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OFFICE OF THE INDEPENDENT POLICE MONITOR
CASE REVIEW: 2021-0092-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 OIPM 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: 2021-0092-P
OIPM COMPLAINT: CR-2022-0002
COMPLAINANT: BELDEN BATISTE
DATE OF INCIDENT: FEBRUARY 4, 2021

INVOLVED NOPD EMPLOYEES:

CAPT. LEJON ROBERTS (EMPLOYEE ID [REDACTED])
LT. (CAPT.) KENDRICK ALLEN (EMPLOYEE ID [REDACTED])
LT. (CAPT.) MICHELLE WOODFORK (EMPLOYEE ID [REDACTED])
SGT. ALFRED RUSSELL (EMPLOYEE ID [REDACTED])
SGT. CLAUDIA BRUCE (EMPLOYEE ID [REDACTED])

INVESTIGATING OFFICER: CAPT. NICHOLAS GERONON

ALLEGATION FINDINGS BY PIB:

OFFICER	ALLEGATION	INVESTIGATING OFFICER RECOMMENDATION
CAPT. LEJON ROBERTS	RULE 3: MORAL CONDUCT PAR. 1: PROFESSIONALISM	UNFOUNDED
LT. (CAPT.) KENDRICK ALLEN	RULE 3: MORAL CONDUCT PAR. 1: PROFESSIONALISM	UNFOUNDED
LT. (CAPT.) MICHELLE WOODFORK	RULE 3: MORAL CONDUCT PAR. 1: PROFESSIONALISM	UNFOUNDED

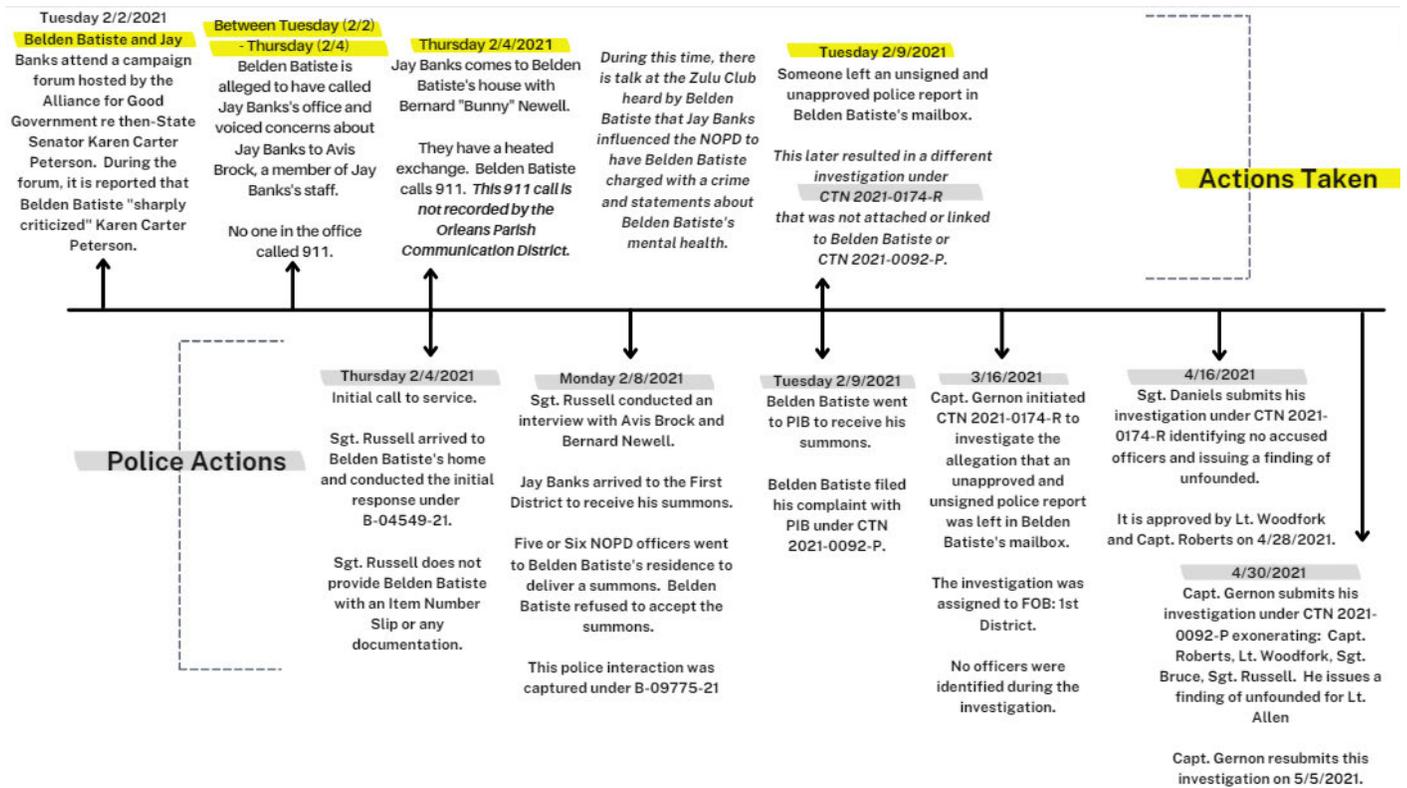
SGT. ALFRED RUSSELL	RULE 3: MORAL CONDUCT PAR. 1: PROFESSIONALISM	UNFOUNDED
SGT. CLAUDIA BRUCE	RULE 3: MORAL CONDUCT PAR. 1: PROFESSIONALISM	UNFOUNDED

SUMMARY OF THE FACTS

The following is a summary of the facts based on the signed investigation, exhibits, recorded interviews, and news coverage of the incident.

The misconduct allegations arose from police responses regarding a series of interactions between a civilian, Belden Batiste, and a then-Councilmember, Jay Banks, and his staff. To explain these interactions, the OIPM created a timeline to capture what occurred, when the police received notice, and the subsequent police actions, some of which created the basis for this complaint of officer misconduct. The text above the timeline indicates actions taken that were not initiated by the police. Under the timeline are the police actions taken by NOPD officers.

Noted in the timeline are two separate Formal Disciplinary Investigations (FDIs) that were conducted regarding the allegations raised by the complainant Belden Batiste. The first FDI is CTN 2021-0092-P which was investigated by Capt. Nicholas Gernon. This investigation is the focus of this case review. The second FDI is CTN 2021-0174-R which was initiated by Capt. Gernon and investigated by Sgt. Daniels of the First District. This investigation is referenced and briefly critiqued in this case review.



On Tuesday, February 2, 2021, then-Councilmember Jay Banks and Belden Batiste both attended the Alliance for Good Government campaign forum for then-State Senator Karen Carter Peterson. During that forum, Belden Batiste allegedly spoke critically of Karen Carter Peterson. Between Tuesday, February 2, 2021, and

Thursday, February 4, 2021, according to Avis Brock, Belden Batiste called the office of then-Councilmember Jay Banks and voiced concerns. Avis Brock is a staff member who worked in then-Councilmember Jay Banks's office. No one within the office of then-Councilmember Jay Banks called 911 to report these calls. Later, the content of those calls would be referenced by then-Councilmember Jay Banks and his staff to suggest that Belden Batiste threatened him and his staff. These calls would also be used by then-Councilmember Jay Banks as the basis for going to Belden Batiste's house.

On Thursday, February 4, 2021, then-Councilmember Jay Banks went to Belden Batiste's home at 1421 N. Miro Street, along with his driver, Bernard "Bunny" Newell. According to then-Councilmember Jay Banks, he went to Belden Batiste's home to check on him and try to resolve the differences between them. Instead, a verbal altercation took place between Belden Batiste, then-Councilmember Jay Banks, and Bernard "Bunny" Newell.

