

# City of Miami

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



## **Meeting Agenda**

**Tuesday, June 18, 2013**

**5:30 PM**

**CITY HALL COMMISSION CHAMBERS**

## **Civilian Investigative Panel**

*Thomas Cobitz, Chairperson  
Bess McElroy, Vice-Chair  
Michelle Delancy, Secretary  
Horacio Stuart Aguirre, Treasurer*

*Ducosse Delva, Daniel Suarez, Rolando Aedo  
William Alvarez  
Barbara Gimenez, Grace Casas, Mairlyn Lightbourn*



**Involved Officer(s):**

Erol Stewart-#6772  
Stephon McGill-#4606

**Allegation(s):**

Discourtesy  
Improper Procedure

**DOI:** May 17, 2012

**Investigator:** Shewanda Y. Hall

According to Elena Garcia, on May 17, 2012, she was accused of theft by building manager, Julie Tsiomakidis of the Park Towers Complex. Ms. Garcia was accused of stealing a table that was the property of the Park Towers apartment complex which resulted in a complaint to the Miami Police Department. Officers Erol Stewart and Stephon McGill responded to the call. Ms. Garcia stated that Officer McGill's name was not branded on his uniform and when she asked him to identify himself, he refused. Both officers were informed that the building is partly protected with surveillance cameras and a review of the footage would prove Ms. Garcia's innocence. Ms. Garcia claimed that both officers refused to review the surveillance tape. It was additionally alleged by Ms. Garcia, that when she turned her back to them to open a window, the officers illegally entered her residence and removed the table. Officers McGill and Stewart are also alleged to have mocked Ms. Garcia when they made funny facial gestures at her responses. Officer Stewart acknowledged that he responded to the Park Towers Complex on May 17, 2012, regarding a theft by resident Elena Garcia. Upon arrival, he and the property manager visited Ms. Garcia's apartment where the table was located and recovered by him. Officers McGill and Stewart denied making any inappropriate facial gestures or threats towards Ms. Garcia. Internal Affairs Cleared both Officers McGill and Stewart as to the allegation of Improper Procedure based on Sergeant Orville McLish's statement that he responded to the scene and observed Officer McGill in uniform with his name inscribed and that both officers acted within the scope of their responsibilities.

*\*Note: The Internal Affairs investigation spanned an 11-month period with no reference as to the cause of the delay in the IA investigative report and failed to note allegation of Discourtesy.*

**Recommendation:**

Close as **Not Sustained** based on insufficient evidence to support or refute the allegations.

**Procedural History:**

06-05-12 The Direct File Complaint was received.

06-05-12 A face-to-face interview was conducted with complainant Elena Garcia, who stated that she resides at Park Towers Complex located at 390 NW 2nd Street, #1208, Miami, FL 33128 and on May 17, 2012, she observed a small iron table in the parking lot of her apartment complex. The table appeared to have been thrown out as trash, so Ms. Garcia took the table for her apartment. As Ms. Garcia was walking into the apartment building, she was seen and stopped by the secretary of the building manager, who alleged the table

belonged to her. Ms. Garcia informed her that the table had been discarded and was not in her possession; therefore the table now belonged to her (Ms. Garcia). Approximately 10 minutes later, Officer Stewart, an unidentified officer (*refused to identify himself and was not wearing an ID*) along with Ms. Tsiomakidis reportedly came to Ms. Garcia's apartment and accused her of stealing the table. Ms. Garcia stated she advised the officers to review the surveillance tape as this would reveal how she obtained the table. It was additionally stated by Ms. Garcia, that she smokes and as a courtesy to the officers, she opened a window and while her back was to the officers, they quickly removed the table from her apartment and left. Ms. Garcia contacted 911 and requested a supervisor. Officer McGill is alleged to have questioned Ms. Garcia's mental stability and repeatedly pointed at his handcuffs (*Ms. Garcia acknowledged suffering from depression and anxiety*). Ms. Garcia stated that the officers were unduly influenced by their "*special relationship*" Ms. Tsiomakidis. Sergeant McLish responded to the scene and upon arrival he allegedly told Ms. Garcia, "*You are done for the day.*"

06-05-12 The case was referred to Independent Counsel for a preliminary assessment and case determination (*the case was placed in abeyance*).

