



Miami-Dade Commission on Ethics & Public Trust

Report of Preliminary Investigation

Investigator: Robert Steinback

Case No: PI 14-009	Case Name: Sunny Isle Beach PD	Date Open:	
Complainant(s): Patrick Dunn	Subject(s): Robert Mosley, Stephen Hamedl, Sunny Isles Beach PD	January 30, 2014	

Allegation(s):

Complainant alleges that members of the Sunny Isles Beach Police Department (SIPD), specifically Officers Robert Mosley (Mosley) and Stephen Hamedl (Hamedl) exploited their positions by showing favorable treatment to one party involved in a two-vehicle collision who had a doctor-patient relationship with Hamedl. The favorable treatment included voiding a citation originally written against the doctor, and the subsequent disappearance of the voided citation.

Relevant Ordinances:

Allegation would be a violation of Sec. 2-11.1 (g) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance: *Exploitation of official position prohibited*:
“No person [covered by this provision] shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or others except as may be specifically permitted by other ordinances and resolutions...”

Investigation:

Interviews

Patrick Michael Dunn (Dunn), driver of the automobile involved in the Sept. 18, 2011 collision with a motorcycle operated by Gene Neytman (Neytman). Dunn is a Sunny Isles Beach (SIB) resident. (Interviewed by telephone.)

Summary of interview

This investigator spoke briefly with Dunn on Friday, Feb. 7, 2014, and received a short summary of the case from Dunn's perspective. He said he was leaving town for about two weeks, and would send copies of reports he had gathered on the case to me in the interim, which he did. He returned and another conversation took place on Feb. 25, 2014.

Dunn explained that he was involved in a traffic collision on Sept. 18, 2011, in which his car was struck in the rear by a motorcycle driven by Neytman. Dunn said that his understanding at the scene was that Neytman would be cited as causing the collision because Neytman was following too closely. Dunn said that when Neytman discovered this, he began using foul language and declaring that he "knew people" within the SIBPD.

Dunn said that he later was sued by Neytman regarding the crash, and so went to the SIBPD to get the traffic crash report. Only then did he discover that there was no indication of a citation written against Neytman. Dunn initiated a complaint with the department, which triggered an internal affairs (IA) investigation. That investigation revealed that the officer responding to the scene, Mosley, had in fact written the citation against Neytman, but had subsequently voided it. The IA investigation turned up a number of other departures from proper protocol, including Mosley being unable to remember what he did with the voided citation. However, the SIBPD did not cite either Mosley or Hamedl, the officer who is Neytman's patient, for improper conduct, although each received disciplinary action consisting of verbal counseling.

Dunn said that he subsequently turned to the State Attorney's Office (SAO) and the Florida Department of Law Enforcement (FDLE) to investigate the case.

Anthony Ojeda (Ojeda), Special Agent, FDLE, March 6, 2014, 10:30 a.m., COE offices.

Summary of interview

This investigator met with Ojeda, who outlined the case he and Assistant State Attorney Tim VanderGeisen investigated with respect to Dunn's complaint and the subsequent SIBPD IA investigation, and also provided a copy of his investigative file. It is evident that Ojeda and VanderGeisen took Dunn's complaint seriously and made a diligent effort to review the IA investigation.

Ojeda found some flaws in the IA investigation, such as failing to interview Neytman and failing to obtain phone records of Neytman and Hamedl which might have demonstrated contact between them during the critical time period. Nevertheless, he and VanderGeisen concluded that there was no criminal case to be made either against the officers or against the department, despite the numerous deviations from proper protocol that the IA investigation itself found. They came to this conclusion primarily because, despite appearances (including Hamedl's unusual interest in this particular citation), they could turn up no clear evidence of willful misconduct on anyone's part, nor persuasive evidence that Neytman actively influenced Hamedl or that Hamedl acted purposefully on behalf of Neytman.