After the verbal altercation on February 4, 2021, Belden Batiste called 911 to report the interaction. This 911 call was not recorded by the Orleans Parish Communication District which is discussed in the memorandum below. On February 4, 2021, Sgt. Alfred Russell arrived at Belden Batiste's home to investigate the incident.

Sgt. Russell interviewed Belden Batiste and a witness, his mother, Adrian Batiste. Belden Batiste told Sgt. Russell that then-Councilmember Jay Banks threatened him (detailed below in the BWC footage note section). This initial call to service was recorded under B-04549-21.

At the conclusion of the call to service, Belden Batiste asked for an item number documenting the incident and Sgt. Russell stated that he did not have any item number forms with him but that he or another officer would return afterwards with a form. Sgt. Russell took notes during the call to service on a piece of unidentifiable scrap paper.

On February 8, 2021, Sgt. Russell conducted interviews with then-Councilmember Jay Banks and his staff. Sgt. Russell interviewed Avis Brock, who worked in then-Councilmember Jay Banks's office answering his phones, and Bernard "Bunny" Newell, the driver of then-Councilmember Jay Banks. During the interviews, all three parties asserted that Belden Batiste had also threatened them. Sgt. Russell elected to issue then-Councilmember Jay Banks a summons due to the allegations made by Belden Batiste.

Later that afternoon, around 2:52pm, then-Councilmember Jay Banks arrived at the First District Station and received his summons.

Also on February 8, 2021, six NOPD officers went to Belden Batiste's residence to deliver a summons for disturbing the peace. Belden Batiste declined to accept the summons until he could consult with his attorney and instead agreed to meet with the officers on February 9, 2021, to receive his summons accompanied by his lawyer. This second interaction was recorded under B-09775-21.

On or around February 9, 2021, according to the complainant, Belden Batiste, a police report under B-04549-21, which was timestamped February 9, 2021, at 12:20pm, was left in Belden Batiste's mailbox by an unknown person. This police report was not approved or signed by a supervisor. *This was later investigated in a separate FDI under CTN 2021-0174-R for the alleged security breach (which was initiated on March 16, 2021, by the Investigating Officer: Capt. Nicholas Gernon).*

On February 9, 2021, Belden Batiste met with Sgt. Willie Jenkins at PIB and was issued a summons for disturbing the peace. Then-Councilmember Jay Banks was also issued a summons for disturbing the peace, but as noted above, was permitted to pick up and sign for his summons at the police station.

On February 9, 2021, Belden Batiste met with Lt. (Capt.) Precious Banks to file a complaint of officer misconduct documented under CTN 2021-0092-P.

On March 16, 2021, the Investigating Officer, Capt. Gernon, initiated a FDI regarding the breach of security by releasing an unapproved and unsigned investigation to Belden Batiste. That investigation is given a different CTN: 2021-0174-R. CTN 2021-0174-R was assigned to the Field Operations Bureau to be investigated by the First District: Sgt. Daniels. The investigation is supervised and eventually approved by Lt. (Capt.) Michelle Woodfork and Capt. Lejon Roberts, who are both accused employees in CTN 2021-0092-P.

During a later interview on April 1, 2021 with the Investigating Officer, Capt. Gernon, along with Deputy Chief Chris Goodley, Belden Batiste added supplemental information to his complaint, most notably an allegation that he believed the officers who came to his home to serve him with a summons were influenced by then-Councilmember Jay Banks and that Bernard "Bunny" Newell was patting a handgun during the verbal altercation between the three parties (Bernard "Bunny" Newell, Belden Batiste, and then-Councilmember Jay Banks).

On April 16, 2021, Investigating Officer Sgt. Daniels submitted his signed investigation under CTN 2021-0174-R which is then approved on April 28, 2021, by both Lt. (Capt.) Woodfork and Capt. Roberts.

On April 30, 2021, and then again on May 5, 2021, the signed investigation CTN 2021-0092-P is submitted by Investigating Officer Capt. Gernon.

To ensure this case review considered all relevant facts, in addition to reviewing the investigative report, exhibits and administrative interviews, the OIPM also reviewed the Body Worn Camera (BWC) footage associated with this complaint, and noted the following:

BWC Footage Recorded on February 4, 2021¹

12:31 PM –

Sgt. Russell arrives to Belden Batiste's home to respond to the call for service initiated by Belden Batiste.

Belden Batiste states then-Councilmember Jay Banks came to his home and threatened him. According to Belden Batiste, then-Councilmember Jay Banks said Belden Batiste is going to come up missing if he keeps going against board candidates and that we can kill you and no one would know. Sgt. Russell spoke to a neighbor about camera footage that may have captured the interaction. Sgt. Russell did not have the appropriate form to give Mr. Batiste an item number at the time of the interaction but promised to come back later with it. Belden Batiste asked when the report would be ready and requested that the matter be treated with fairness. Sgt. Russell said he would investigate the matter and return with an item number (and if not him, someone else would). Belden Batiste thanked Sgt. Russell and said he was very nice and that he appreciated him.

The video ends with Sgt. Russell getting into his car and a small sheet of paper (the size of an envelope or receipt) is visible where it appears Sgt. Russell took his notes regarding the incident.

BWC Footage Recorded on February 8, 2021

10:08 AM –

Sgt. Russell interviews then-Councilmember Jay Banks. Then-Councilmember Jay Banks describes the encounter between himself and Belden Batiste that occurred at Belden Batiste's home. Then-Councilmember Jay Banks also described the phone call from Belden Batiste that he said was the reason why then-Councilmember Jay Banks went to Belden Batiste's house.

Total interview time was approximately 9 mins.

10:18 AM –

Sgt. Russell interviews Bernard "Bunny" Newell who was then-Councilmember Jay Banks's driver. Bernard "Bunny" Newell states Belden Batiste threatened them: "I got n**gas that will die for me, can

¹ OIPM notes that this BWC footage was originally restricted and both Investigating Officer Capt. Gernon and the OIPM had to request special access to view it. It is unclear why the footage was initially restricted.

you say that.” Sgt. Russell then asks, “Is that the extent of the threats?” to which Bernard “Bunny” Newell replies yes.

Total interview time was approximately 5 mins.

10:23 AM –

Sgt. Russell interviews Avis Brock, a member of then-Councilmember Jay Banks’s staff, about an interaction that occurred between her and Belden Batiste. Sgt. Russell asked her if Belden Batiste threatened to kill anyone and she answered no, but that Belden Batiste threatened to “f**k everybody up.”

2:52 PM –

This BWC captures then-Councilmember Jay Banks receiving his summons by two officers (including Sgt. Russell). Then-Councilmember Jay Banks asks if Belden Batiste is going to also be issued a summons for threatening his staff. Sgt. Russell responds that his staff didn’t say that Belden Batiste had threatened them. Then-Councilmember Jay Banks reminds Sgt. Russell that Belden Batiste said he was going to “f**k everybody up,” and Sgt. Russell responds that they will look into it.

4:27 PM –

This BWC captures the officers going to Belden Batiste’s home to serve him with the summons. The footage shows a total of five officers (three male officers and two female officers) at Belden Batiste’s home.

These officers were Capt. Lejon Roberts, Lt. (Capt.) Kendrick Allen, Lt. (Capt.) Michelle Woodfork, Sgt. Claudia Bruce and Sgt. Alfred Russell.

Belden Batiste refused to accept the summons and stated that he will instead turn himself in to receive his summons in the presence of his attorney.

Recorded Interviews

March 15, 2021: Recorded interview with Investigating Officer Capt. Gernon and Belden Batiste over the phone.

