapter 52.1.2: Misconduct Complaint Investigator Responsibilities.

PIB COMPLAINT: 2018-0543-P
IPM COMPLAINT: CR-2019-0007 / CR2022-0006
COMPLAINANT: MICHAEL PELLET
DATE OF INCIDENT: OCTOBER 1, 2018

INVOLVED NOPD EMPLOYEES:
 SGT. ALFRED RUSSELL (EMP. # [REDACTED])
 SPO WILLIAM BEARDEN (EMP. # [REDACTED])

INVESTIGATING OFFICER: SGT. JASON LEWIS

ALLEGATION FINDINGS BY PIB:

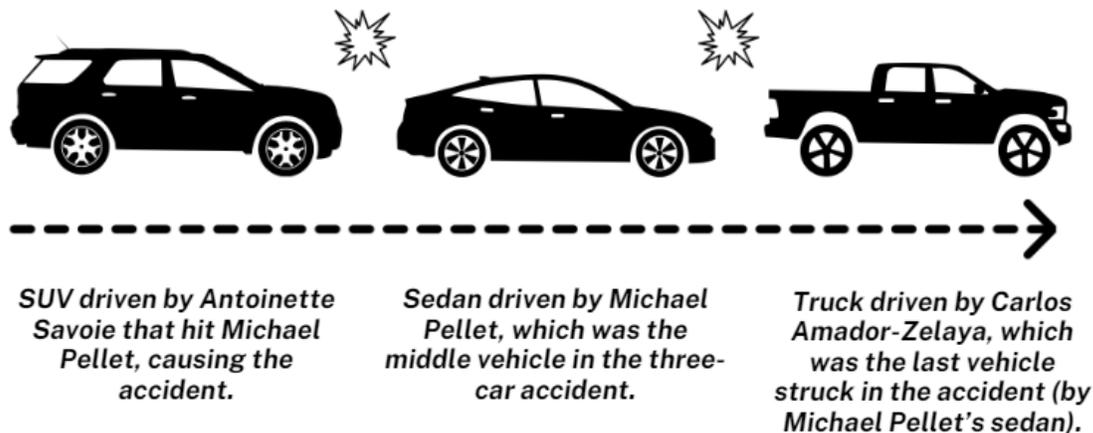
OFFICER	ALLEGATION	PIB RECOMMENDATION
SGT. ALFRED RUSSELL	RULE 4: PERFORMANCE OF DUTY: INSTRUCTIONS FROM AN AUTHORITATIVE SOURCE TO WIT NOPD CH. 52.1.1- MISCONDUCT COMPLAINT INTAKE AND INVESTIGATION	UNFOUNDED
SPO WILLIAM BEARDEN	RULE 3: MORAL CONDUCT PAR. 1: PROFESSIONALISM	UNFOUNDED
	RULE 4: PERFORMANCE OF DUTY, PAR. 4: NEGLIGENCE OF DUTY TO WIT CH.41.13: BIASED FREE POLICING	NOT SUSTAINED
	RULE 4: PERFORMANCE OF DUTY, PAR. 4: NEGLIGENCE OF DUTY TO WIT CH.82.1: REPORT PREPARATION	SUSTAINED
	RULE 4: PERFORMANCE OF DUTY, PAR. 4: NEGLIGENCE OF DUTY TO WIT CH. 61.7: TRAFFIC CRASH RESPONSE AND REPORTING, PAR. 26: OFFICER RESPONSIBILITY	SUSTAINED

SUMMARY OF THE FACTS

The following is a summary of the facts based on the investigative report, exhibits, and recorded interviews.

On October 1, 2018, Michael Pellet (Black / Male) was involved in a three-vehicle traffic accident. The other drivers were Carlos Amador-Zelaya (Hispanic / Male) and Antoinette Savoie (White / Female). SPO William Bearden (White / Male) responded to the scene of the accident and offered to let the involved parties handle the matter themselves or receive a report. Michael Pellet informed SPO Bearden that he wanted an accident report.

The automobile accident involved the following vehicles:



Officer Bearden interviewed all three drivers. Specifically, he noted that the driver of vehicle 3 (Carlos Amador-Zelaya, who was driving the truck) stated his vehicle was struck twice, which led SPO Bearden to conclude that Michael Pellet (who was driving vehicle 2) struck hit vehicle 3 prior to being struck by vehicle 1 (the SUV driven by Antoinette Savoie), causing the second impact. As a result of his on-the-scene investigation, SPO Bearden elected to issue both Michael Pellet and Antoinette Savoie a citation for careless operation of a motor vehicle.