Document/Audio/Video Review:

Documentation provided by Dunn:

- Copy of IA 2011-04 case checklist and summary sheet
- Copy of Captain D. Snyder's report on the disposition of the IA investigation of Dunn's complaint to SIB PD Chief Fred Maas (Maas);
- Copy of the SIB PD discipline forms for Mosley and Hamedl;
- Copy of Det. Lt. Mike Mulvey's IA report to Maas;
- Copy of FDLE Internal Investigation report;
- Copy of Dunn's complaint and department's compliance report of complaint;
- Copies of the original citation and police crash report, officer activity report from the crash scene;
- Copy of state law relevant to this matter;
- Copies of other materials gathered by the IA unit in this case;
- Copy of VanderGeisen's SAO closeout memo.

Documentation provided by Ojeda:

- The full investigative report of the SAO with the closeout report;
- Transcripts of the FDLE depositions of Neytman, his assistant Eileen Swartz Perillo, his father Rafail Neytman; and his mother Ludmila Rivkina.

- Copy of the motorcycle repair invoice;
- An evaluation of Neytman's injuries by Dr. David Farcy;
- Copies of correspondence between Neytman's attorney David Farber and Progressive Insurance Co. (Dunn's insurance company); and Allstate Insurance Co. (which handled the uninsured motorist insurance claim)
- Copy of Neytman's intended lawsuit against Dunn;
- Photocopies documenting Neytman's injuries;
- Copies of reports from the National Insurance Crime Bureau
- Copy of a claim history report from Allstate
- Copies of the materials acquired by the SIBPD IA investigation.

Analysis

This investigator's review of the FDLE/SAO documents and interviews, and the SIBPD IA report (provided by Ojeda) lead to the following analysis:

Despite the conclusions reached by SIB Police Chief Maas that the two charges against Mosley and the one against Hamedl were not sustained, his own evaluation after the IA investigation is that a considerable number of mistakes were made by each officer which hurt the reputation of the department and its commitment to good service.

These conclusions include:

- (1) SIBPD IA determined that Mosley may well have used flawed reasoning in writing up the original citation against Neytman, but rather than voiding the citation after the fact, he and Hamedl should have simply let the citation stand and allow the matter to be worked out in court.
- (2) Hamedl's proper role was to only review traffic citations, not conduct his own investigation. Maas concluded that Hamedl not only had no business talking to either driver after the fact, he compounded matters by only talking to one of the drivers (Neytman) and not the other (Dunn); and then at another stage of the process, obtaining information about the crash from Neytman's office assistant, who wasn't even present at the scene.
- (3) Hamedl realized as soon as he began his review of Mosley's citation that the driver cited was his doctor. Hamedl should have immediately removed himself from review of the citation, but did not. Hamedl mitigated his culpability by making his conflict known to his supervisor Zamora – who then creates his own error in not removing Hamedl from his review role. Zamora reportedly concurred with Hamedl's recommendation to deny Mosley's citation of Neytman before learning of Hamedl's conflict of interest. Hamedl denies being influenced by his relationship with Neytman, yet Hamedl takes unusual interest in this citation, even "investigating" the circumstances himself when he had no obvious authority to do so.

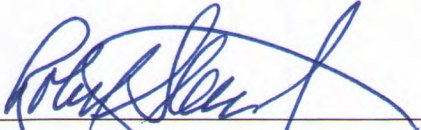
- (4) Mosley should have notified both drivers that he had vacated the original citation finding Neytman at fault and that the new evaluation was that there was insufficient evidence to assign culpability to either driver. Dunn only found out about the change after requesting a police crash report and finding that there was no record of a citation – which Mosley had told him would be written and given to Neytman – on the report. Having heard Neytman at the scene loudly swearing and declaring that he “knew people” within the department, Dunn filed a complaint with the department alleging favorable treatment on Neytman’s behalf. Dunn requested the police crash report after being sued by Neytman.
- (5) Mosley further compounded the matter by being unable to account for the disappearance of the original citation. It is a 3rd degree felony to “willfully” fail to account for traffic citations [literally: Official Misconduct’], but Mosely escapes culpability by stating that he couldn’t remember what he did with the citation. Ojeda could not pursue the charge further because he had no evidence of a “willful” act, and because the place where Mosley was obliged to deposit his voided citation was not secure, such that someone else might have moved and/or disposed of it. The department also had no procedure for tracking changes in citations prior to their submission to a supervisor
- (6) The department’s handling of Neytman also seems particularly shoddy. Neytman is allowed to leave the scene of the crash without being issued a citation [Mosley thinks, incorrectly, that Neytman is going to be transported privately to the hospital]. Neytman at first declines any medical treatment at all and “just wants to leave” despite fairly serious injuries – until he learns that Mosley is going to cite him for the crash, at which point he begins swearing loudly and talking about who he knows in the department. Neytman later fails to respond to two IA requests to give a statement, but his office assistant is allowed to give a second-hand hearsay account to Hamedl on Neytman’s behalf. Ojeda eventually interviews Neytman as part of his investigation for the FDLE/SAO, but there are many facts Neytman claims not to remember. Also, the office assistant Eileen Perillo, tells Ojeda that she cannot remember speaking to Hamedl, a conversation Hamedl acknowledges.
- (7) The entire case is intensified when Neytman sues Dunn for causing the accident – so the voiding of the original citation has considerable consequences. Hamedl and Zamora have persuaded Mosley to void the citation based on conflicting driver accounts, but also on the fact that Mosley’s diagram of the accident shows Dunn’s car “crossing in front of” Neytman’s motorcycle – when to the eye of this investigator, it doesn’t show that at all. [The diagram included in Ojeda’s file, at beat, appears inconclusive; it only shows Dunn’s car angled toward the left-turn lane from the left-most through lane, not “crossing” as though from the center lane.
- (8) Complicating THAT analysis is the fact that Dunn’s insurance company seemed all