- Belden Batiste states that Chief Ferguson should conduct this misconduct investigation because a captain should not investigate another captain.
- Belden Batiste describes a previous conflict with Lt. (Capt.) Woodfork during his community activism.
- Belden Batiste requests that Deputy Chief Chris Goodly be present during his future interviews because he is the only person at the Department that he trusts.
- Belden Batiste stated that he went to Headquarters and was denied a police report; but later, an unknown person dropped it in his mailbox later.

April 1, 2021: Recorded interview with Investigating Officer Capt. Gernon with Deputy Chief Chris Goodly and Belden Batiste

- Investigating Officer Capt. Gernon called Belden Batiste to conduct a supplemental recorded interview, asking if there was anything else he wished to add to the investigation.
- Belden Batiste relayed that Deputy Chief John Thompson [sic] told him that he only authorized two officers to come to Belden Batiste’s home to serve him with the summons. The Investigating Officer did not question him about this statement.
- Belden Batiste stated that seven officers came to his house to serve him with the summons and intimidated him. Belden Batiste believes this was under the instruction of then-Councilmember Jay Banks, who Belden Batiste heard was bragging at the Zulu Club that he told the officers to be aggressive with Belden Batiste.

- Belden Batiste also stated that Bernard “Bunny” Newell (then-Councilmember Jay Banks’s driver) was carrying a gun when they came to his home and was patting it. Belden Batiste stated that he believed that Bernard “Bunny” Newell was illegally carrying the weapon.
- Belden Batiste stated Lt. (Capt.) Woodfork and him have had prior incidents and that he has had many “showdowns” with the First District including getting an officer fired.

SUMMARY OF ALLEGATIONS AS LISTED IN THE INVESTIGATION

The officers listed below were all investigated for allegations of violating Rule 3: Moral Conduct, Para. 1: Professionalism. The OIPM notes the specific actions each officer allegedly took in the incident.

Capt. Lejon Roberts

Capt. Roberts allegedly: (1) gave preferential treatment to then-Councilmember Jay Banks by allowing then-Councilmember Jay Banks to sign his summons at the First District Station; and (2) intimidating Belden Batiste by having five to six officers arrive at his home to issue his summons.

Lt. (Capt.) Kendrick Allen, Lt. (Capt.) Michelle Woodfork, Sgt. Claudia Bruce

It is alleged these three officers went to Belden Batiste’s home with Capt. Roberts and other First District officers on February 8, 2021, to issue Belden Batiste a summons and that this was done in a manner intended to or was perceived by Belden Batiste to be intimidating and humiliating.

Sgt. Alfred Russell

It is alleged that Sgt. Russell: (1) failed to provide Belden Batiste with an Item Number slip and was unprepared to take a report from Belden Batiste and ultimately did so in a manner that was unprofessional; (2) Sgt. Russell badgered Belden Batiste during his investigation and asked to view his phone but did not examine then-Councilmember Jay Banks’s phone; (3) Sgt. Russell investigated in a manner that was preferential or deferential to then-Councilmember Jay Banks; (4) Sgt. Russell gave special treatment to then-Councilmember Jay Banks by allowing him to sign his summons at the First District Station and intimidated Belden Batiste by having five to six officers arrive at his home to issue his summons; and (5) Sgt. Russell authored a police report that contained several inaccurate statements and was missing the events that occurred during the beginning of the verbal altercation that occurred between Belden Batiste, Bernard “Bunny” Newell and then-Councilmember Jay Banks.

OIPM ANALYSIS

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

The charges investigated by Investigating Officer Capt. Gernon, particularly the allegations against Sgt. Russell, do not fully or accurately represent the complaints of the complainant, Belden Batiste. The OIPM identified the following allegations that could be raised:

1. Allegation of Intimidation

First, the complainant stated that he thought several officers arriving to his home, particularly officers of a high rank, to serve him with a disturbing the peace misdemeanor summons was intended to intimidate him. The OIPM reviewed the BWC footage from the February 8, 2021, encounter at Belden Batiste’s house and this footage confirms that the additional officers did not engage with Belden Batiste; however, the presence of a district captain, two lieutenants and two sergeants (and another officer in a squad car down the street) is excessive for serving a disturbing the peace summons.

In analyzing this allegation of intimidation, the OIPM notes the intent of an officer and the appearance or perception of a civilian may require two different types of analysis. One analysis asks if the police action was intentional, while the other analysis reflects on how an action may be perceived or appear to others – particularly civilians engaging with officers.

In the signed investigation, Investigating Officer Capt. Gernon limited his analysis to the first part of the analysis: whether the group of five to six officers who went to Belden Batiste's house intended to intimidate him. The OIPM position is that this limited review missed the opportunity to consider whether it's reasonable for a member of the public to feel intimidated by the appearance of multiple officers of a high rank showing up at their home and whether that perception should have been considered by the responding officers, particularly Capt. Roberts, prior to inviting a large group of lieutenants and sergeants to join in serving the summons to Belden Batiste.

In reviewing this investigation, the OIPM concluded that Investigating Officer Capt. Gernon should have also considered the appearance and the perception that could be created by seeing a group of officers, including a district captain, two lieutenants, and two sergeants, showing up at a house unannounced to serve a summons for a minor offense. The number of officers and officers of a high rank is particularly confusing, embarrassing, and potentially alarming to a member of the public. Particularly when this individual was the one who made the initial complaint about a City Councilmember (a person in a position of power). This analysis was not fully captured in a disciplinary charge for professionalism nor was it referenced in Investigating Officer Capt. Gernon's analysis.

Investigating Officer Capt. Gernon asked the involved officers if they intended to intimidate Belden Batiste. Investigating Officer Capt. Gernon relied on what was "reasonable" from the perspective of the accused officers but did not shift perspective to what could be considered "reasonable" from the perspective of a civilian engaging with the police. This aspect of the investigation is addressed more in another area of the case review.

Second, the complainant stated that he believed the number of officers was intended to be intimidating because Belden Batiste heard that then-Councilmember Jay Banks supposedly admitted at the Zulu Club that he requested the officers be "aggressive" with Belden Batiste and that Belden Batiste "get charges." Belden Batiste said that someone named Ian Russell was at the Zulu Club telling people that Belden Batiste was going to get charges. Belden Batiste also heard that allegations about his mental health that were included in the unauthorized police report were also being shared at the Zulu Club.

Although the OIPM cannot verify the information heard at the Zulu Club, it must be emphasized that this information supported Belden Batiste's belief that: (1) then-Councilmember Jay Banks was influencing the policing actions taken against him; and (2) that the presence of these five officers could be perceived as intimidation to be "aggressive" as then-Councilmember Jay Banks allegedly boasted. The OIPM notes this additional information since it was shared with Investigating Officer Capt. Gernon and the Investigating Officer did not verify or investigate this information. This information could potentially be relevant to the allegation of intimidation and be a motive as to why the NOPD had multiple officers go to Belden Batiste's house and why he was issued a summons.

Therefore, the OIPM would raise an additional allegation of intimidation on the accused officers. This said, though the OIPM believes there is grounds to raise and consider an intimidation allegation separate from the charge of "professionalism," when trying to determine if there was a more appropriate policy allegation to raise, the OIPM was unable to find any existing policy that accurately describes this type of possible non-verbal intimidation. Specifically, Rule 2: Moral Conduct, Par. 5: Verbal Intimidation only addresses verbal intimidation and no other forms of potential or perceived intimidation such as physical intimidation.

While intimidation is unprofessional, the intent behind and the impact of intimidation is different from unprofessionalism. These allegations should be assessed and disciplined differently. **As a result of this gap in policy, the OIPM recommends a policy clarification to address this type of non-verbal intimidation.**

2. Allegation of Preferential Treatment: NOPD Ch. 41.13: Bias Free Policing

The complainant alleged that then-Councilmember Jay Banks received preferential treatment from the NOPD.