Later the same day, Michael Pellet went to the First District Station to file a complaint about SPO Bearden's conduct during the incident. Once there, he met with Sgt. Alfred Russell who told Michael Pellet the Department does not take complaints for traffic accidents / traffic tickets. Michael Pellet then consulted with his attorney who referred him to the Public Integrity Bureau (PIB).

The next day, on October 2, 2018, Michael Pellet met with Sgt. Anthony Edenfied of the PIB Intake Unit to initiate an investigation into a formal complaint. Michael Pellet stated that his primary complaint was the SPO Bearden refused to speak with him but spoke with the other drivers involved in the accident. Specifically, Michael Pellet alleged that SPO Bearden profiled him when SPO Bearden assigned Michael Pellet fault in the accident based on his race. Michael Pellet also outlined several errors that SPO Bearden made in the traffic accident report. Finally, Michael Pellet stated that SPO Bearden advised him that the DA could reduce the citation for careless operation to a seatbelt violation.

On December 3, 2018, the Investigating Officer Sgt. Lewis took a supplemental statement from Mr. Pellet. During this statement, Michael Pellet alleged that SPO Bearden falsified the traffic crash report and profiled him at the scene. Michael Pellet stated that he believed that the errors on the traffic crash report are more than mistakes, but rather an intentional act. Specifically, Michael Pellet stated that SPO Bearden fabricated a statement that Antoinette Savoie said (the statement was that Michael Pellet stopped short, causing her to rear-end him) and that the report had no indication that Antoinette Savoie's brakes failed – which is what Antoinette Savoie stated on SPO Bearden's BWC footage

Additionally, Michael Pellet alleged that SPO Bearden convinced the supervisor (Sgt. Russell) not to take his complaint when he (Michael Pellet) arrived at the First District Station. Michael Pellet also mentioned that there

are cameras at Canal & Marais St., where the accident happened, and the NOPD should obtain the footage to see what took place during the accident. Investigating Officer Lewis asked if Michael Pellet was given the contact information for the other drivers, to which Michael Pellet confirmed he was not provided that information. Finally, Michael Pellet stressed the financial and emotional stress this incident has caused him, stating that his vehicle is totaled, and that the citation has impacted his insurance and his driving record with Uber which has caused him tremendous stress.

On September 3, 2019, a Commanders Disciplinary Hearing was held in this matter pertaining to SPO Bearden's allegations conducted by Commander Lejon Roberts. After hearing a short statement from SPO Bearden and conducting deliberations, Commander Roberts informed SPO Bearden that both Neglect of Duty allegations pertaining to NOPD Ch. 82.1.1 Report Preparation and NOPD Ch. 61.7 Traffic Crash Response & Reporting had been adjudicated as sustained. The recommended discipline for both allegations was a one day suspension without pay for each rule violation.

Also on September 3, 2019, a Commanders Disciplinary Hearing was held in this matter pertaining to Sgt. Russell's allegations conducted by Commander Lejon Roberts. After hearing a short statement from SPO Bearden and conducting deliberations, Commander Roberts informed Sgt. Russell that his allegation for Rule 4: Performance of Duty: Neglect of Duty Ch. 52.1.1 Misconduct Complaint Intake and Investigation had been adjudicated as sustained. The recommended discipline was a letter of reprimand.