06-05-12 The complaint was electronically forwarded to the Miami Police Department.

06-20-12 An incident search was requested and received from the Miami Police Department regarding the identity of the responding officers. The primary officers were identified as Stephon McGill.

07-18-12 An interview with witness, Jorge Temahoya revealed that he was informed of the incident by Ms. Garcia but did not witness the incident.

07-23-12 An interview was conducted with Marisol Gaspar, a neighbor whom Ms. Garcia identified as a witness to the incident in question. Ms. Gaspar stated that she was cognizant of the incident involving Ms. Garcia, the building manager and the police on May 17, 2012; however, she denied having witnessed the incident. It was also mentioned by Ms. Gaspar, that the Internal Affairs investigator interviewed her in the presence of the building manager, Ms. Tsiomakidis and although she believed this was in appropriate, it did not affect her responses.

12-14-12 A request was made to review the Internal Affairs file and the CIP was informed that the MPD investigation was still pending.

01-22-12 A subsequent request was made to review the Internal Affairs file and the CIP was informed that the MPD investigation was still pending.

05-22-13 Officer Stewart stated during a CIP interview that he and Officer McGill responded to Ms. Garcia's apartment complex regarding her alleged involvement in a theft. Upon arrival, the building manager Julie Tsiomakidis, informed him that the table belonged to the main office and was placed outside to dry after being cleaned. Sometime thereafter, Ms. Garcia was observed with the table by a staff member who informed her that the table belonged to the office. Ms. Garcia reportedly refused to return the table and took it to her apartment. Officer Stewart stated that he and Officer McGill responded to the location and upon arrival, the building manager accompanied them to the apartment of Ms. Garcia to locate the table. When Ms. Garcia opened the door and invited the officers inside, according to Officer Stewart. The table was next to the front door of the apartment. Officer Stewart stated that he and Officer McGill spent 30 minutes trying to convince Ms. Garcia to return the table. Ms. Garcia

insisted that she found the table and it now belonged to her. Officer Stewart stated that he did inform Ms. Garcia that if she did not return the table she would be arrested for theft.

Additionally noted by Officer Stewart, was his reluctance to arrest Ms. Garcia because of her advanced age.

Officer Stewart expressed concern regarding Ms. Garcia's mental state and being a certified Crisis Intervention Officer he questioned Ms. Garcia to determine if she had been previously Baker Acted. Ms. Garcia appeared 'senile,' according to Officer Stewart. While in the apartment, Officer Stewart stated that Ms. Garcia did turn her back to them to open a window and that is when he took the table and returned it to the building manager. Officer Stewart stated that he reviewed the surveillance footage but the film was grainy and did not clearly depict who removed the table. Management did not wish to pursue charges since the table was recovered and no arrest was made, according to Officer Stewart. Lastly, Officer Stewart denied having any relationship with Park Towers Administration, stating that he had never met Ms. Garcia or any of the individuals involved prior to this incident.

05-28-13 An interview was conducted with Julie Tsiomakidis, the building manager of Park Tower who stated that on May 17, 2012, she was informed by the assistant manager, Kathleen Ortiz, that she observed Elena Garcia entering the building with the table from the main office that had been placed outside to dry. Ms. Garcia reportedly refused to release the table to Ms. Ortiz which resulted in the police being contacted. Ms. Tsiomakidis acknowledged accompanying the officers to Ms. Garcia's apartment; however, she did not enter the apartment and remained near the elevator, therefore she did not observe how the table was obtained. After leaving the officers with Ms. Garcia, Ms. Tsiomakidis stated she returned to her office and moments later the officers came into the office with the table. Ms. Tsiomakidis claimed that Ms. Garcia is problematic and the police have been called several times regarding Ms. Garcia's inability to get along with other residents.