too willing to concede that Dunn was 100 percent responsible for the crash, agreeing to tender the entire \$100,000 bodily injury limit under the policy. An uninsured motorist insurance review was also made [because Neytman was riding the motorcycle of a friend who had no insurance on it]. That company also agrees with or accepts the conclusion of Dunn's insurance carrier that he "cut off" Neytman, causing the accident, and they agree to at least a \$150,000 payment to Neytman. Both companies seem cowed by the fact that Neytman is a sole practitioner who claims to earn over \$1 million a year working 14-16 hour days, and that he lost the better part of two months of work. They considered settlement a better bet than litigation.

Conclusion(s):

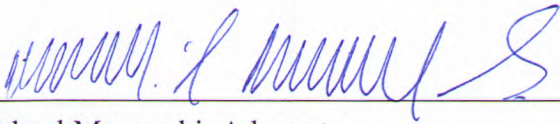
It could be argued that the most salient issue from COE's standpoint is that most of the discord engendered by this case could have been mitigated or avoided altogether had Hamedl either voluntarily, or at the direction of Zamora, simply removed himself from review of Mosley's citation, as the investigations appear to agree that Hamedl was Neytman's patient and personal acquaintance. Even with the numerous other instances of poor handling of this matter, the issue of undue outside influence or improper favoritism from within the department would have been largely neutralized had this been done. Given that he stayed involved, the possibility that Neytman influenced Hamedl's actions remains an active narrative.

After thorough analyses by the SIBPD and the joint FDLE and SAO investigations, it is clear that while enough mistakes and misjudgments were made to open the door to reasonable suspicion about the possibility of favorable treatment and exploitation of official position by Hamedl and Mosley, evidence to affirmatively prove exploitation is insufficient. It is unlikely that conducting a third investigation of the facts and circumstances surrounding this matter is likely to yield facts not currently in evidence that might alter that conclusion. After discussion with the Ethics Commission Advocate, he recommends this matter be closed with no further action.

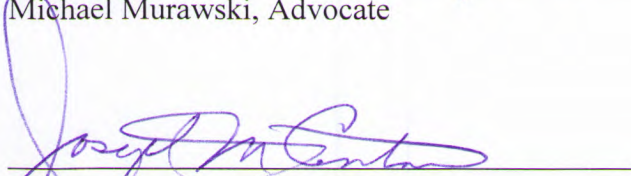


Robert Steinback, COE Investigator

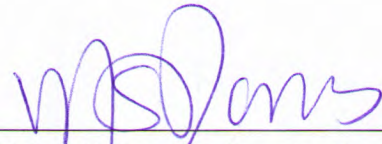
Approved by:



Michael Murawski, Advocate



Joseph Centorino, Executive Director



Miriam S. Ramos, Deputy General Counsel

Date: 3/23/14

**CASE
CLOSED**

Date: 3/23/14