OIPM SUMMARY / ANALYSIS OF BODY CAMERA FOOTAGE

SPO Bearden's BWC taken on 10/1/18 at 1:35 pm

- Within less than one minute of arriving on the scene SPO Bearden is shown asking the drivers if they need EMS and then directs them to get back in their vehicles to relocate because of the rain. It does not appear that SPO Bearden took a visual assessment of the three vehicles / scene prior to relocation.
- At minute mark 3:34, SPO Bearden is heard yelling: "Under the bridge! Where are you going?!" and then calling one of the drivers an "idiot." While he is not within earshot of any of the drivers, it is unprofessional and suggests that he was agitated before even beginning to really interact with the drivers.
- At minute mark 4:57, SPO Bearden begins an interaction by misstating Louisiana law and misinforming drivers that they have two options: first, they can get a police report or, second, they can just exchange information.
- SPO Bearden began his investigation by speaking only to the truck driver and not the other two drivers. The first time he spoke to driver, Antoinette Savoie, of SUV (that caused the accident) was at 45 mins into the BWC footage. The SUV driver, Antoinette Savoie, stated that her brakes failed, and she hit the sedan which caused the sedan to hit the truck, and that she did not see the sedan hit the truck prior to her hitting the sedan.
- The man driving the truck, Carlos Amador-Zelaya, stated several times that he was hit twice.
- SPO Bearden only allows truck driver, Carlos Amador-Zelaya, to take pictures of the other driver's insurance cards.
- At 50 mins into the BWC footage, SPO Bearden tells Carlos Amador-Zelaya, driver of the truck, that he's received the information needed to complete the police report, without speaking to Michael Pellet about the accident.
- Regarding the damage to vehicles, the BWC footage revealed:
 - The truck had minor damage, specifically a small bend in bumper (however SPO Bearden states that there was no visible damage).
 - The sedan was significantly damaged in the front and the rear (however SPO Bearden classified the damage as minor on the traffic crash report).

- SPO Bearden does not appear to assess damage to the SUV, nor does he test her brakes himself or have someone come out to test them.
- At 1 hour and 3 mins into the BWC footage, SPO Bearden gives Antoinette Savoie the citation and tells her to go to the courthouse and talk to the DA to change the ticket to a non-moving violation, the seatbelt violation.
- The first time SPO Bearden spoke with Michael Pellet was at one hour and 5 mins into the BWC footage (the entirety of the BWC was one hour and 9 mins).
- Michael Pellet denied that the truck driver was hit twice, and that he was sitting at the red light when he was hit. Michael Pellet also says there are cameras on Canal St. (where the accident happened). SPO Bearden tells Michael Pellet that Michael Pellet can talk to the DA and get this citation switched to a seatbelt violation / nonmoving violation.
- SPO Bearden gave citations for careless operation to Michael Pellet (sedan driver) and Antoinette Savoie (SUV driver) and explained to both cited drivers that their citations may be reduced by traffic court to possible a seatbelt violation or other nonmoving violation when they went to court.

Sgt. Russell's BWC taken on 10/1/18 at 3:16 p.m.

- Michael Pellet informs Sgt. Russell that he was sitting at a light and was hit and then received a careless operation ticket.
- Sgt. Russell explains that he is not going to relitigate or reinvestigate SPO Bearden's findings.
- Michael Pellet explicitly states that he feels he was victimized and that he would like to file a complaint against the officer. (2:13 minute mark)
- Sgt. Russell stated that he does not take complaints regarding traffic incidents.
- Michael Pellet reiterates the ticket is going to be a financial liability to him. In response, Sgt. Russell recommends talking to SPO Bearden's direct supervisor, which he is not, or address the matter in court.
- Sgt. Russell asks Mr. Pellet if he needs medical services or EMS. Michael Pellet appears frustrated but says no and thanks him for his time.

OIPM SUMMARY / ANALYSIS OF RECORDED INTERVIEWS

SPO Bearden (administrative statement taken by Investigating Officer Lewis on 12/11/2018)

- SPO Bearden stated that he talked to the driver in the middle (Michael Pellet), which is not supported by the BWC footage from the incident. SPO Bearden did not speak with Michael Pellet until SPO Bearden was already issuing Michael Pellet a citation.
- SPO Bearden stated that he reviewed the report and found some errors (for example, SPO Bearden switched vehicle 1 and vehicle 2 in the order of the accident) and went back and revised it, but these errors did not change the outcome of the citations. SPO Bearden also admitted that he neglected to include contact information of the drivers on the report. SPO Bearden stated that the revised report was approved by a supervisor.
- SPO Bearden stated that he was trained by his superiors that it is permissible to open an accident investigation by exchanging information in lieu of having a report written.