05-28-13 The Park Towers surveillance footage was obtained which depicted Ms. Garcia attempting to enter the rear of the building when a female exiting the building appeared to block the entrance for several minutes. Moments later, the female (*later identified as Ms. Ortiz*) and Ms. Garcia were captured on surveillance re-entering the building. Ms. Ortiz was observed entering the main office and Ms. Garcia was observed with a black table heading towards the elevator.

05-31-13 An incident search did not reveal any additional dispatches to Park Towers regarding Ms. Garcia other than May 17, 2012.

06-04-13 An interview was conducted with Kathleen Ortiz, the assistant property manager regarding Ms. Garcia's allegation of Improper Procedure against Officers Stewart and McGill. According to Ms. Ortiz, on May 16, 2012, she cleaned the table and placed it outside to dry for approximately 20 minutes. Upon return, Ms. Ortiz, stated that the table was missing. The following day on May 17, 2012, Ms. Ortiz observed Ms. Garcia entering the rear of the building with the office table that she cleaned the day before. Ms. Ortiz informed Ms. Garcia that the table belonged to the owners; however, Ms. Garcia refused to release the table and went up to her apartment with the item. Ms. Ortiz notified Ms. Tsiomakidis that the table was in Ms. Garcia's possession and the police were called. Ms. Ortiz stated that she did not witness how the table was retrieved since she did not accompany the officers upstairs.

06-04-13 An electronic request for contact was forwarded to Sergeant Orville McLish regarding his involvement in the case.

06-07-13 Submitted for closure with Investigator's recommendation of Not Sustained as to both allegations.

06-07-13 Independent Counsel's concurrence.

06-07-13 An invitation to testify at the June 14, 2013 Complaints Committee and June 18, 2013 Panel meeting was forwarded electronically to Sergeant Orville McLish as well as Officers McGill and Stewart.

06-07-13 An invitation to testify at the June 14, 2013 Complaints Committee and June 18, 2013 Panel meeting was hand delivered to Julie Tsiomakidis.

## B.2

13-00682

### **DISCUSSION ITEM**

**Case:** Joseph Simmons **CIP#:** 13-001 **IA#:** 12-254S

**Involved Officer(s):**

Roberto Valdes-#7329

**Allegation(s):**

Improper Procedure

Missing Property

**DOI:** May 30, 2012

**Investigator:** Shewanda Y. Hall

Mr. Joseph Simmons claimed that on May 30, 2012, he was arrested by Sergeant Roberto Valdes at the American Airlines Arena for Doing Business without a License and Forging/Counterfeiting Private Labels at the Miami Heat v. Boston Celtics game. According to Mr. Simmons, Sergeant Valdes confiscated \$200 and 17 Miami Heat tickets, along with his identification and Green Direct Express Bank card and failed to submit the items to the MPD Property unit. Sergeant Valdes indicated in his sworn statement to Internal Affairs, that he arrested Mr. Simmons on the date in question for Doing Business without a License and Forging/Counterfeiting Private Labels after he observed him make a sale. It was acknowledged by Sergeant Valdes, that he confiscated eight (8) fraudulent tickets and \$200 from Mr. Simmons; however, the cash was returned to the other subject who purchased the tickets. Sergeant Valdes noted in arrest affidavit #120530-156071, that the fraudulent tickets were turned into the Miami Police Property unit. Internal Affairs rendered a finding of Inconclusive as to the allegation of Missing Property.

\*Note: The MPD Internal Affairs report listed the amount of money stolen as \$1,200; however, the complainant indicated to the CIP that the amount confiscated was in fact \$200.

