

# **City of Miami**

*City Hall  
3500 Pan American Drive  
Miami, FL 33133  
www.miamigov.com*



## **Meeting Agenda**

**Tuesday, November 15, 2011**

**5:30 PM**

**Regular Meeting**

## **Civilian Investigative Panel**

*Thomas Cobitz, Chairperson  
Bess McElroy, Vice-Chair  
Fred St. Amand, Treasurer*

*Michelle Delancy, Alvin Bullard, Raymond Hart  
Ellis Berger, Ducosse Delva, Brenda Shapiro  
Horacio Stuart Aguirre, Daniel Suarez, Rolando Aedo*

**PLEDGE**

**ROLL CALL**

**WELCOME NEW MEMBER ROLANDO AEDO**

**APPROVING THE MINUTES OF THE OCTOBER 18, 2011 MEETING**

**APPROVING THE AGENDA OF THE NOVEMBER 15, 2011 MEETING**

**PUBLIC FORUM I**

**A.1**                                 **DISCUSSION ITEM**  
11-01122                             Brandon McDonald, Force 911 Consultant

**A.2**                                 **DISCUSSION ITEM**  
11-01123                             Richard Tipa (Case#11-175)

**REPORTS**

**B.1**                                 **REPORT**  
11-01124                             Chairperson's Report

**B.2**                                 **REPORT**  
11-01125                             Independent Counsel's Report

**CASE MANAGEMENT**

**C.1**                                 **DISCUSSION ITEM**  
11-01058                             Case: Omar Fernandez   CIP#: 11-146   IA#: 10-090

**Involved Officer(s):**  
Eltis Etienne-#27983

**Allegation(s):**  
Abusive Treatment  
Improper Procedure  
Misconduct  
Negligence of Duty

**DOI:** March 18, 2010

According to Mr. Omar Fernandez, on March 18th 2010, he was stopped, searched, and arrested in Overtown by officers of the Miami Police Department for possession of drug paraphernalia. Following the arrest, Mr. Fernandez and other arrestees were transported to the Miami Police Central Station for processing. . Thereafter Mr. Fernandez learned that Officer Etienne would transport him to the Dade County Jail. Once inside the police cruiser, Mr. Fernandez alleged Officer Etienne scoured the area in search of an isolated location. Mr. Fernandez alleged that Officer Etienne became aggressive and shouted, "You think you're a tough guy" and entered the rear of the police cruiser where he was seated. Mr. Fernandez complains that Officer Etienne tasered him eight or nine times and repeatedly punched him in the face while handcuffed. Mr. Fernandez stated he suffered facial bruising as a result of the assault. Once Mr. Fernandez was released from custody he attempted to retrieve his property and discovered that his wallet, which contained his identification, was missing.

Officer Etienne alleged in his sworn Internal Affairs interview that Mr. Fernandez was arrested for possession of narcotics and became belligerent during the detainment. During the transport, Officer Etienne stated that Mr. Fernandez injured himself by banging his head on the cage of the police cruiser and thereafter falling face first onto the ground. Officer Etienne acknowledged that he used his taser to provide a "drive stun" to Mr. Fernandez for failing to comply with his commands to stop harming himself; however, he did not report the detainee's injuries or his use of force.

Internal Affairs rendered a finding of Substantiated as to the allegation of Improper Procedure. As for the Substantiated finding of Improper Procedure, Officer Etienne was found to be in violation of Departmental Orders:

Departmental Order 1, Chapter 11, Sections:

11.6 GENERAL RULES OF CONDUCT:

11.6.1.1 Purpose: In order to carry out the duties that are imposed on a group assigned to the enforcement of law and order, it is necessary to promulgate the rules and regulations which will assist in the carrying out of these duties in a uniform and orderly manner, with the least amount of confusion to ensure organizational effectiveness.

11.6.1.2 Members and Civilian Employees to Know Rules and Regulations: It shall be the duty of all members and civilian employees of the Police Department to thoroughly familiarize themselves with such provisions of the Rules and Regulations that deal specifically and generally with the duties of their rank, grade, or position. This should occur within ten days from the date of issuance. Within thirty days of issuance, every member and every civilian employee shall familiarize himself or herself with all the provisions of the Rules and Regulations. Failure on the part of any member or civilian employee to acquaint himself/herself with the provisions of the Rules and Regulations, as hereby directed, shall be considered negligence of duty and subject to disciplinary action.

#### 11.6.5 Arrests:

11.6.5.4 Report To Be Made on Any Force Used: Whenever it is necessary to use any unusual physical force or other means, the member shall report this, as soon as possible, to a supervisor and submit a written report to the Chief of Police, through channels, relating all circumstances together with the arrest report on the case. Should the member have to use physical force or other means to overcome actual physical resistance, the member will, on approval of a commanding officer, also charge the subject with the appropriate charges.

11.6.17 Disciplinary Action - General Offenses: A member or civilian employee of the

Department found guilty of violating a rule, regulation, provision of a general or special order, or any of the offenses below, or upon conviction in a court having criminal jurisdiction, shall be subject to reprimand, suspension, dismissal, or suffer other disciplinary action as the Chief of Police may impose.