The position of the OIPM is that this allegation could have been investigated under NOPD Ch. 41.13: Bias Free Policing. Chapter 41.13: Biased Policing states:

NOPD strives to provide police services that are equitable, respectful, and bias-free in a way that helps promote broad-based community engagement and bolsters confidence in the Department. Actual or perceived race, color, ethnicity, national origin, religion, gender, gender identity, sexual orientation, economic status, age, cultural group, disability, housing status, or affiliation with any other similar identifiable group shall not be a motivating factor to any degree in any law enforcement decision, including the decision to take no action, or in the selection or rejection of particular tactics and strategies.

Here, Belden Batiste is alleging that there was differential treatment in how: (1) the involved officers issued the summons to Belden Batiste and then-Councilmember Jay Banks; and (2) the decision to charge Belden Batiste with disturbing the peace after he pressed charges against then-Councilmember Jay Banks.

This allegation would be supported by the following differences in treatment. First, there was a contrast in the way then-Councilmember Jay Banks was asked to come down to the First District Station and was issued his summons peacefully and privately in the presence of Sgt. Russell and Capt. Roberts and the way Belden Batiste was served his summons publicly by many ranked officers. Second, Belden Batiste received a summons for disturbing the peace based on a phone call to then-Councilmember Jay Banks's office that was initially noted in the report as: "...profane, loud statements, but nothing directly threatening to kill Councilman Banks or anyone else."

Thus, the OIPM asserts that Investigating Officer Capt. Gernon should have conducted a more thorough investigation into the allegations of disparate treatment and whether then-Councilmember Jay Banks's political status had any influence over the involved officers. The OIPM asserts that Investigating Officer Capt. Gernon could have raised additional allegations against Sgt. Russell and Capt. Roberts for violating NOPD Ch. 41.13: Bias Free Policing.

3. *Allegation of Failing to Write a Thorough Police Report: Rule 4: Performance of Duty, Par. 4: Neglect of Duty (c)(6) to wit: NOPD Ch. 82.1 Report Preparation*

The complainant alleged that Sgt. Russell authored a police report that contained several inaccurate statements and was missing the events that occurred during the beginning of the verbal altercation that occurred between Belden Batiste, Bernard "Bunny" Newell and then-Councilmember Jay Banks. Sgt. Russell could have been investigated for Rule 4: Performance of Duty, Par. 4: Neglect of Duty (c)(6) to wit: NOPD Ch. 82.1 Report Preparation, which explicitly states that "members shall not suppress, conceal or distort the facts of any reported incident, nor shall any member make an intentionally false, inaccurate or incomplete report orally or in writing."

During the recorded interview with Investigating Officer Capt. Gernon and Deputy Chief Goodly on April 21, 2021, Belden Batiste stated that there were missing and inaccurate or false statements in Sgt. Russell's report. Belden Batiste specifically mentioned the date Sgt. Russell first met with then-Councilmember Jay Banks and the details of what happened at the beginning of the encounter between Belden Batiste, then-Councilmember Jay Banks, and his driver, Bernard "Bunny" Newell that resulted in Belden Batiste calling 911.

Based on Sgt. Russell's statements during his recorded interview, it appears that some of the inaccuracies were clerical errors and some of the inaccuracies included miscredited quotes. Sgt. Russell was ordered to complete a supplemental report correcting some of the information within the original report.

Despite these clear errors, Investigating Officer Capt. Gernon decided to counsel Sgt. Russell on his duty to ensure that reports are accurate and free of errors pursuant to NOPD Ch. 82.1., and correct the errors with him, which further emphasizes the question of why this allegation was not raised in the investigation (see p. 19 of the investigative report). The OIPM will note that even the final and approved police report still included an inaccuracy that was mentioned in the signed investigation:

"(It should be noted the final approved police report inaccurately recorded the day Mr. Baptiste [sic] received his summons while at the Public Integrity Bureau as February 10, 2021. BWC footage established this occurred on February 9, 2021.)"

Thus, the OIPM asserts that Investigating Officer Capt. Gernon should have raised an additional allegation of Rule 4: Performance of Duty, Par. 4: Neglect of Duty (c)(6) to wit: NOPD Ch. 82.1 Report Preparation against Sgt. Russell due to his police report containing several inaccurate or false statements and missing key events.

4. *Allegation of Failing to Conduct a Thorough Police Investigation: Rule 4: Performance of Duty, Par. 4: Neglect of Duty (c)(8)*

Once then-Councilmember Jay Banks and his staff started suggesting that Belden Batiste threatened them during the phone calls prior to the incident at Belden Batiste's house, there was no investigation into the validity of that claim. No one from then-Councilmember Jay Banks called 911 to report the incident but instead brought up this interaction to Sgt. Russell while then-Councilmember Jay Banks was under investigation for going to Belden Batiste's home. Belden Batiste was never questioned about allegedly threatening then-Councilmember Jay Banks or his staff. No report was prepared on the threat supposedly made by Belden Batiste. Instead, Sgt. Russell effectively folded that allegation into the investigation of allegations made by Belden Batiste.

The OIPM finds this action confusing particularly since there was weak to inconsistent information provided regarding the alleged comments made by Belden Batiste. According to the to the initial police report, then-Councilmember Jay Banks stated that Belden Batiste did "nothing to threaten him directly." The initial report stated that: "At no point did Mr. Newell hear them make any threats" and Avis Brock stated "Mr. Batiste made no direct threat of violence to Councilman Banks or anyone else during their phone call." Even without the direct threat of immediate harm, Belden Batiste was issued a summons for disturbing the peace by threats.

Based on the lack of investigation conducted and the summons issued without witnesses stating they were threatened, **the OIPM asserts that an additional allegation of Rule 4: Performance of Duty, Par. 4: Neglect of Duty (c)(8) should have been brought against Sgt. Russell for his failure to conduct a thorough investigation. Additionally, the OIPM questions the decision of the NOPD to issue a summons to Belden Batiste for disturbing the peace by threats.**

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

Yes. The OIPM identified the following issues related to policy, procedure, risk management, or liability.

1. *Policy Development*

As suggested above, the current NOPD policy does not address: (1) how to address an allegation of intimidation that may occur when there is a perception that the amount of responding officers or the rank of the responding officers is meant to or the appearance of can overwhelm, intimidate, or confuse a civilian; and (2) possible political influence in the policing strategies and the discrepancies in treatment. The OIPM recommends the Department should consider policy revisions to clarify these gaps.

At the end of this case review, the OIPM proposed language to address possible political interference or intimidation in policing tactics. In this recommendation, the OIPM proposes that the OIPM receive notice when there is a call of service regarding a member of the public and a political or judicial leader. The OIPM identified these criminal investigations as being areas where officers may feel pressure or influence on their investigation and arresting decisions. To ensure officer independence, the OIPM proposes that the OIPM receive notice of these responses to monitor on scene if determined necessary.

The OIPM also proposes that non-verbal intimidation be addressed within the disciplinary matrix. The current NOPD policy regarding intimidation, Rule 2: Moral Conduct, Par. 5: Verbal Intimidation, only concerns violations pertaining to verbal intimidation. There is a significant gap in NOPD policy in that physical intimidation or any type of non-verbal intimidation or perceived intimidation is not addressed whatsoever, and there are no appropriate policy violations for dealing with such instances.