- SPO Bearden stated he determined that the driver of the SUV (Antoinette Savoie) most likely slid (rather than her brakes failing as she stated), due to inclement weather and the fact that she relocated her vehicle without issue was his basis for not calling for a brake inspector.
- SPO Bearden stated that he didn't consult the city attorney regarding the conflicting statements with no independent witnesses or video footage, because he felt like his investigation was sufficient. Also stated that the only time SPO Bearden thought he needed to go to the city attorney is if a finding could not be determined.
- SPO Bearden stated that in lieu of giving the drivers an exchange of information form he wrote the insurance information on the back of each card given to the drivers. SPO Bearden stated that he did not instruct the drivers to take pictures of the other drivers' insurance information but did not prevent them from doing so.
- SPO Bearden stated that he considered the damage to the sedan as minor, even after being shown a picture during the statement.
- SPO Bearden stated that he told Michael Pellet he can sign the ticket or take it up with a judge and that he had no intention of taking Michael Pellet to jail over a minor incident where no one was hurt.
- SPO Bearden stated that Michael Pellet came to the First District Station regarding the ticket and that SPO Bearden spoke to his ranking officer about the incident on the other side of the building, outside of Michael Pellet's view.

Sgt. Russell (administrative statement taken by Investigating Officer Lewis on 12/12/2018)

- Sgt. Russell stated that Michael Pellet came to the First District Station to speak to him, and that Sgt. Russell spoke with SPO Bearden prior to speaking to Michael Pellet. Sgt. Russell stated he interpreted Michael Pellet's concern as a complaint regarding his traffic ticket. Sgt. Russell told Michael Pellet that the police department does not accept complaints of that type.
- Sgt. Russell admitted that he was not aware of his responsibilities under NOPD Policy Ch. 52.1.1 Par. 19 regarding NOPD employees' responsibility to accept all complaints of misconduct. I./O Lewis went over the policy with Sgt. Russell and instructed Sgt. Russell to fill out the 230 Form in these incidents and allow PIB to classify the complaint.
- Sgt. Russell stated that he did not willfully refuse to take the complaint, and that he did not hear Michael Pellet complain that SPO Bearden was unprofessional. Sgt. Russell said that Michael Pellet was only upset about receiving a ticket.
- Sgt. Russell concluded by stating that he viewed the BWC footage of SPO Bearden's interaction with the drivers and felt that SPO Bearden's actions were not unprofessional.

SUMMARY OF ALLEGATIONS AS LISTED IN THE INVESTIGATION

The OIPM takes note of the specific actions of each officer that were assessed in the investigation

SPO Bearden

V1. Rule 3: Professional Conduct; Para. 1: Professionalism

SPO Bearden may have violated this rule by making statements in relation to the reduction of penalties concerning traffic citations, which no member is authorized (p. 5 of the Initiation of a Formal Disciplinary Investigation Form).

V2: Rule 4: Performance of Duty; Para. 4: Neglect of Duty, c(6) to wit NOPD Chapter 41.13: Biased Free Policing, Para. 7

SPO Bearden was alleged to have treated Michael Pellet in a racially biased manner during his handling of the traffic incident.

V3: Rule 4: Performance of Duty, Para. 4: Neglect of Duty, c(6) to wit NOPD Chapter 82.1: Report Preparation, Para. 4, 7, 8

SPO Bearden was alleged to have authored a traffic crash report related this accident that contained several errors and inaccuracies.

V4: Rule 4: Performance of Duty, Para. 4: Neglect of Duty, c(6) to wit NOPD Chapter 61.7: Traffic Crash Response and Reporting, Para. 26: Officer's Responsibility

SPO Bearden was alleged to have failed to instruct the involved drivers to exchange information using a Driver's Information Exchange Form 260.

Sgt. Russell

V1: Rule 4: Performance of Duty, Para. 4: Neglect of Duty, c(6) to wit NOPD Chapter 51.1.1 Misconduct Complaint Intake and Investigation

Sgt. Russell was alleged to have failed to document Mr. Pellet's complaint of possible misconduct on a NOPD Form 230 and forward it to PIB for proper classification.

OIPM ANALYSIS

Are there disciplinary charges not included in the PIB investigation which OIPM asserts could have been brought?

The OIPM identifies that the following additional allegations could have been raised and investigated by the assigned investigating officer.