11.6.17.9 Neglect or inattention to duty.

11.6.17.10 General incompetence:

11.6.18 Duty Requirement:

11.6.18.2 Duty Responsibilities: Notwithstanding the assignment of specific duties and responsibilities to members and civilian employees of the Department, members and civilian

employees shall perform all other duties which may be required of them by competent authority. In carrying out the functions of the Department, members and civilian employees shall direct and coordinate their efforts in a manner that will establish and maintain the highest standard of efficiency.

11.6.17.36 Ignorance of the contents of this Chapter of Rules and Regulations in the

Departmental Orders.

Departmental Order 4, Chapter 2, Sections;

2.4.6 Officers will notify the station of all changes of location while on any signal.

### **Departmental Order 6, Chapter 18**

#### **18.4.8 Reporting Requirements:**

18.4.8.1 A supervisor shall be notified in all instances wherein the E.C.D. has been utilized. The supervisor shall respond to the scene and conduct an inquiry into the incident. Said inquiry shall include, but not be limited to, a review of the evidence, interviews of witnesses, and an interview of the subject. The supervisor shall also notify a commanding officer of the incident and ensure that a Response to Resistance Report and any other applicable reports are properly and accurately completed in a timely fashion. The supervisor shall notice the Bridge and obtain

a log number. The supervisor and respective chain of command shall review the incident for compliance to policy.

18.4.8.3 A Response to Resistance Report shall be completed on all E.C.D. incidents. Members must clearly articulate and justify each and every cycle in the Response to Resistance Reporting the event that more than one cycle is used on a subject.

18.4.8.5 All E.C.D. deployments or discharges, including test firings, shall be recorded if an

E.C.D. log. A supervisor must sign the E.C.D. log verifying that the information contained therein is accurate. The presence of a supervisor during testing is not required.

### **Departmental Order 6, Chapter 21, Sections;**

21.3 RESPONSIBILITIES: It is the responsibility off all sworn officers of the Miami Police

Department to adhere to this policy. It is the responsibility of all commanding officers to insure that all sworn officers in their command are informed trained and if compliance with these policies and procedures as stated.

21.3.1 It is the officer's responsibility to notify the supervisor that force (specified in 21.4.2) has been used. This should be done immediately and, if possible, while the officer is still at the scene of the incident.

### **21.4 PROCEDURES GOVERNING THE USE OF FORCE:**

21.4.1.8 Officer Response Levels;

21.4.1.12 Level 4-Intermediate Weapon-Weapon that is primarily used to control a subject such as a baton ASP or PR-24. Restraint Devices; OC spray, E.C.D. (Electronic Control Device), Asp, PR-24, handcuffs, hands, and kinetic energy impact projectiles (bean bags, stingers, pepper balls, rubber batons, rubber pellets - SWAT use only). Counter Moves: Techniques that impede a subject's movement toward an officer or others such as, blocking, striking, distracting, kicking, parrying, dodging, weaving, redirecting, or avoiding, followed by appropriate controlling techniques.

21.4.1.21 Medical Attention: In use of force incidents, both less than lethal and lethal, medical attention may be required. If a subject complains of pain or injury is unconscious; or, in the opinion of the concerned officer or supervisor, has an apparent injury requiring medical attention, officers shall request a fire-rescue unit be dispatched to the scene. If a subject is injured or complains of pain or injury, a supervisor shall be requested and must respond to the scene. If there is an obvious injury, fire rescue shall be called to the scene.

21.4.2 PROCEDURES FOLLOVVTNG THE USE OF FORCE:

21.4.3 Situations Requiring a Response to Resistance Report (RF #186): The Response to Resistance Report (RF #186) will be completed whether or not an arrest is made, under the following circumstances.

21.4.3.7 When an officer uses the E.C. D. in accordance with Departmental Policy.

21.4.5 Key Elements To Be Included In The Response to Resistance Report (RF #186): In situations as described in section 6.21.4.3 which require a Response to Resistance Report (RF#186), one individual report will be written for each subject for whom a physical response was necessary. If more than one officer is involved in the use of force, each officer will sign each report.

21.4.5.2 Photographs: Photographs of every subject must be taken showing area of injury or possible injury. Photographs of officers are mandatory when an officer is injured and the injury is visible, but are discretionary if there is no visible injury to the officer.

21.4.5.4 Reporting Officer's Narrative: Include an accurate description of conditions leading up to force and force used. Only the resistance and the use of force should be described. Specific injuries should be described in detail, as well as what caused them. (Example: "After the subject swung at me, I struck him on the right upper thigh with my ASP.") Use such descriptive words as "punched", "scratched", "bit", "kicked", "threw to the ground", etc., if they apply. Any officer who conducts an act as described in Department Order 6, Chapter 21.4.3 is considered an "involved" officer and therefore will each review the narrative and sign the Response to Resistance Report (RF #186). NOTE: Do not include details of the arrest in the narrative prior to detailing the force used.

**Departmental Order 11, Chapter 16, Sections;**

16.3 RESPONSIBILITIES: Every sworn member, when effecting an arrest, will be responsible for the following:

16.3.3 Providing for the expedient and safe transport of the prisoner to the appropriate facility.

16.3.4 Fully and accurately completing the complaint/arrest affidavit and any other applicable reports.

16.4 PROCEDURES: When a felony or misdemeanor arrest is made, the arresting officer shall;

16.4.21 Transportation of Prisoners: Officers must adequately provide for the safe and secure transportation of prisoners, and in addition will adhere to the following procedures:

16.4.21.2 Prisoners will be transported directly to a police station or a Miami-Dade Jail or holding facility. If there is a delay in transporting, or another destination, supervisory approval is required.