**Recommendation:**

Sergeant Valdes indicated in his statement and the arrest affidavit that he confiscated \$200 in cash from Mr. Simmons and returned the money to the individual who purchased the tickets. According to arrest affidavit #120530-156071, the 8 fraudulent game tickets were turned into the Miami Property unit. The CIP's review of the case revealed that neither the Miami nor the Miami-Dade Police Department have a record of cash or tickets linked to arrest affidavit

#120530-156071. Additionally, the CIP was able to locate the other individual that Sergeant Valdes allegedly returned the money to, Lamar Johnson. Mr. Johnson recalled being approached by Mr. Simmons who attempted to sale him game tickets; however, Mr. Johnson had pre-purchased his tickets and never gave Mr. Simmons any money. Thereafter, Mr. Johnson was approached by the MPD, questioned and allowed to enter the game once it was determined that he did not make a purchase. Mr. Johnson denied giving or receiving cash from anyone on May 30, 2012.

Sergeant Valdes indicated in his recorded statement and the arrest affidavit that he confiscated \$200 in cash from Mr. Simmons and returned the money to the individual who made the purchase. It was also noted by Sergeant Valdes that the fraudulent tickets were turned into the MPD's Property unit which constitutes a violation of *Departmental Order 1, Chapter 11 §11.6.17.28 and 11.6.20.1*;

**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.

**11.6.20 Evidence:**

11.6.20.1 **Proper Handling**: Members and civilian employees of the Department shall not (under any circumstances) manufacture, destroy, remove from the scene, or convert to personal use any evidence or other material found in connection with an investigation of a crime. All evidence or other material shall be properly collected, identified, preserved, and turned into the Departments Property Unit and and properly recorded therewith for safekeeping.

Based on the noted violations, the CIP has added the allegation of Improper Procedure (*not addressed by Internal Affairs*) with a recommended finding of Sustained.

**Procedural History:**

10-05-12 The Direct File complaint was received (*complainant provided a statement*).

10-06-12 Case submitted to Independent Counsel for preliminary assessment and case determination.

10-06-12 Arrest affidavit #120530-156071 was obtained which revealed that Sergeant Valdes claimed the \$200 was returned to the other subject and the tickets were turned into the MPD Property unit following Mr. Simmons' arrest for doing Business without a License and Forging/Counterfeiting Private Labels.

12-12-12 Information was obtained from the MPD Property unit which indicated that there is no property receipt linked to arrest affidavit #120530-15607.

05-06-13 The MPD Internal Affairs investigative report was received which identified the individual whom Sergeant Valdes returned the \$200 to as "Camar Johnson," who was not interviewed by Internal Affairs. Additionally, the IA report listed an invalid address and no telephone number for Mr. Johnson.

05-15-15 An on-line database search revealed that the individual who reportedly received the \$200 from Sergeant Valdes is *Lamar Johnson* who resides in Atlanta, GA.

05-15-15 Telephonic contact was initiated with Mr. Johnson, who stated that he did in fact attend a Miami Heat game in May of 2012 and prior to entering the facility an African-American vendor approximately 6'2" attempted to sell him game tickets; however, he refused the offer since he had pre-purchased his tickets. Mr. Johnson stated that he was approached and questioned about the incident by law enforcement, but was allowed to enter the arena and attend the game since no purchase had occurred. It was further stated by Mr. Johnson, that he did not receive any money from the officers since no transaction had taken place.

05-28-13 The Miami-Dade County Property Intake Report #120035001 and a photo of the complainant's property taken at the time of his arrest was obtained which revealed that the property linked to Joseph Simmons regarding the May 30, 2012 arrest, consisted of a belt, green bank card, picture identification and a copy of his identification. All property submitted into evidence is photographed by the MDPD and the photo did not reveal any cash or game tickets.

06-05-13 Information was obtained from Miami-Dade Police Property and Evidence, which indicated that there was no record of any property linked to Joseph Simmons regarding a May 30, 2012 arrest.