Rule 2: Moral Conduct, Par. 3: Honesty and Truthfulness

In his credibility statement, Investigating Officer Lewis found SPO Bearden's credibility to be "diminished" due to numerous errors and inaccurate statements contained in his traffic crash report. Investigating Officer Lewis noted that he could not determine if the inaccuracies were done intentionally or if Officer Bearden was showing preference towards Antoinette Savoie (see p. 12 of the investigative report). Either of these possibilities are of great concern to the OIPM in conducting this case review and either possibility may be used as a basis for a honesty and truthfulness allegation in order to determine: (1) if these inaccuracies were intentional; (2) if these inaccuracies were the result of inherent or explicit bias; (3) whether an inference could be drawn from these inaccuracies to suggest intentionality or bias as a motivation to include inaccurate information into the report.

This investigation revealed numerous discrepancies between what was said at the scene and what was documented in SPO Bearden's report. First, there were discrepancies between what Antoinette Savoie stated on the BWC footage and what SPO Bearden wrote in his traffic crash report. Specifically, Antoinette Savoie stated that she hit Michael Pellet's car causing him to hit Carlos Amador-Zelaya's truck. This statement contradicts Carlos Amador-Zelaya's statement that he felt two impacts, implying that Michael Pellet hit him prior to Antoinette Savoie hitting Michael Pellet's car. Nonetheless, SPO Bearden wrote that Michael Pellet hit Carlos Amador-Zelaya's truck, issued Michael Pellet a citation. During SPO Bearden's administrative statement, SPO Bearden denied hearing Antoinette Savoie state that she hit Michael Pellet first and denied what he wrote in the traffic crash report presented conflicting issues regarding liability for the accident.

Second, on p. 09 of the original traffic crash report, SPO Bearden wrote that Driver 1 (Antoinette Savoie) stated she was traveling north on Canal St. approaching Marais St. when vehicle 2 stopped short in front of her, too close to stop, causing the front bumper of vehicle 1 to strike the rear bumper of vehicle 2. This contradicts Antoinette Savoie's statement that her brakes failed and Michael Pellet's statement that he was stopped at the light when he was hit from behind, both of which are captured on the BWC footage.

SPO Bearden appeared to be elusive when questioned about Ms. Savoie's brakes. When interviewed at the scene about the accident, Antoinette Savoie immediately stated to SPO Bearden that she tried to pump her brakes and come to a stop but that her brakes failed. SPO Bearden heard this statement since he responded

that he thought this brake failure would be strange because the year/model of Antoinette Savoie's vehicle usually has anti-lock brakes. Investigating Officer Lewis had to ask SPO Bearden about the belief of brake failure several times before SPO Bearden admitted that Antoinette Savoie did state that she believed her brakes failed and he independently determined that her vehicle likely slid due to inclement weather and therefore did not call a brake inspector.

Third, SPO Bearden wrote in the report that the damage to Mr. Pellet's car was minor, which was completely inconsistent with the actual damage shown on the BWC. In fact, SPO Bearden stated his car was totaled during his supplemental interview conducted on 12/3/18.

Fourth, SPO Bearden stated that in lieu of giving the drivers an exchange of information form he wrote the insurance information on the back of each card given to the drivers. SPO Bearden stated he did not instruct the drivers to take pictures of the other drivers' insurance information but did not prevent them from doing so. However, the BWC footage shows SPO Bearden allowing Carlos Amador-Zelaya to take a picture of the insurance information, which does not correspond with SPO Bearden's statement that he took care of the information exchange for all of the drivers. Nor does SPO Bearden provide any reasoning for why he allowed Carlos Amador-Zelaya to take a picture and not the other drivers.

Fifth, SPO Bearden stated that he told Michael Pellet he can sign the ticket or take it up with a judge and that he had no intention of taking him to jail over a minor incident where no one was hurt. However, SPO Bearden's BWC directly contradicts this. According to the BWC footage, SPO Bearden stated to Michael Pellet: "You can sign the ticket or you're going to jail."

Finally, during the administrative hearing, there was a suggestion that SPO Bearden should have been investigated for honesty and truthfulness.

Based on the several inconsistencies in SPO Bearden's statements and his elusive demeanor during his interview, the OIPM would agree that an allegation for honesty and truthfulness would have been appropriate to assess whether any of the inconsistent statements were intentional and material enough to rise to the level of this rule violation.

Does the investigation suggest policy / procedure, other risk management or liability issues that were not adequately addressed by the Department?

This investigation uncovered policy and liability concerns that were not addressed in this signed investigation or in the Departmental response to this situation.