2. Conflicts of Interest

Belden Batiste expressed concerns about a few potential conflicts of interests throughout the investigation, including:

- Concerns over Investigating Officer Capt. Gernon being assigned to CTN 2021-0092-P since Capt. Gernon has a prior relationship with the First District and the complainant stated that he did not think Capt. Gernon would be fair.
- Belden Batiste expressed concerns that it was improper for Capt. Gernon to be investigating Capt. Roberts because they are the same rank.
- Belden Batiste stated he has a “history” with Lt. (Capt.) Woodfork

The OIPM recommends that the Department consider employing a protocol to address potential conflicts of interests in investigations that may impact the underlying allegations or present an issue in the investigation of the allegations. It is important to note that even if the Investigating Officer or the Department determines that no conflict of issue is present, that the Investigating Officer explain that these concerns were heard and addressed, but ultimately not a problem in this investigation. This language can dispel the appearance of impropriety or bias, and allow a review to evaluate the factors considered in determining the presence of a conflict of interest.

Upon reviewing this investigation, the OIPM has separate concerns regarding conflicts of interest between CTN 2021-0092-P and CTN 2021-0174-R which are addressed both under this heading and in the section directly below. Specifically, that CTN 2021-0174-R was sent to FOB First District for investigation while the companion investigation was being conducted, enabling the potentially accused officers to sign off on the second investigation.

In CTN 2021-0092-P, Deputy-Chief John Thomas was both a witness of the alleged misconduct and provided a recorded statement to the Investigating Officer before being a signatory to the investigation and ultimately approving the investigation. While this is not a violation of policy, this does create confusion and potential conflicts. **The OIPM does not agree with the practice of having any witness be a signatory on a misconduct investigation. The OIPM recommends that this practice be eliminated.**

The OIPM seeks clarity on why both investigations: CTN 2021-0092-P and CTN 2021-0174-R were assigned to FOB instead of remaining within PIB.

Finally, the OIPM recommends that the NOPD consider expanding the Memorandum of Understanding with the Office of the Inspector General (OIG) to consider including investigations that involve political leaders and alleged NOPD misconduct. An outside agency may be better suited to conduct this type of investigation without a potential political conflict or the appearance of a political conflict.

3. Security of Police Documentation / Information

In this investigation, there were two instances where information was released in a way that could be a violation of NOPD policy.

a. *Release of the Unapproved Police Report in a Mailbox*

First, an unknown individual, presumably an employee of the NOPD, released an unapproved and unsigned police report under B-04549-21 to Belden Batiste by leaving it in Belden Batiste’s mailbox. This allegation was raised in Belden Batiste’s initial complaint; however, it was separated from the investigation conducted under CTN 2021-0092-P and was investigated in a different Formal Disciplinary Investigation under CTN 2021-0174-R.

The OIPM thinks it was problematic to separate this allegation from the original FDI and investigate it under a different CTN without first determining that none of the accused officers in 2021-0092-P were responsible. This undercut the ability for the Investigating Officer to determine if the employee responsible for providing the

unapproved and unsigned investigation was also possibly responsible for the previously mentioned information being shared at the Zulu Club. It is also difficult to determine if there was a motive to release this report with the goal of humiliating the complainant as believed.

Under NOPD policy, it is practice initiate a new CTN when an allegation that a different officer or employee is responsible for the alleged violation. This policy is in place to ensure that that employee receives notice and the appropriate "clock" is started under Revised Statute 40:2531: Rights of Law Enforcement Officers While Under Investigation. However, here, the Investigating Officer should have first determined that none of the accused officers were responsible for this breach in security and sharing the records. The Investigating Officer should have raised this allegation then unfounded it or exonerated the officers if determined that they were not responsible for releasing the report. Instead, the Investigating Officer initiated a new CTN and the case was assigned to a new investigator who was not as familiar with the allegations or the potential motive of this security breach.

b. References to Mental Health in the Police Report

The complainant and OIPM are concerned about references to mental health in the police report. While the reporting officer should note all information provided by witnesses, the reporting officer needs to clearly attribute that information to sources and not give the appearance that the NOPD is making an assessment (unless it is the assessment of the NOPD or a description of the individual according to the reporting officer). Here, there was confusion regarding who was critiquing Belden Batiste's mental state in the police report – leading the complainant to believe the NOPD was trying to humiliate or demean him by questioning his mental health in the official report. This was specifically an issue in the first police report in the statement: "It was his understanding Mr. Batiste has a mental health issue, possibly bi-polar." In the supplemental report, it was clarified that then-Councilmember Jay Banks did not state this: "Councilman Banks did not state Mr. Batiste had mental health issues or was bi-polar on the record during his interview and that statement was mistakenly attributed to him in the original incident report." The OIPM is concerned this initial statement was included in a public report and since it could be damaging to the complainant (and possible trigger additional legal concerns). The OIPM recommends that such practices to be carefully scrutinized to ensure that careless and inaccurate categorizations of mental health are not included in public reports.

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

The OIPM appreciates Investigating Officer Capt. Gernon's initiative to counsel Sgt. Russell on his duty to ensure that reports are accurate and free of errors pursuant to NOPD Ch. 82.1. (see p. 19 of the investigative report). **However, the OIPM would recommend formal retraining on report preparation to ensure that Sgt. Russell is fully aware of his responsibilities under NOPD Ch. 82.1 seeing how there were still errors in the corrected police report.**

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

1. Failure to Thoroughly Investigate All of Mr. Batiste's Allegations

Investigating Officer Capt. Gernon raised the same allegation of Rule 3: Professional Conduct; Paragraph 1: Professionalism against all the accused officers, including Sgt. Russell, even though Belden Batiste's allegations against Sgt. Russell expanded beyond behavior that would be under the professionalism policy. Belden Batiste brought up multiple allegations against the NOPD and Sgt. Russell that Investigating Officer Capt. Gernon failed to investigate. These allegations included:

- Belden Batiste alleged that Bernard "Bunny" Newell had a weapon the day that then-Councilmember Jay Banks went to Belden Batiste's house. Belden Batiste alleged that Sgt. Russell failed to thoroughly investigate the possession of a gun. Investigating Officer Capt. Gernon did not investigate if Sgt. Russell failed to conduct a thorough investigation under Rule 4: Performance of

Duty, Par. 4, Neglect of Duty, Par. C(8)- Failing to thoroughly search for, collect, preserve, and identify evidence in an arrest or investigative situation.

- Belden Batiste alleged that Sgt. Russell asked to view his phone but did not ask to view then-Councilmember Jay Banks's phone. After viewing Belden Batiste's phone, Sgt. Russell failed to enter the call logs documenting that then-Councilmember Jay Banks called his cellphone into evidence.
- Belden Batiste alleged that Sgt. Russell failed to provide him with an item number slip and was unprepared to take a report from Belden Batiste and ultimately did so in a manner that was unprofessional. Belden Batiste stated that Sgt. Russell then failed to return with the item number slip or provide him with the item number for the investigation.
- Belden Batiste alleged that Sgt. Russell "allegedly informed these Zulu Club members that he and 'the chief' decided that Mr. Baptiste [sic] would 'get charges.'" Belden Batiste stated that this was both a sign of bias and intimidation.
- Belden Batiste alleged that Sgt. Russell gave preferential treatment to then-Councilmember Jay Banks.
- One of the officers drove past his house, circled the block and returned with two more police vehicles leading Belden Batiste to wonder if he was being surveilled.

Only portions of these allegations were addressed in the signed investigation and were all raised under professionalism allegations which did not accurately capture what was being alleged by the complainant. As previously discussed in Section I of this Case Review, the OIPM believes that multiple other violations of policy could have been investigated that Investigating Officer Capt. Gernon ultimately chose not to investigate.