06-05-13 An interview was initiated with Robert Hundevadt, the Director of Security at the American Airlines Arena regarding Joseph Simmons' complaint against the MPD of Missing Property regarding a May 30, 2012 incident. Mr. Hundevadt, stated that on the night in question, he was given 8 created, fraudulent tickets by the MPD which appeared to be photocopies and not original tickets. The MPD provided Mr. Hundevadt with the tickets and the arrest affidavit, regarding Mr. Simmons.

06-07-13 An invitation to testify at the June 14, 2013, Complaints Committee and June 18, 2013, Panel meeting was forwarded electronically to Sergeant Valdes.

06-07-13 An invitation to testify at the June 14, 2013, Complaints Committee and June 18, 2013, Panel meeting was forwarded to complainant, Joseph Simmons.

**B.3****13-00681****DISCUSSION ITEM****Case:** Carmen Montoya **CIP#:** 13-089 **IA#:** 12-290**Involved Officer(s):**

Edward Lugo-#4186

**Allegation(s):**Abusive Treatment  
Discourtesy  
Improper Procedure**DOI:** November 12, 2012**Investigator:** Shewanda Y. Hall

Ms. Carmen Montoya alleged that on November 12, 2012, she was stopped by Officer Edward Lugo at S.W. 17th Street and Micanopy Avenue, regarding a traffic violation. During

the stop, Ms. Montoya stated that she exited her vehicle and as she approached Officer Lugo he asked her, "Are you stupid or what? Are you a Moron or what?" As a result of Officer Lugo's behavior, Ms. Montoya returned to her vehicle and contacted 911 to request that a supervisor respond to the scene. Officer Lugo reportedly approached Ms. Montoya's vehicle and stated, "I know a supervisor is coming, and because of that I will get you in trouble and I know how to do that." While waiting for a supervisor, Ms. Montoya claimed that Officer Lugo grabbed her chin, then attempted to confiscate her telephone and pull her from the vehicle. Ms. Montoya was ultimately arrested and charged with Battery on an Officer, Resisting Arrest with and without Violence, as well as Failure to Obey a Police Officer(*referred to a Defendant Prosecution Program*). Internal Affairs classified the case as Withdrawn based on the complainant's voluntary rescission.

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

#### **Recommendation:**

Close as **No Finding** based on the complainant's failure to provide additional information to further the investigation. Several interviews were conducted with the complainant who indicated that she was unable to provide additional witnesses or evidence to further the investigation. Additionally, the complainant acknowledged rescinding the complaint on the advice of the prosecuting attorney, to prevent any conflict regarding the resolution of the pending criminal case.

#### **Procedural History:**

04-16-13 The Internal Affairs investigative report was received.

04-18-13 Case submitted to Independent Counsel for preliminary assessment and case determination.

04-18-13 An interview was conducted with the complainant Carmen Montoya who reiterated the statements in the Internal Affairs narrative and stated that she will review the Internal Affairs report and contact the CIP regarding any additional information that may further the investigation. Ms. Montoya acknowledged that she rescinded the complaint based on the advice of the prosecutor who advised her that it would be in her best interest to withdraw her complaint with Internal Affairs to ensure compliance with the terms of the agreement regarding her criminal case.

04-18-13 An on-line database revealed that Ms. Montoya was offered a deferred prosecution agreement which is a voluntary alternative to adjudication usually offered to first time offenders wherein the prosecutor agrees to grant amnesty in exchange for the defendant agreeing to fulfill certain requirements. Part of that requirement in Miami-Dade County is that the defendant abandon any civil claims against the officer, which resulted in Ms. Montoya withdrawing her IA complaint against Officer Lugo.

04-18-13 A 10-Day letter accompanied by the Internal Affairs investigative report was electronically forwarded to the complainant Carmen Montoya.

04-21-13 An Initial Officer Notification was electronically forwarded to Officer Edward Lugo with a request for an interview.

04-18-13 The booking photograph regarding Ms. Montoya was obtained which did not reveal any facial injuries.