16.4.23 Injured Prisoner: If the injury requires emergency medical treatment, the Fire Rescue Squad shall be dispatched to the scene. If no emergency medical treatment is required, the following procedures will be adhered to:

16.4.24 Arresting officers are responsible for their prisoners and the completion of all paperwork. They must remain with the prisoners unless relieved of that responsibility by another police officer.

16.4.28 Complaint/Arrest Affidavit: The complaint/arrest affidavit will be completed in every instance wherein an arrest is made.

16.4.28.3 The complaint/arrest affidavit will contain information pertinent to the defendant and the circumstances of the arrest. The narrative section must be complete, concise, indicate all elements of the offense, and the probable cause for the arrest. Additionally, any information regarding the prisoner's escape or suicide potential or other personal traits of a security nature must be included in the narrative portion of the complaint/arrest affidavit. The defendant shall be properly charged with the correct Florida State Statute or section of the Miami-Dade or City Code that was violated, along with the appropriate enabling code when necessary. Each complaint/arrest affidavit must be sworn to before a deputy clerk of the court.

16.4.28.4 The complaint/arrest affidavit is a six part form. One page of the form is the police officer's copy to be used for future court testimony. It is imperative that the officer completes the form properly since the assistant state attorney will use the information in preparing the case. The form and the witness list will accompany the defendant when booked at the Miami-Dade County Jail. The Miami-Dade County Jail will not accept any prisoner unless accompanied by this properly completed form.

Departmental Order 11, Chapter 8, Sections:

8.3 RESPONSIBILITIES: It is the responsibility of all officers who respond to police related incidents to obtain all appropriate information and complete the appropriate reports. It is also the responsibility of the officer to ensure accuracy and completeness of every report written. The officer will also ensure that these reports are turned in to his/her Sergeant for review at the end of his/her tour of duty.

Officer Etienne is also found to be in violation of the following City of Miami Civil Service Rules and Regulations:

Civil Service Rules and Regulations:

Section 14.2 Grounds for Dismissal, Suspension and Demotion. The following

are declared to constitute a breach of duty and to be grounds for dismissal or suspension from the classified service or grounds for demotion, though charges may

be based upon causes other than those enumerated: viz, that any employee who has

been guilty of conduct unbecoming any employee of the City of Miami, who:

(e) Has violated any lawful and reasonable official regulation or order, or failed to obey any lawful or reasonable direction made and given by his/her superior, where

such violation or failure to obey amounts to:

(2) a serious breach of proper discipline;

(3) resulted, or reasonably might be expected to result, in loss or injury to the City

or to the public or to the prisoners or wards of the City;

(k) Is incompetent, negligent, or inefficient in the performance of the duties of the

position held.

Internal Affairs rendered a disposition of Inconclusive regarding the allegations of Abusive Treatment and Missing Property.

- *As a result of the Substantiated finding regarding the allegations of Improper Procedure and Negligence of Duty, Officer Eltis Etienne received a 120-hour suspension.*

**Recommendation:**

The CIP agrees with the Substantiated finding for Improper Procedure. However, the CIP recommends a finding of **Sustained** as to the allegations of Abusive Treatment, Improper Procedure, Negligence of Duty and Misconduct based on the complainant's injuries, in addition to the officer's admission that he failed to document and notify the appropriate personnel as to the complainant's injuries and his use of force. Close as Not Sustained as to the allegation of Missing Property. Miami-Dade County Police Property receipt #100021813 verified that a tan wallet was received regarding Mr. Fernandez. Although the driver's license was not retrieved, there is insufficient evidence to support or refute the allegation of Missing Property.

**Observation:**

Internal Affairs rendered a finding of "Inconclusive" regarding the allegation of Abusive Treatment; however, the investigator clearly noted in the investigative report that Mr. Fernandez does not appear to have injuries in the prisoner processing video but the booking photograph clearly depicts significant facial injury. Additionally, photographs depicting the injuries of Mr. Fernandez were reviewed by Miami Dade County Medical Examiner, Dr. Emma Lyew, who documented that the injuries on the complainant's torso were consistent with Taser contact. Dr. Lyew's report also noted that the complainant's left eye injury (*echymosis/bruises*), could be consistent with trauma caused by a hand or fist; however, the remaining facial injuries appear to have a pattern not consistent with a hand or fist and the cage of the transporting vehicle should be examined.



*The case was tolled at inception due to possible criminal charges regarding Officer Etienne and the transporting vehicle was sold before it could be examined.*

**Procedural History:**

05-31-11 The Internal Affairs investigative report was received.

05-31-11 Independent Counsel conducted a preliminary review of the case.

05-31-11 The booking photograph regarding the March 18th 2010 arrest of Omar Fernandez was requested and received. The booking photograph of Mr. Fernandez revealed facially injuries (*bruising and swelling to the left and right side of the face*).

05-31-11 The disciplinary history of Officer Etienne was requested.

06-01-11 An on-line database search revealed that the complainant, Omar Fernandez is currently incarcerated and has an extensive criminal history that entails charges of criminal mischief, assault and cocaine possession.