2. Investigating Officer Missed Opportunity to Interview Additional Witnesses About Potential Police Misconduct and Political Influence

Investigating Officer Capt. Gernon excluded several witness statements from his investigative report including Adrian Batiste, Bernard "Bunny" Newell, Avis Brock, Ian Russell, and then-Councilmember Jay Banks. Investigating Officer Capt. Gernon took the stance that the underlying issues regarding the complainant, Belden Batiste, and these other individuals were "not pertinent to the investigation of this complaint" however; witness statements could have provided information about whether it was appropriate for Belden Batiste to be issued a summons, if information was being leaked from the First District to then-Councilmember Jay Banks, if there was inappropriate pressure or suggestion from then-Councilmember Jay Banks to charge Belden Batiste, and if information about this matter was being released to Zulu Club members.

Additionally, later in the credibility section of the signed investigation, Investigating Officer Capt. Gernon started to analyze the basis for the summons issued to Belden Batiste, stating that: "there was sufficient probable cause to merit a summons being issued to Mr. Baptiste for disturbing the peace..." further stating: "Disturbing the peace can take on a variety of forms, not just threats." There was no information in the signed investigation to support such a finding since Investigating Officer Capt. Gernon did not interview the witnesses involved in the underlying criminal matter and did not include the BWC footage of those interviews in this signed investigation. This type of conclusion was one that the OIPM would expect to see if there was an investigation into the underlying criminal case, but Investigating Officer Capt. Gernon limited the investigation to the serving of the summons, therefore, these statements are unsupported by the investigation conducted and appear to be Investigating Officer Capt. Gernon interjecting his opinion without supporting facts into the investigation.

3. 911 Tape Is Missing From This Investigation

The call to service made by Belden Batiste to 911 was the initial point of contact that initiated Sgt. Russell's investigation and may have included relevant information regarding the interaction. This call should have been an exhibit in this investigation, yet it is missing from the investigation because the Orleans Parish Communication District (OPCD) did not record the call.

While the 911 recordings are the responsibility of the OPCD, the OIPM is concerned that this call was not recorded and could have been used as evidence that would be beneficial to both the NOPD's criminal investigation of the incident involving Belden Batiste and then-Councilmember Jay Banks and to the subsequent misconduct investigation. The OIPM contacted the OPCD to request the 911 call under Item Number B-04549-21, and confirmed that the call taker position 21 at 11:33 am was not recording at the time. OPCD also confirmed there were no other 911 call audio associated with NOPD incidents under Item Numbers B-04549-21 and B-09775-21, "due the call being field initiated." The OPCD provided two written PremierOne Incident Reports dated 2/4/2021 and 2/8/2021, which only details when the calls for service were conducted and closed. The OIPM requested clarity of why this call was not recorded and if that was being investigated and received no response.

As it relates to this investigation, Investigating Officer Capt. Gernon did not note this issue in the investigation and did not appear to have requested the 911 recording or consider its value in the analysis of the investigation.

4. Number of Officers Who Went to Belden Batiste's House and Justification for Number of Officers

The signed investigation stated that it was credible that Capt. Roberts and his staff stopped at Mr. Batiste's residence "following their MAX meeting on their way to lunch" and this was "believable" according to Investigating Officer Capt. Gernon. However, Investigating Officer Capt. Gernon never verified if the First District had a MAX meeting on February 8, 2021, when this encounter occurred. The OIPM checked the city website to verify if there was a MAX meeting on February 8, 2021, and could not find any documentation of a MAX meeting occurring on February 8, 2021 at the First District. The MAX meeting for the First District was held the next day, on February 9, 2021.

MONDAY, FEBRUARY 8, 2021

Time	Event	Location
<input type="checkbox"/> 10:30am	District A – Community Office Hours	Mid-City Library 4140 Canal St.
<input type="checkbox"/> 10:30am	District B – Community Office Hours	Rosa F. Keller Library & Community Center 4300 S. Broad Ave. – Entrance on the Napoleon Avenue side of the Library.
<input type="checkbox"/> 10:30am	District C: Eastbank – Community Office Hours	Treme Rec Center 900 N. Villere St.
<input type="checkbox"/> 10:30am	District D – Community Office Hours	Milne Rec Center 5420 Franklin Ave.
<input type="checkbox"/> 10:30am	District E: Lower Ninth Ward – Community Office Hours	Sanchez Multi-Service Center 1616 Caffin Ave.
<input type="checkbox"/> 10:30am	District E: New Orleans East – Community Office Hours	East New Orleans Regional Library 5641 Read Blvd.
<input type="checkbox"/> 2pm	Pre-Submittal Conference for RFQ for Citywide Rosters for Architectural and Engineering (A/E) Services for the Department of Public Works for Fiscal Years 2021-2023	WebEx Conference Call
<input type="checkbox"/> 4pm	NORD Foundation Board of Directors Meeting	Virtual meeting - Zoom

TUESDAY, FEBRUARY 9, 2021

Time	Event	Location
<input type="checkbox"/> 10:30am	District A – Community Office Hours	Mid-City Library 4140 Canal St.
<input type="checkbox"/> 10:30am	District B – Community Office Hours	Rosa F. Keller Library & Community Center 4300 S. Broad Ave. – Entrance on the Napoleon Avenue side of the Library.
<input type="checkbox"/> 10:30am	District C: Westbank – Community Office Hours	Algiers Regional Library 3014 Holiday Dr.
<input type="checkbox"/> 10:30am	District C: Westbank – Community Office Hours	Algiers Regional Library 3014 Holiday Dr.
<input type="checkbox"/> 10:30am	District D – Community Office Hours	Milne Rec Center 5420 Franklin Ave.
<input type="checkbox"/> 10:30am	District E: Lower Ninth Ward – Community Office Hours	Sanchez Multi-Service Center 1616 Caffin Ave.
<input type="checkbox"/> 10:30am	District E: New Orleans East – Community Office Hours	East New Orleans Regional Library 5641 Read Blvd.
<input type="checkbox"/> 1pm	MAX Fifth District	Fifth District Station 3900 North Claiborne Ave. New Orleans, LA 70117
<input type="checkbox"/> 1pm	MAX First District	First District Station 501 North Rampart St. New Orleans, La.
<input type="checkbox"/> 1pm	MAX Fourth District	Fourth District Station 2405 Sanctuary Dr. New Orleans, LA 70114
<input type="checkbox"/> 1pm	MAX Seventh District	Seventh District Station - 3rd Floor 10101 Dwyer Road New Orleans, La. 70127
<input type="checkbox"/> 1pm	MAX Third District	Third District Station 2nd floor Conf. Room 4650 Paris Ave New Orleans, LA 70122
<input type="checkbox"/> 2pm	MAX Eighth District	Eighth District Station 714 Bienville St.

The OIPM reviewed the interview with Capt. Roberts and the other First District officers in the investigation and did not find any mention of a district MAX meeting occurring on that day. Capt. Roberts said he was enroute to lunch with his team. Therefore, the justification provided by Investigating Officer Capt. Gernon now becomes less credible and suggests that the Investigating Officer assumed facts into the signed investigation that were not gained during the investigation. Investigating Officer Capt. Gernon failed to verify if a MAX meeting occurred, which would have provided a justification for five to six officers being in front of the complainant's home.

Additionally, there are still inconsistencies regarding how many officers were present. Capt. Roberts stated it was five officers during his statement, but in fact it was six officers as highlighted during the signed investigation since one remained in a squad car:

“Regarding Mr. Baptiste’s [sic] primary complaint surrounding the number of officers who were present at this residence, it was clearly established by both the body worn camera footage as well as all officers’ statement [sic] a total of five officers were present during the encounter Mr. Baptiste had with the First District Officers on February 8, 2021 (although it should be noted a sixth officer was present and remained in his vehicle).”