04-23-13 Arrest affidavit #12112-327514 was obtained which noted that Ms. Montoya was stopped for failing to make a complete stop a red light before making a right turn. Once Ms. Montoya was stopped, she allegedly exited her vehicle and initially refused to provide her driver's license or return to her vehicle as instructed by Officer Lugo. Ms. Montoya supposedly returned to her vehicle after a dozen requests to do so and the threat of arrest. Officer Lugo then informed Ms. Montoya that she was under arrest and attempted to remove her keys from the ignition. Thereafter, Ms. Montoya allegedly slammed the car door on Officer Lugo's leg and then kicked him in an effort to push him away from her car door.

05-24-13 A second copy of Internal Affairs report #12-290 was hand delivered to the Ms. Montoya with a request for follow-up.

05-24-13 Telephonic contact was initiated with Ms. Montoya regarding the pursuit of her complaint against Officer Lugo and she acknowledged receiving a copy of the IA report; however, she was unable to provide any additional information to further the investigation.

05-28-13 The MPD crime scene photographs were obtained which did not depict any injuries regarding Ms. Montoya.

05-28-13 Submitted for closure with Investigator's recommendation of Not Sustained as to the allegations of Abusive Treatment, Discourtesy and Improper Procedure.

05-28-13 Independent Counsel's concurrence.

06-07-13 An invitation to testify at the June 14, 2013, Complaints Committee and June 18, 2013, Panel meeting was forwarded electronically to Officer Edward Lugo.

06-07-13 An invitation to testify at the June 14, 2013, Complaints Committee and June 18, 2013, Panel meeting was forwarded electronically and via U.S. Mail to Carmen Montoya.

#### **B.4**

**13-00452**

#### **DISCUSSION ITEM**

**Case:** Jeffrey Jones    **CIP#:** 13-058    **IA#:** 12-150S

**Involved Officer(s):**

Aristides Paulino-Lajara, 5536

**Allegation(s):**

Improper Procedure

**DOI:** March 8, 2012

**Investigated by:** Elisabeth Albert

Jeffrey Jones advised that he was walking west on NW 17th Street when he was stopped and arrested by Officer Paulino-Lajara for Trespassing. Mr. Jones alleged that Officer Paulino-Lajara advised him that he was investigating a fight

in the area, and then said that he was investigating a sexual battery, before placing him in handcuffs, patting him down, and placing him in the back seat of the patrol vehicle. Mr. Jones alleged that Officer Paulino-Lajara drove him from the west to the east side of the railroad tracks into a dark area, and when he was released about an hour later Officer Paulino-Lajara told him he could cross over the railroad tracks to get home. Mr. Jones also alleged that following his criminal trial, Officer Paulino-Lajara told a Railroad Officer, "Next time I see him, I will arrest him. I am going to get him again. He lives in the area. I will arrest him and take him to jail." Officer Paulino-Lajara advised that he observed Mr. Jones walking east over the railroad tracks and arrested him for Trespassing on Railroad Tracks. Officer Paulino-Lajara advised that he drove Mr. Jones to the opposite side of the railroad tracks within sight of the arrest location to complete the Arrest Affidavit, and then released him on a Promise to Appear with a warning not to trespass on railway property. Officer Paulino-Lajara denied making any inappropriate comments after Mr. Jones' trial.

Internal Affairs found that the allegation of Improper Procedure against Officer Paulino-Lajara was Inconclusive based on the lack of independent witnesses to prove or disprove the allegation.

#### **Recommendation:**

The CIP staff recommends that the allegation of IMPROPER PROCEDURE against Officer Paulino-Lajara be closed as NOT SUSTAINED. There are insufficient facts to prove or disprove the allegation.