06-01-11 Electronic correspondence was forwarded to Officer Eltis Etienne with a request for an interview.

06-01-11 A 10-Day letter in addition to the Internal Affairs investigative report was forwarded to the complainant, Omar Fernandez.

07-27-11 Correspondence was received from complainant, Omar Fernandez.

08-24-11 Correspondence was received from complainant, Omar Fernandez.

10-21-11 Correspondence was received from complainant, Omar Fernandez.

10-25-11 Arrest Affidavit #100318-083255 was received.

10-25-11 The Taser report regarding Officer Etienne was received (*Taser Model X26-Serial #X00-439069*) which reflects a five (5) second discharge on March 18, 2010 during the time Mr. Fernandez was in his physical custody.

10-25-11 The Miami-Dade County Police Property Receipts was obtained and it revealed that a tan wallet was turned in regarding Mr. Fernandez.

10-25-11 The written report of Miami Dade County Medical Examiner, Dr. Emma Lyew was received (*see narrative*).

10-25-11 The disciplinary history of Officer Eltis Etienne was received. Officer Etienne received a 120-hour suspension regarding this incident.

10-27-11 Case submitted for closure with Investigator's recommendation (*see above*.)

10-27-11 Independent Counsel's Concurrence.

11-10-11 The Complaint Committee made a recommendation to Sustain the allegations of Abusive Treatment, Improper Procedure, Misconduct and Negligence of Duty.

**C.2****11-01059****DISCUSSION ITEM****Case:** Lydarius Singletary **CIP#:** 11-217 **IA#:** 10-181**Involved Officer(s):**

Daniel Crocker-#1246

Jennifer Wing-#7741

Unknown Officer

**Allegation(s):**

Abusive Treatment

Discourtesy

Improper Procedure

Missing Property

**DOI:** May 30, 2011

On May 30, 2011, Lydarius Singletary, Trevonte Lawrence, Jonathan Jackson, and Deron Cabbage were stopped for operating a stolen vehicle at Charles Hadley Park. Mr. Cabbage and Trevonte Lawrence attempted to flee the scene but were subsequently apprehended. Officer Crocker detained Mr. Cabbage and allegedly kicked him in the face prior to lifting him from the ground by his handcuffs. It was additionally alleged by Mr. Cabbage that Officer Crocker confiscated his cellular phone, I-Pod M-P3 player, and a skull cap and these items were not with his property when he left the Miami-Dade County Jail. Trevonte Lawrence alleged an unknown Hispanic male officer punched him once on his hands as he coiled in a fetal position with his hands covering his face. Lydarius Singletary alleged that when he asked Officer Jennifer Wing to retrieve his cellular phone and loosen his handcuffs she replied, "Wait a fucking minute." Lydarius Singletary's cellular phone is also missing. During his Internal Affairs, sworn statement, Officer Crocker acknowledged confiscating a skull cap from Mr. Cabbage and failing to turn the item into property (*alleged he does not recall if the defendant had a cell phone or other electronics but admits to leaving the property on the stolen vehicle*). The remaining officers denied the allegations during their sworn statements to Internal Affairs. Internal Affairs Substantiated the allegation of Improper Procedure filed against Officer Daniel Crocker for failing to submit the items confiscated from the defendant to the property unit.

**Recommendation:**

Close as Sustained as to the allegations of Improper Procedure and Missing Property regarding Officer Daniel Crocker's failure to turn over the defendant's

property to the proper authority without delay: **Departmental Order 1, Chapter 11.6.17.28** *Neglecting to turn over to the proper authority without unnecessary delay, all property, including money, that is found or seized as evidence or taken from a person arrested.*

**Departmental Order 14 Chapter 3.4.2.2** *-Prisoner's Personal Property: Personal property taken from prisoners will be checked in at the Booking Desk at the Miami-Dade County Jail. The County facility will accept only one bag per prisoner and it can be no larger than 17" inches by 12" inches by 6" inches. The Property Unit will store larger items such as duffel bags, suitcases and other containers that will not be accepted at the Miami-Dade County Jail.*

Close as Not Sustained as to the allegation of Discourtesy and Missing Property lodged against Officer Jennifer Wing. Closed as Not Sustained as to the unknown officer regarding the allegation of Abusive Treatment.

**Observation:**

Internal Affairs Substantiated the allegation of Improper Procedure filed against Officer Daniel Crocker for his failure to transport Mr. Cubbage's possessions to the property division, however; they did not reason that Officer Crocker is responsible for the property now being missing even though Officer Crocker acknowledged leaving the unsecured property on top of the stolen vehicle.

**Procedural History:**

08-29-11 The Internal Affairs investigative report was received.

09-09-11 Independent Counsel conducted a preliminary review of the case.

09-16-11 The booking photograph regarding Deron Cubbage was requested and obtained which did reveal an abrasion that appeared to have epithelialized and a minor abrasion on the forehead.

09-16-11 An on-line database search revealed that the criminal charges regarding Mr. Cubbage were dispositioned as follows: resisting arrest without violence (referred to a prosecution program) and grand theft 3D/vehicle (*no action*).

09-16-11 Arrest Affidavit #110530-148502 was obtained.

10-25-11 The booking photographs regarding Trevonte Lawrence and Lydarius Singletary were obtained and neither appeared to have any facial injuries.