The signed investigation established that Deputy Chief Roberts wanted Sgt. Russell to serve the summons and recommended that Capt. Roberts go as a witness. The signed investigation did not suggest there was any directive from Deputy Chief Thomas regarding how many officers should go to Belden Batiste’s house to serve the summons. When Capt. Roberts was asked about the role of the other officers aside from himself and Sgt. Russell, Capt. Roberts responded: “They had no role at all.” Investigating Officer Capt. Gernon failed to look at

the call logs or any other internal information that would have explained why there were that many officers at Belden Batiste's house or if there was any other information that could have been relevant to the investigation. **Therefore, there is still an open question to why five to six officers went to Belden Batiste's house and the signed investigation failed to sufficiently explain their presence.**

5. Use of Leading Questions

Investigating Officer Capt. Gernon relied on leading questions when interviewing the accused officers and for this reason, appeared to confirm his own findings instead of using interviews as an opportunity to receive new information. Investigating Officer Capt. Gernon used questions like: "During this investigation did you and your employees act with the utmost concern for the dignity of Mr. Batiste?" At one point during Investigating Officer Capt. Gernon's interview with Capt. Roberts, Investigating Officer Capt. Gernon asked a series of leading questions that resulted in Capt. Roberts saying "No" in response, then the Investigating Officer asked: "Did you or your officers take any steps to prevent Mr. Batiste from being unnecessarily inconvenienced or demeaned?" Capt. Roberts again responded, "No." Investigating Officer Capt. Gernon had to clarify the leading question: "You did not take any steps to prevent him from being demeaned...?" for Capt. Roberts to answer that they did not prevent Belden Batiste from being demeaned or inconvenienced. Investigating Officer Capt. Gernon then stated, "And then, kind of keeping in that vein, by not signing the summons, we, you had every right to arrest him but in order to not inconvenience him, you made other arrangements is my understanding?"

These are examples of leading questions that changed the interview from being an opportunity to gather information to instead Investigating Officer Capt. Gernon stating the facts or the defense and the accused officer confirming that information suggested by the Investigating Officer. When the accused officer deviated from the expected answer from the leading question, Investigating Officer Capt. Gernon repeated it to get the appropriate response. This style of questioning limits inquiry and allows for only confirmation. The OIPM highlights these leading questions as a reason why the investigation was missing desired information.

6. Failed to Collect the Unauthorized Police Report from Belden Batiste

Investigating Officer Capt. Gernon initiated CTN 2021-0174-R regarding the release of the unauthorized and unapproved police report to Belden Batiste but failed to get a copy of the report from Belden Batiste. As a result, later in 2021-0174-R, Sgt. Daniels (the Investigating Officer of 2021-0174-R) did not have the relevant information in the intake packet that could have assisted in the investigation of CTN 2021-0174-R.

7. Contradictory Information from Then-Councilmember Jay Banks

During the FDI, Banks stated that Belden Batiste threatened him; however, during the initial responses and investigation, Banks stated that Belden Batiste never directly threatened him. These are contradictory statements that should cast doubt on the initial allegations against Belden Batiste and at the very least, reflect on the credibility of then-Councilmember Jay Banks in the misconduct investigation.

Additional Concerns and Questions

1. Concerns Regarding CTN 2021-0174-R

The OIPM also wants to note, that though CTN 2021-0174-R was a separate investigation, the OIPM is concerned with how that investigation was conducted and will be briefly note the concerns here.

First, this investigation was assigned to Field Operations Bureau to be completed instead of being investigated by PIB. The OIPM notes this concern since the investigation was assigned to the First District – the same district that was being investigated in CTN 2021-0092-P. As a result, two of the accused officers in CTN 2021-0092-P were responsible for supervising and approving the investigation: Lt. (Capt.) Woodfork and Capt. Roberts. This is unacceptable. Effectively, the district that is potentially responsible for this breach of security was investigating itself – including two of the officers who should have been first cleared of this wrongdoing but

were not under CTN 2021-0092-P. This means that Capt. Roberts and Lt. (Capt.) Woodwork approved this investigation finding no wrongdoing before they were cleared in CTN 2021-0092-P (please see timeline at beginning of case review).

Second, the Investigating Officer, Sgt. Daniels, failed to interview the complainant, Capt. Gernon, regarding the allegations and only tried to speak with a witness, Belden Batiste.

Finally, Investigating Officer Sgt. Daniels failed to conduct any investigation. When Belden Batiste refused to participate in the investigation, the Investigating Officer effectively closed the investigation instead of speaking to the officer who authored the report or checking the audit trail regarding who viewed or downloaded the police report.

An unauthorized and unapproved police report was downloaded and provided to a member of the public and there was no accountability in matter or true identification of this concerning security breach within the NOPD. The OIPM finds this to be concerning and another reason why this allegation should not have been separated from the initial investigation conducted under CTN 2021-0092-P.

2. Concerns Regarding Supervisory Feedback Log

At the time of this investigation, there was a series of meetings held with leadership at the Public Integrity Bureau and the First District. During those meetings, Capt. Roberts told Belden Batiste that the involved Sergeant, Sgt. Russell, received a write up in his Supervisory Feedback Log (SFL). However, when OIPM requested verification of this, the OIPM was informed that the SFL was entered in November 5, 2021, and it was still “in progress” in July, 2022. The SFL is under 202211203. **The OIPM finds this to be concerning and confusing that any form of corrective action or accountability has still not been executed regarding this matter despite assuring the complainant that the action was taken over the summer of 2021.**

CONCLUSION / OIPM RECOMMENDATIONS

Accordingly, the OIPM recommends the following findings:

OFFICER	ALLEGATION	OIPM RECOMMENDATION
CAPT. LEJON ROBERTS	RULE 3: MORAL CONDUCT PAR. 1: PROFESSIONALISM	SUSTAINED
LT. (CAPT.) KENDRICK ALLEN	RULE 3: MORAL CONDUCT PAR. 1: PROFESSIONALISM	UNFOUNDED
LT. (CAPT.) MICHELLE WOODFORK	RULE 3: MORAL CONDUCT PAR. 1: PROFESSIONALISM	UNFOUNDED
SGT. ALFRED RUSSELL	RULE 3: MORAL CONDUCT PAR. 1: PROFESSIONALISM	SUSTAINED

SGT. CLAUDIA BRUCE	RULE 3: MORAL CONDUCT PAR. 1: PROFESSIONALISM	UNFOUNDED
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As previously discussed, the OIPM believes that several other allegations should have been brought against multiple officers in this investigation, however the limited scope of the investigation limits OIPM's ability to determine an ultimate disposition for each proposed allegation.

This review approved by:



Stella Cziment
Independent Police Monitor

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

Attached:

Formal Recommendation to Amend NOPD Policy **NOPD Chapter 1.12: Diplomatic Agents and Consul Officers** to include responses to local governmental and judicial leaders.

Policy Recommendation: NOPD Chapter 1.12

The Office of the Independent Police Monitor (OIPM) recommends that the New Orleans Police Department (NOPD) revise their policies concerning the arrest or detainment of governmental officials to include . Specifically, OIPM recommends that NOPD **Chapter 1.12 - Diplomatic Agents & Consul Officers** be revised to include new processes and procedures to be followed by members of NOPD concerning the arrest or detainment of City Council members, district attorneys, and other governmental officials.

The OIPM is of the opinion that both NOPD **Chapter 1.12** as well as NOPD **Chapter 1.22 - Arrest of a City of New Orleans Employee** fail to address how the arrest or detainment of governmental officials, such as City Council members or district attorneys, should proceed. Although NOPD Chapter 1.22 addresses the arrest of City of New Orleans employees, it fails to address the process and procedure for arrests of governmental officials outside of the purview of the City of New Orleans. Additionally, NOPD **Chapter 1.12** addresses the arrest or detainment of foreign nationals with diplomatic immunity but fails to address the process and procedure for the arrest of domestic governmental officials.