The OIPM observed a policy and procedural gap regarding report revisions. SPO Bearden altered his report at least two times after the complaint was filed (resulting in a total of three versions on the traffic crash report) and there are implications of these revisions. The report was altered twice because after SPO Bearden completed his initial revisions, the report still had errors; therefore, PIB instructed SPO Bearden to revise it again (see SPO Bearden's statement at his Commander's Disciplinary Hearing and investigation exhibits for copies of all three reports).

Investigating Officer Lewis brought this issue up during SPO Bearden's administrative statement but did not discuss the impact of the changes in the report. By changing the report including assessments of who is at fault and problematic driving, it could change liability or insurance coverage (altering the findings of the insurance determinations). The OIPM recommends the Department consider instituting a formal procedure for changing traffic crash reports that includes notifications to all involved parties and insurance companies.

Should training or other programs have been required of the accused employee?

Yes. Both accused officers should be required to attend the following training and the OIPM agrees with the assessments of the Investigating Officer and his recommendations.

SPO Bearden

This investigation revealed several areas in which SPO Bearden's performance fell below departmental standards, including:

- failing to consult the City Attorney's Office about conflicting statements;
- failing to instruct involved parties to exchange contact information or offering the involved parties the option to exchange information (in other words handle the matter privately) in lieu of him completing a traffic crash report as required by NOPD Ch. 61.7 Traffic Crash Response and Reporting, Par. 26: Officer's Responsibility; and
- failing to ensure that the traffic crash report was accurate and free from errors.

Investigating Officer Lewis recommended that SPO Bearden attend a refresher course in accident investigation, with special emphasis on proper executions of the department's policies and Louisiana state law. Additionally, although Investigating Officer Lewis unable to determine beyond a preponderance of the evidence that SPO Bearden showed bias, Investigating Officer Lewis recommended that SPO Bearden's supervisors continue to monitor his BWC footage for consistency and accuracy. The OIPM commends and agrees with these recommendations. The OIPM adds that it would be reasonably prudent to require SPO Bearden undergo retraining on NOPD Ch. 41.1.3 pertaining to biased policing to ensure that he is fully aware of his duties under this policy.

Sgt. Russell

Sgt. Russell admitted in his administrative statement that he was unaware that he was required to take Michael Pellet's complaint and forward it to PIB pursuant to department policy. In response, Investigating Officer Lewis recommended that Sgt. Russell attend a refresher course detailing the proper executions of Operations Manual Ch. 52.1.1, related to PIB Complaint Intake and Investigation. Again, the OIPM agrees with the recommendation.

Neither officer had a significant number of prior disciplinary complaints to indicate a pattern of misconduct. Therefore, there was no indication of a pattern of behavior that would add to the training recommendations.

Were there any other OIPM concerns with the investigation and if so, what allegation do they pertain to?

Yes. The OIPM would like to highlight the following concerns:

Classification of the Professionalism allegation as "unfounded"

When evaluating a complaint, the investigating officer is required to complete the investigation and determine a disposition based on the preponderance of the evidence standard. NOPD Policy Ch. 52.1.1 Paragraph 95 outlines the following definitions related to disposition of misconduct investigations:

Each allegation shall result in one of the following dispositions based on a finding of fact and considering the totality of circumstances:

Unfounded — the investigation determines by a preponderance of the evidence that the alleged misconduct did not occur or did not involve the accused officer.

Sustained — the investigation determines by a preponderance of the evidence that the alleged misconduct did occur.

Not sustained — the investigation is unable to determine by a preponderance of the evidence whether the alleged misconduct occurred.

Exonerated — the investigation determines by a preponderance of the evidence that the alleged conduct did occur but did not violate NOPD policies, procedures, or training.

After meeting with Michael Pellet to initiate this formal disciplinary investigation, Sgt. Edenfield determined that SPO Bearden should be investigated for potentially violating Rule 3: Moral Conduct, Par. 1 Professionalism by making statements in relation to the reduction of penalties concerning traffic citations, which no member is authorized to do (p. 5 of the Initiation of a Formal Disciplinary Investigation Form). Upon review of BWC footage, it was confirmed that SPO Bearden did in fact make this statement.