10-25-11 The recorded statements of all involved parties were obtained and reviewed.

10-28-11 A telephonic interview was conducted with Lydarius Singletary and reiterated his statement provided to Internal Affairs. Mr. Singletary provided a current contact number for Trevonte Cubbage.

10-28-11 The Internal Affairs investigative report was electronically forwarded to Ms. Kenya Lawrence, the mother of Trevonte Lawrence with a request for contact.

10-28-11 A telephonic interview was initiated with Kenya Lawrence regarding her son, Trevonte Lawrence's involvement with the MPD on May 30, 2011. Ms. Lawrence stated on the day of incident, her son never informed her that he was injured by either of the officers nor did she observe any physical injuries regarding Trevonte.

10-25-11 The written report of Miami Dade County Medical Examiner, Dr. Mark Shuman who reviewed photographs of Mr. Cubbage's injuries and concluded that the injuries are nonspecific without apparent ecchymosis and nothing to indicate that the injuries were caused by a kick or significant impact.

10-31-11 An on-line database search revealed a current telephone number regarding the Cubbage family, (305) 967-8312(*full mailbox-unable to leave a message*).

11-01-11 An on-line database search provided a telephone number regarding Vondell Jackson, the mother of Jonathan Jackson (*3rd minor in the stolen vehicle*) and an unidentified gentleman stated that the family previously resided at this location, however, they have relocated and he does not have any current contact information regarding the family.

11-01-11 The disciplinary history regarding Officer Crocker was requested.

11-01-11 Subsequent unsuccessful telephonic contact was initiated with Deron Cubbage.

11-01-11 Case submitted for closure with Investigator's recommendation (*see above.*)

11-01-11 Independent Counsel's Concurrence.

11-10-11 The Complaint Committee made a recommendation to Sustain the allegations of Improper Procedure and Missing Property as to Officer Daniel Crocker. The allegation of Discourtesy regarding Officer Jennifer Wing was dispositioned as Not Sustained. A finding of Not Sustained was rendered as to the allegation of Abusive Treatment lodged against Officer Daniel Crocker and an Unknown Officer.

**C.3****11-01060****DISCUSSION ITEM****Case:** Dorothy Mays **CIP#:** 11-129 **IA#:** 11-138**Involved Officer(s):**

Edward Lugo-#4186

Carlos Deschamps-#1478

**Allegation(s):**

Abusive Treatment

Discourtesy

**DOI:** June 26, 2011

Dorothy Mays stated on June 26, 2011, she along with her sister, Rebecca Mays and her 85-year-old mother, Hazel Mays walked to an arson cite near Grand Avenue and Elizabeth Street. Dorothy Mays observed her mother walking with Officer Edward Lugo and when she attempted to approach and take her mother home, Officer Lugo informed her that her mother was under arrest for failure to follow police instructions in that she entered the taped off crime scene after being instructed to remain on the sidewalk. Officer Lugo reportedly grabbed Dorothy Mays, slammed her on the ground and on a police cruiser, either of which resulted in an abrasion to her left elbow. When Ms. Mays complained of possible injury, Officer Lugo allegedly replied, "I don't give a fuck, get in the car." When Officer Lugo was informed that 85-year-old Hazel Mays needed to take prescription medication before being transported to jail, he alleged replied, "I don't care." Ms. Mays stated that neither she nor her mother Hazel attempted to take Officer Lugo's firearm as he alleged. Once Dorothy and Hazel Mays were transported to the police station on Flagler Street, they encountered Officer Carlos Deschamps who allegedly used profanity when he addressed the complainants. Hazel Mays reiterated the statements of her daughter, Dorothy Mays. Officers Lugo and Deschamps denied the allegations in their Internal Affairs sworn statements. Internal Affairs rendered a finding of Inconclusive regarding the allegation Discourtesy as to Officer Edward Lugo and Carlos Deschamps. A disposition of "Inconclusive" was also rendered as to the allegation of Abusive Treatment filed against Officer Lugo.

*\*Officer Edward Lugo is currently on the CIP's Monitoring List.*

**Recommendation:**

To be determined at the Complaint Committee meeting.

**Observation:**

The CIP's investigation revealed that Sergeant Fabria Ellington instructed Officers Edward Lugo and Pierre Simpson to photograph the injuries of Dorothy Mays as she was alleging that she was injured during the arrest. Officer Lugo and Pierre Simpson both acknowledged in their Internal Affairs statements that they were instructed to photograph the complainant's injuries, but failed to comply with the given instructions which constitutes a failure to obey a superior and adhere to departmental policy and procedures. (*Departmental Order 1, Chapter 11, Section 11.6.17.2-Disobedience of Standard Operating procedures, General Orders, Rules and Regulations, or any other official directive*).

**Procedural History:**

08-29-11 The Internal Affairs investigative report was received.

09-09-11 Independent Counsel conducted a preliminary review of the case.

09-16-11 A copy of the Internal Affairs investigative report was forwarded to Dorothy and Hazel Mays with a request for contact.

09-16-11 An on-line database search revealed the charges of *battery on a police officer and resisting and officer without violence* are still pending regarding Dorothy Mays. The criminal charges of battery on a police officer, resisting an officer without violence and depriving an officer of his weapon filed against Hazel Mays, are also still pending.