Given the above-mentioned gaps in NOPD policy, the OIPM recommends that **NOPD Chapter 1.12** be revised to include processes and procedures for the arrest or detainment of governmental officials. Alternatively, the OIPM would recommend that a new Chapter be created for the arrest or detainment of governmental officials.

The OIPM proposes the following processes and procedures for the arrest or detainment of government officials:

PURPOSE

This Chapter outlines the process and procedure to be followed by members in addition to the guidelines of **Chapter 1.9 – Arrests** and shall be utilized for the arrest or detainment of a governmental official.

INVESTIGATING OFFICER(S) RESPONSIBILITIES

1. Conduct a complete investigation of the incident.
2. Immediately notify his/her supervisor and apprise them of the incident and circumstances.
3. Request a supervisor meet him/her at the scene.
4. Fully document the incident on the NOPD incident report form (EPR), including traffic offenses.
5. Submit the report for approval (see **Chapter 82.1**).

SUPERVISOR'S RESPONSIBILITIES

6. Once notified of an arrest or detainment covered by this Chapter, the supervisor shall proceed to the scene and confirm the circumstances of the arrest or detainment and the existence of probable cause.
7. The supervisor shall review any recordings surrounding the incident and sign all required reports (EPR) and paperwork prior to the end of the investigating officer's shift.
8. A copy of the EPR and a brief Interoffice Correspondence (105) with a synopsis of the incident review will be forwarded to the Inspector General's Office, the Public Affairs Office and the Commander of PIB prior to the end of the supervisor's shift.
9. A copy of the EPR and all related documentation will be forwarded to the Orleans Independent Police Monitor prior to the end of the supervisor's shift.

PUBLIC INTEGRITY BUREAU RESPONSIBILITIES

10. The Commander of the Public Integrity Bureau shall be responsible for reviewing the report (EPR), all attached paperwork, the supervisor's incident review 105 and all recordings surrounding the incident and reporting his/her findings to the Deputy Chief of PIB.
11. The Deputy Chief of PIB shall report the findings of the review to the Superintendent of Police and notify the Inspector General's Office of the incident and report the findings of the review within 72-hours of the incident.

CITY OF NEW ORLEANS



LaToya Cantrell
MAYOR

DEPARTMENT OF POLICE

P.O. BOX 51480
New Orleans, Louisiana 70151

"to protect and to serve"



Shaun D. Ferguson
SUPERINTENDENT

September 28, 2022

Office of Independent Police Monitor
2714 Canal Street, Suite 201
New Orleans, LA 70119

RE: OIPM Case Review: 2021-0092-P

Stella Cziment:

This correspondence serves as a response to the Office of the Independent Police Monitor (OIPM) Case Review: 2021-0092-P, as it relates to policy recommendations.

NOPD Chapter 1.12 The Office of the Independent Police Monitor (OIPM) recommends that the New Orleans Police Department (NOPD) revise their policies concerning the arrest or detainment of governmental officials to include.

Specifically, OIPM recommends that NOPD Chapter 1.12 - Diplomatic Agents & Consul Officers be revised to include new processes and procedures to be followed by members of NOPD concerning the arrest or detainment of City Council members, district attorneys, and other governmental officials.

The OIPM is of the opinion that both NOPD Chapter 1.12 as well as NOPD Chapter 1.22 - Arrest of a City of New Orleans Employee fail to address how the arrest or detainment of governmental officials, such as City Council members or district attorneys, should proceed. Although NOPD Chapter 1.22 addresses the arrest of City of New Orleans employees, it fails to address the process and procedure for arrests of governmental officials outside of the purview of the City of New Orleans. Additionally, NOPD Chapter 1.12 addresses the arrest or detainment of foreign nationals with diplomatic immunity but fails to address the process and procedure for the arrest of domestic governmental officials. Given the above-mentioned gaps in NOPD policy, the OIPM recommends that NOPD Chapter 1.12 be revised to include processes and procedures for the arrest or detainment of governmental officials. Alternatively, the OIPM would recommend that a new Chapter be created for the arrest or detainment of governmental officials. Proposed changes to Ch. 1.12 are now in Chapter 1.22 as Chapter 1.12 are strictly related to "Diplomatic" entities.

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2021-0092-P
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The OIPM proposes the following processes and procedures for the arrest or detainment of government officials:

PURPOSE This Chapter outlines the process and procedure to be followed by members in addition to the guidelines of Chapter 1.9 – Arrests and shall be utilized for the arrest or detainment of a governmental official. Cannot impose these requirements on “detainment” as that falls under Terry v. Ohio and is covered by different provisions in the Operations Manual. Added: “Government official” or “official” means an elected official, an appointed official, or an employee in a local, state, or federal government agency.” This would then open this provision to all elected officials and public employees at any level.

18 INVESTIGATING OFFICER(S) RESPONSIBILITIES

1. Conduct a complete investigation of the incident. This is not always possible since some classes of offense require follow-up by specialized unit investigators and officers. Only preliminary reports that justify the probable cause for enforcement actions can be “required” at this point.
2. Immediately notify his/her supervisor and apprise them of the incident and circumstances. Ch. 1.22, P.2.
3. Request a supervisor meet him/her at the scene. Not needed, covered by Ch. 1.22, p.4
4. Fully document the incident on the NOPD incident report form (EPR), including traffic offenses. Ch. 1.22, p. 3
5. Submit the report for approval (see Chapter 82.1). This is covered and goes further that just “submitting” by Ch. 1.22, p. 7 requiring that the supervisor sign all required paperwork surrounding the incident prior to ETOD.

SUPERVISOR’S RESPONSIBILITIES

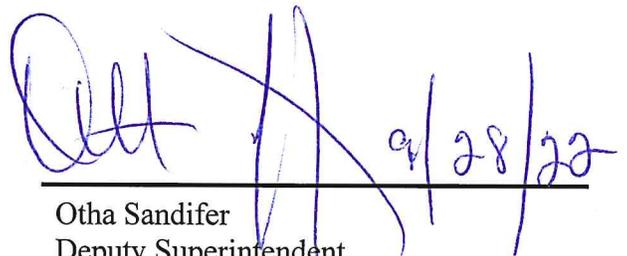
6. Once notified of an arrest or detainment covered by this Chapter, the supervisor shall proceed to the scene and confirm the circumstances of the arrest or detainment and the existence of probable cause. Ch. 1.22, P.4
7. The supervisor shall review any recordings surrounding the incident and sign all required reports (EPR) and paperwork prior to the end of the investigating officer’s shift. Ch. 1.22, p.7
8. A copy of the EPR and a brief Interoffice Correspondence (105) with a synopsis of the incident review will be forwarded to the Inspector General’s Office, the Public Affairs Office, and the Commander of PIB prior to the end of the supervisor’s shift. Ch. 1.22, P.8

9. A copy of the EPR and all related documentation will be forwarded to the Orleans Independent Police Monitor prior to the end of the supervisor's shift.
Ch. 1.22, p.8

PUBLIC INTEGRITY BUREAU RESPONSIBILITIES

10. The Commander of the Public Integrity Bureau shall be responsible for reviewing the report (EPR), all attached paperwork, the supervisor's incident review 105 and all recordings surrounding the incident and reporting his/her findings to the Deputy Chief of PIB. Ch. 1.22, p.9

11. The Deputy Chief of PIB shall report the findings of the review to the Superintendent of Police and notify the Inspector General's Office of the incident and report the findings of the review within 72-hours of the incident. Ch. 1.22, p.10

A handwritten signature in blue ink, followed by the date "9/28/22" written in blue ink. The signature is stylized and appears to be "Otha Sandifer".

Otha Sandifer
Deputy Superintendent
Professional Standards &
Accountability Bureau