However, after reviewing the same BWC footage Investigating Officer Lewis recommended a disposition of "unfounded" for this allegation. Investigating Officer Lewis stated in his findings that "while reviewing the BWC

video footage of the incident under investigation; the investigator did not observe any action by PO William Bearden to not be in accordance with the professionalism standard of the New Orleans Police Department. Though Officer Bearden had a monotone voice, he was professional in his interactions.”

It appears that Investigating Officer Lewis focused his analysis on whether SPO Bearden spoke to the involved parties in a professional tone, instead of the content of what was said and if the statements SPO Bearden made were professional. The OIPM would highlight the following examples of conduct as unnecessarily inconvenient or bringing discredit to the department:

- Asking the drivers if they would like to handle the matter informally amongst themselves in lieu of completing the required traffic crash report
- Informing Michael Pellet and Antoinette Savoie the District Attorney’s Office could drop their citation from careless operation to a seatbelt violation
- Telling Michael Pellet that he needed to sign the citation or go to jail

If, for the sake of argument, this recommendation came down to whether Investigating Officer Lewis agreed these statements and conduct was unprofessional in a way that violated policy, it still warranted discussion and analysis in the investigative report. A disposition of “unfounded” is inappropriate because the alleged conduct did occur. Instead, a finding of “exonerated” would have been more appropriate if, after consideration of the facts and NOPD policy, Investigating Officer Lewis determined that the alleged conduct occurred but did not violate Rule 3: Moral Conduct, Par. 1 Professionalism.

This stated, upon review of the signed investigation, the OIPM sees grounds for the professionalism allegation to be sustained.

Lack of investigation at the scene of the accident

The OIPM is concerned with the lack of investigation that SPO Bearden undertook in responding to the accident in question and that the signed investigation did not comprehensively explore this lack of investigation.

Upon reviewing the BWC footage related to this accident, here are examples where SPO Bearden did not investigate thoroughly, including:

- When arriving at the scene, SPO Bearden hurriedly moves the parties away from the scene due to inclement weather but does not assess the scene first to check for evidence, such as cameras or independent witnesses.
- SPO Bearden did not interview all three drivers prior to completing the traffic crash report to get a full account of what caused the accident.
- SPO Bearden failed to call a brake inspector when Antoinette Savoie informed him that she hit Michael Pellet’s car because her brakes failed.
- SPO Bearden failed to consult the City Attorney’s Office as required by NOPD policy when conflicting statements are given involving an accident when there is no camera footage or independent witnesses.

Had SPO Bearden taken the investigatory steps highlighted above, he may have made a substantially different outcome in his assessment of the traffic incident and potentially prevent the hardships that Michael Pellet faced from being issued a citation for careless operation. While Investigating Officer Lewis did question SPO Bearden about most of the above issues during his administrative statement, the investigative report does not discuss how the totality of these shortcomings resulted in a poorly executed investigation. These investigatory missteps along with SPO Bearden’s conduct and Sergeant Russell’s failure to take Michael Pellet’s complaint would most likely create a reasonable perception of unfairness to this complainant, Michael Pellet, and does not promote public trust.

Retaliation / Distracted Driver Assessment

During a post investigation interview with the OIPM, Michael Pellet alleged that SPO Bearden was retaliating against him by authoring an inaccurate report because Michael Pellet filed a complaint against SPO Bearden. Michael Pellet stated he believed that SPO Bearden changed the traffic crash report to indicate Michael Pellet was distracted; however, the OIPM reviewed all three reports and it appeared SPO Bearden checked “Y” for unknown under the distraction section pertaining to Michael Pellet on the three versions of the report. From the investigative record, it does not appear that Michael Pellet voiced this concern to Investigating Officer Lewis; therefore, it was not addressed in the investigation. The OIPM did not expect the investigation to consider this, but the OIPM notes it here to ensure this review includes all the complainant’s concerns.

CONCLUSION / OIPM RECOMMENDATIONS

Earlier in this memorandum, the OIPM noted liability and other issues that were not fully considered in the NOPD investigation. The OIPM listed possible liability and policy concerns, but now, would like to draw attention to the human impact of this police response. Michael Pellet faced financial and legal hardships because he was issued a citation for careless operation due to SPO Bearden's deficient investigation and inaccurate traffic crash report. Also, in addition to having to endure costs related the damage to his vehicle, Michael Pellet faced recurring financial hardship due to this accident and citation being on his record thereby impacting his insurance rates. Appearing in court and this influencing his insurance also affected his ability to earn wages as an Uber driver.