09-26-11 A request for the fire rescue report regarding Dorothy Mays was forwarded to Ms. Saint Joy (*no dispatch regarding Hazel Mays was located*).

09-26-11 Rebecca Mays (*the daughter of Hazel Mays and sister of Dorothy Mays*) stated a myriad of residents were viewing the aftermath of a local fire when she observed a police officer approach her mother. Before Rebecca Mays could reach her mother, her sister, Dorothy Mays, approached the officer later identified as Edward Lugo. Rebecca Mays stated the officer informed Dorothy that their mother was being arrested. When Dorothy inquired as to why her mother was being arrested, she was "flipped" to the ground and handcuffed. It was further stated by Ms. Mays that there was a significant amount of noise in the area and she did not hear the officer make any profane statements. The officer alleged Hazel was being arrested for illegally entering a crime scene, however; Ms. Mays stated her mother was walking on the opposite side of the street from where the crime occurred. The crime scene tape was on the left side of the street and Ms. Hazel Mays was on the right side of the street. It was additionally stated by Rebecca Mays, that both her sister Dorothy and her mother, Hazel had to be taken to JMH due elevated blood pressure and or injuries. Officer Lugo's assertion that 85-year-old Hazel Mays attempted to take his firearm is preposterous as Hazel cannot walk half a block without becoming virtually breathless, according to Rebecca Mays. Officer Edward Lugo was characterized as by Ms. Mays as "very aggressive."

10-04-11 A face-to-face interview was initiated with Dorothy Mays regarding the allegations of Abusive Treatment and Discourtesy (*see narrative*).

10-04-11 A face-to-face interview was initiated with Hazel Mays regarding the allegations of Abusive Treatment and Discourtesy (*see narrative*).

10-04-11 Telephonic contact was initiated with witness Alvin Williams and he requested that the CIP re-contact him.

10-04-11 A neighborhood canvass did not reveal any witnesses.

10-28-11 Telephonic contact was initiated with witness Alvin Williams and a message was left.

10-31-11 Telephonic contact was initiated with witness Alvin Williams and the voicemail was received.

11-01-11 The photographs regarding the complainant's alleged injuries were obtained.

11-02-11 Case submitted for closure with Investigator's recommendation (*see above*.)

11-02-11 Independent Counsel's Concurrence.

11-10-11 The Complaint Committee made a recommendation to defer the case to the full Panel for a final disposition.

**C.4****11-01062****DISCUSSION ITEM****Case:** Shabaka Abdul-Majid **CIP#:** 11-224 **IA#:** 09-408**Involved Officer(s):**

Unknown

Kelly Macina-#4256

Ernesto Sierra-#6500

Suberto Hernandez-#3009

Luis Valdes-#7208

Alfredo Matias-#4447

Daniel Crocker-#1246

Michael New-#27511

**Allegation(s):**

Improper Procedure

Missing Property

**DOI:** October 27, 2009

According to Mr. Abdul-Majid, on October 27, 2009, several City of Miami police officers conducted an illegal search of his residence located at 225 NW 22nd Street, Apartment #205. Lieutenant Richard Perez, subsequently informed Mr. Abdul-Majid that the Miami Police Department received a tip alleging someone armed with an AK-47 was selling narcotics out of the New Arena Square Apartment Complex. Mr. Abdul-Majid alleged that following the search of his apartment, he discovered \$600 was missing. A second resident, Ms. Shaquila Matthews also alleged her apartment was illegally searched by the Miami Police Department on October 27, 2009. Ms. Matthews was not at home at the time of the incident but was notified by her mother, Sheila Matthews, and several neighbors, that a number of police officers were seen entering her apartment. It was further alleged by Ms. Matthews that she returned home to find her apartment in total disarray and \$520 was missing. All of the officers involved in the October 27, 2009, foray at the New Arena Square Apartment Complex, acknowledged their presence at the facility but denied entering apartments #202 and #205, or seizing any money. As to the allegations of Improper Procedure and Missing Property filed against an Unknown officer, Internal Affairs rendered a disposition of "Inconclusive" based on the absence of independent witnesses.

**Recommendation:**

The involved officers indicated that a tip was received that alleged an individual armed with an AK-47 was selling drugs from the second floor of the apartment building located at 225 NW 22nd Street. Several of the officers alleged that they responded to the scene but did not search any of the apartments. However, some officers stated they "did not recall" searching any resident's apartment without their consent. It appears specious that the officers would appear at the scene and solely search the external grounds of the complex. Additionally, there is some indication that the apartments were entered by the officers as Sergeant Ernesto Sierra, stated that Mr. Abdul-Majid provided consent for the officers to search his apartment; however, he was unable to identify the officer who received the resident's approval regarding the search (*Mr. Abdul-Majid alleged the police ordered him to leave his apartment and did not provide consent for a search*). Although there is insufficient evidence to support or refute the allegation of Missing Property, there is an indication that the MPD did not follow procedure in entering the residence or Mr. Abdul-Majid without written consent which constitutes a violation of **Departmental Order 9, Chapter 5 §4.14.4 Search and Arrest Warrants**.