Additionally, the OIPM wants to highlight that Michael Pellet also expressed emotional distress and "tremendous grief" after this police encounter. He stated he was scared to drive due to the way he was treated by SPO Bearden. This cost comes to Michael Pellet as a person and to the department since public trust was lost in its officers.

While there is no way to monetize this loss or consider these factors in the misconduct investigation, the OIPM does want to include this human impact in the OIPM case review as a reminder that police responses affect lives in a very real way – even something that may appear "run of the mill" like a traffic accident response.

SPO Bearden

The OIPM **agrees** with the determination to **sustain** the allegation that SPO Bearden's conduct violated Rule 4: Performance of Duty, Par. 4: Neglect of Duty, Ch.82.1 Report Preparation, as the traffic accident report he authored contained numerous substantive inaccuracies.

Similarly, the OIPM **agrees** with the determination to **sustain** the allegation that SPO Bearden violated Rule 4: Performance of Duty, Par. 4: Neglect of Duty, Ch.61.7 Crash Response & Reporting Par. 26, Officer Responsibility, as he neglected to instruct the drivers involved in the car accident to exchange their driving information a Driver's Information Exchange Form #260 (as prescribed in Paragraph 26 of the above chapter for any party who suffered injury or property damage resulting from the crash).

Third, the OIPM **agrees** with the determination to **not sustained** the allegation that SPO violated Rule 4: Performance of Duty, Para. 4: Neglect of Duty to wit Chapter 41.13: Biased Free Policing due to the lack of evidence. However, from the investigation and the Body Worn Camera footage, it is apparent that Michael Pellet was not afforded the same opportunity to tell his version of what happened during the accident as the other drivers were, which was Michael Pellet's primary complaint. Based on the review of the signed investigation and the Body Worn Camera, it is the OIPM's conclusion that SPO Bearden's failure to engage Michael Pellet was more likely due to his failure to conduct a thorough investigation, rather than an obvious bias against Michael Pellet or preference towards Antoinette Savoie.

Finally, the OIPM **does not agree** with the determination of unfounded on Rule 3: Moral Conduct, Par. 1 Professionalism. The BWC footage taken at the scene of the accident reveals beyond a preponderance of the evidence that SPO Bearden did make the comments that Sgt. Edenfield initially classified as unprofessional during the complaint intake. The OIPM recommends a finding of **sustained** for this allegation.

Sgt. Russell

The OIPM agrees with the determination to **sustain** violation Rule 4: Performance of Duty, Para. 4: Neglect of Duty, c(6) to wit NOPD Chapter 52.1.1 Misconduct Complaint Intake and Investigation because he received a civilian's complaint of possible misconduct but admittedly failed to document it on a NOPD Form 230 and forward it to PIB for proper classification.

Accordingly, the OIPM recommends the following findings:

OFFICER	ALLEGATION	PIB RECOMMENDATION
SGT. ALFRED RUSSELL	RULE 4: PERFORMANCE OF DUTY: INSTRUCTIONS FROM AN AUTHORITATIVE SOURCE TO WIT NOPD CH. 52.1.1- MISCONDUCT COMPLAINT INTAKE AND INVESTIGATION	SUSTAINED
SPO WILLIAM BEARDEN	RULE 3: MORAL CONDUCT PAR. 1: PROFESSIONALISM	SUSTAINED
	RULE 4: PERFORMANCE OF DUTY, PAR. 4: NEGLIGENCE OF DUTY TO WIT CH.41.13: BIASED FREE POLICING	NOT SUSTAINED
	RULE 4: PERFORMANCE OF DUTY, PAR. 4: NEGLIGENCE OF DUTY TO WIT CH.82.1: REPORT PREPARATION	SUSTAINED
	RULE 4: PERFORMANCE OF DUTY, PAR. 4: NEGLIGENCE OF DUTY TO WIT CH. 61.7: TRAFFIC CRASH RESPONSE AND REPORTING, PAR. 26: OFFICER RESPONSIBILITY	SUSTAINED

This review approved by:



Stella Cziment
Independent Police Monitor

First review conducted by: Mummi Ibrahim, Case Review Contract Attorney