*In all situations dealing with warrantless or consent searches involving vehicles, Stop and Frisk, Plain View or Search incidental to lawful arrest; or other exigent circumstances in which facts indicate that the safety of officers or other persons will be jeopardized, all members of the Miami Police Department shall adhere and comply with guidelines as set forth in the current Florida Law Enforcement Handbook, Dade County edition. A search of the premises for a person or property may be conducted pursuant to consent without a warrant and without probable cause to obtain a warrant. Consent must be voluntarily, freely, and intelligently given by an appropriate party having authority to grant consent, and the search must be limited to the terms of the consent. **However, written consent should be sought whenever reasonably possible. In the context of this case, if Mr. Abdul-Majid was as cooperative as maintained by Lt. Perez and Sgt. Sierra, it is reasonable to conclude that he would have executed a written consent to search. The absence of written consent, particularly when the "consent" was obtained by officers armed with assault rifles, mitigates against a finding of consent.***

**Procedural History:**

- 08-29-11 The Internal Affairs investigative report was received.
- 09-09-11 Independent Counsel conducted a preliminary review of the case.
- 11-01-11 Telephonic contact was initiated with complainant, Shabaka Abdul-Majid and the number is no longer operable.
- 11-01-11 An on-line database revealed an alternate telephone number for Shabaka Abdul-Majid in Detroit, Michigan which was also inoperable.



11-01-11 An interview was conducted with witness, Thomas Butler who initially indicated he did not recall the incident or speaking with Internal Affairs. Mr. Butler re-contacted the CIP and stated that speaking with Sheila Matthews refreshed his memory regarding the incident. While Mr. Butler was standing across the street from the incident location, he saw several police officers enter the apartment of Sheila Matthews. According to Mr. Butler, one or the officers opened the side window or Ms. Matthews' apartment, reached through the window, unlock the front door and all of the officers entered apartment #202 through the doorway. According to Mr. Butler, after the incident Ms. Matthews never informed him that she was missing any money.

11-01-11 An interview was conducted with Shaquila Matthews regarding the reported search of her apartment on October 27, 2009. Ms. Matthews stated that she was not at home when the incident occurred but received several voicemail messages regarding the illegal search of her residence. It was additionally stated by Ms. Matthews that it wasn't until she entered her residence that it was apparent someone had been inside as the apartment was in total disarray and she discovered \$420 left on a chester was missing (*initial complaint alleged \$520 left on a television was missing*).

11-01-11 An interview was conducted with Sheila Matthews, the mother or Shaquila Matthews regarding the Miami Police Department's ("MPD") presence at the New Arena Square Complex on October 27, 2009. Ms. Matthews stated she did not witness the officers enter her daughter's apartment but she heard the commotion since she lives beneath her daughter on the first floor. Police officers were seen coming "from the direction" of Shaquila's apartment, according to Sheila Matthews. It was additionally stated by Ms. Matthews that her daughter never informed her as to how much money was missing.

11-02-11 Telephonic contact was initiated with the property manager at the New Arena Square, Carmen Jefferson, and she was unaware of the October 2009 incident and alleged that the MPD normally notifies the landlord, Solomon and Ingrid Yukon, when they are going to conduct a raid.

11-02-11 Telephonic contact was initiated with the owner, Ingrid Yukon, who denied having any knowledge of the October 2009 raid executed by the MPD or receiving complaints from residents.

11-02-11 An invitation to testify was forwarded to the complainant.

11-03-11 Case submitted for closure with Investigator's recommendation (*see above.*)

11-03-11 Independent Counsel's Concurrence.

11-10-11 The Complaint Committee made a recommendation to Sustain the allegation of Improper Procedure against an Unknown Officer. The allegation of Missing Property was dispositioned as Not Sustained.

C.5

**DISCUSSION ITEM**

11-01063

**Case:** Calvin Warren **CIP#:** 11-156 **IA#:** 11-099S**Involved Officer(s):**

Hiram Suarez-#6823

Freddy Quintero-#5838

**Allegation(s):**

Discourtesy

**DOI:** May 4, 2011

On May 4, 2011, Mr. Calvin Warren was arrested for driving with a suspended license by Detectives Hiram Suarez and Freddy Quintero. Mr. Warren alleged Detectives Hiram Suarez and Freddy Quintero threatened to physically harm stating, "We ain't all right, I'll fuck your ass up when I catch you." The officers allegedly threatened Mr. Warren's life on an unknown date. Detectives Hiram Suarez and Freddy Quintero denied making the alleged statements to Mr. Warren in their recorded Internal Affairs statement. Internal Affairs rendered a finding of "Inconclusive" regarding the allegation of Discourtesy lodged against both detectives.

**Recommendation:**

Close as No Finding based on the unavailability of the complainant.

**Procedural History:**

08-10-11 The Internal Affairs investigative report was received.

08-23-11 Independent Counsel conducted a preliminary review of the case.

08-31-11 A 10-Day letter was forwarded to the complainant.

10-25-11 Arrest affidavit #110504-122132 was requested and obtained.

11-01-11 Telephonic contact was initiated with the complainant and the complainant, Calvin Warren and a female respondent stated the CIP had an incorrect number.

11-01-11 An on-line database search did not reveal any new information regarding Mr. Warren.

11-03-11 Case submitted for closure with Investigator's recommendation  
(see above.)

11-03-11 Independent Counsel's Concurrence.

11-10-11 The Complaint Committee made a recommendation of No Finding.

**C.6****11-01064****DISCUSSION ITEM****Case:** Richard Tipa **CIP#:** 11-175 **IA#:** 11-069S**Involved Officer(s):**

Mark Ashton-#0215

Blake Weinger-#28104

**Allegation(s):**

Discourtesy

Improper Procedure

**DOI:** March 29, 2011

Mr. Richard Tipa alleged on March 29, 2011, Officers Blake Weinger and Mark Ashton conducted an illegal search of his property and threatened him with bodily harm. According to Mr. Tipa, the officers enter his yard and wrestled his house key from his hand and entered his residence. Other residents residing in the quadruplex have previously engaged in narcotic activity (*including his girlfriend, Rosetta Bryant*) and illegal weapon possession which has resulted in the police frequenting the residence. The involved officers denied the allegations and Internal Affairs rendered a finding of Inconclusive regarding the allegations of Discourtesy and Improper Procedure lodged against both officers based on the absence of independent witnesses.

**Recommendation:**

Close as Not Sustained as to the allegations of Discourtesy and Improper Procedure based on insufficiency of the evidence to support or refute the allegation.

**Procedural History:**

08-10-11 The Internal Affairs investigative report was received.

08-26-11 Independent Counsel conducted a preliminary review of the case.

09-09-11 A 10-Day letter was forwarded to the complainant.

11-01-11 An interview was conducted with Richard Tipa regarding his March 29, 2011, encounter with the Miami Police Department (*see narrative*).

Mr. Tipa was unable to provide any additional information or witnesses with regard to the incident.

11-01-11 An interview was conducted with Rosetta Bryant, the girlfriend of Richard Tipa regarding their March 29, 2011, encounter with the Miami Police Department. Ms. Bryant's statement mirrored that of Mr. Tipa.

11-01-11 An interview was conducted with Lester Lord, the owner of the quadruplex and he stated there is significant narcotic activity in the area; however, he did not witness the incident complained of by Mr. Tipa. Mr. Lord was informed of the March 29, 2011, incident by Mr. Tipa and Ms. Bryant.

11-01-11 An on-line database search revealed that Ms. Bryant has been arrested 14 times on drug charges over the past decade, most of which resulted in conviction.

11-02-11 An invitation to testify was forwarded to the complainant.

11-02-11 An invitation to testify was forwarded to officers Mark Ashton and Blake Weinger.

11-03-11 Case submitted for closure with Investigator's recommendation (*see above.*)

11-03-11 Independent Counsel's Concurrence.

11-10-11 The Complaint Committee made a recommendation to Sustain the allegation of Improper Procedure against Officers Mark Ashton and Blake Weinger. The allegation of Discourtesy regarding both officers was dispositioned as Not Sustained.

## C.7

11-01065

### **DISCUSSION ITEM**

**Case:** Talat Gamil **CIP#:** 11-213 **IA#:** 10-296S

#### **Involved Officer(s):**

Giraldo Linares-#4019

#### **Allegation(s):**

Discourtesy

**DOI:** Unknown

The complainant, Mr. Gamil, stated Officer Giraldo Linares accused him of striking a parked vehicle while at Mary Brickell Village Mall, located at 901 South Miami Avenue. Officer Linares reportedly asked Mr. Gamil, "Did you see what the fuck you did?" "You damaged the fucking car." Officer Linares is alleged to have used profanity throughout the ordeal. Mr. Gamil further stated

that when he mentioned he had to leave, Officer Linares replied, "Shut the fuck up or I will take your fucking ass to jail." Officer Linares denied using profanity in his Internal Affairs statement and a disposition of "Inconclusive" was rendered as to the allegation of Discourtesy.

**Recommendation:**

Close as No Finding as to the allegation of Discourtesy based on the complainant's failure to provide additional information to further the investigation.

**Procedural History:**

- 08-25-11 The Internal Affairs investigative report was received.
- 08-25-11 Independent Counsel conducted a preliminary review of the case.
- 09-09-11 A 10-Day letter was forwarded to the complainant.
- 11-01-11 An interview was conducted with complainant, Talat Gamil and he indicated he does not believe that the CIP will be able to help him but he will forward documents and photographs proving there was no accident as alleged by Officer Linares. Mr. Gamil continue to allege that Officer Linares repeatedly used profanity during their encounter.
- 11-01-11 The CIP request for response letter in addition to the Internal Affairs investigative report was electronically forwarded to Mr. Gamil.
- 11-01-11 An interview was conducted with witness, Juan A. Prida and he indicated he did not witness the accident; however, he did witness the interaction between Officer Linares and Mr. Gamil. Mr. Prida stated he did not witness any profane statements spoken by either party.
- 11-02-11 An on-line database search revealed that Mr. Gamil has received 27 traffic citations since 2002.
- 11-02-11 An invitation to testify was forwarded to the complainant.
- 11-02-11 An invitation to testify was forwarded to Officer Giraldo Linares
- 11-03-11 Case submitted for closure with Investigator's recommendation (*see above.*)
- 11-03-11 Independent Counsel's Concurrence.
- 11-10-11 The Complaint Committee made a recommendation of No Finding.

**PUBLIC FORUM II**

**ANNOUNCEMENTS**

Complaints Committee Meeting  
December 2, 2011  
CIP Office

Next CIP Meeting  
December 20, 2011  
5:30 P.M.  
City Hall/ Commission Chambers

Citizen's Police Academy  
(March 2012)