#### **Procedural History:**

- 01/22/2013 The Internal Affairs ("IA") investigative report was obtained.
- 01/30/2013 Independent Counsel conducted a preliminary review of the case.
- 02/05/2013 Case assigned to Investigator Albert for investigation.
- 02/06/2013 A 10-day letter accompanied by the IA investigative report was forwarded to the complainant.
- 02/06/2013 Initial letter mailed to Principal Officer.
- 03/06/2013 Mr. Jones came to the CIP office and provided a taped statement to Investigator Albert. Mr. Jones alleged that he was stopped by Officer Paulino-Lajara in the area of NW 17th Avenue and 1st Street when he walking home from a Miami Heat game. Mr. Jones advised that Officer Paulino-Lajara told him that he had been stopped because of a report of a fight, and then later stated that he was investigating a sexual battery that occurred in the area. Officer Paulino-Lajara patted Mr. Jones down, handcuffed him, and then transported him around the block to a dark area on North Miami Avenue and 17th Street. Mr. Jones stated at the time of his arrest there was no visible signage at/near the railroad tracks advising No Trespassing and that there are sidewalks that lead up

to both sides of the tracks. Mr. Jones also alleged that after he was released by Officer Paulino-Lajara on the Promise to Appear, the officer advised him that he did not care if he crossed over the railroad tracks to get home because he had already arrested him for the violation.

Mr. Jones further alleged that following his trial, when he was leaving the courthouse, Officer Paulino-Lajara made inappropriate comments to a Railroad Officer, stating he would arrest the Complainant again but next time he would take him to jail. Mr. Jones responded back to Judge Pooler's courtroom where he was advised to contact Internal Affairs.

03/12/2013 Officer Paulino-Lajara's sworn/recorded statement to Internal Affairs was obtained and reviewed. Officer Paulino-Lajara advised that he observed Mr. Jones walking east at North Miami Avenue and 17th Street over the railroad tracks. Officer Paulino-Lajara advised that when he stopped Mr. Jones he was holding cash in his hand. Officer Paulino-Lajara advised he transported Mr. Jones to the North Miami Avenue side of the railroad tracks to complete the Arrest Affidavit, and later released Mr. Jones with a Promise to Appear and verbally warned him not to cross back over the railroad tracks. Officer Paulino-Lajara denied making any derogatory comments after the trial.

03/22/2012 The CIP contacted Railroad Agent Raul Guerra, a witness not identified or interviewed by Internal Affairs. Agent Guerra does recall the day of Mr. Jones' trial, and has specific memory of traveling down the escalator at the same time as Mr. Jones and Officer Paulino-Lajara. Agent Guerra advised that Officer Paulino-Lajara was behind him going down the escalator and Mr. Jones was in front of him, and that the officer and the Complainant were approximately 25 feet apart. Agent Guerra stated he was standing closer to Mr. Jones and that it was apparent that Mr. Jones was happy that he had won his case. Agent Guerra recalls Officer Paulino-Lajara stating that the case was a waste of time. Agent Guerra stated that Officer Paulino-Lajara was not disrespectful nor did he hear him make any inappropriate comments or use profanity.

03/26/2013 Met with Mr. Jones at the arrest location. Mr. Jones insisted he was stopped by Officer Paulino-Lajara after he crossed east to west side over the railroad tracks. He stated he was then transported approximately half a mile, including the wrong way down a one-way street, to the east side of the railroad tracks where it is darker. The CIP observed street lights in the area identified by Mr. Jones as the area Officer Paulino-Lajara completed his paperwork, but it is unknown if they were operational on the night of Mr. Jones' arrest. Mr. Jones advised that they remained at this location for approximately 45 minutes while the officer completed the paperwork and then Officer Paulino-Lajara released him allowing him to cross the railroad tracks to get home.

04/03/2012 Police radio transmissions show that Officer Paulino-Lajara stopped a person at North Miami Avenue and 17th Street at 1:16 a.m., and requested a case number. At 2:04 a.m., Officer Paulino-Lajara changed his signal to an arrest and went back into service.

04/04/2013 Case submitted for closure with Investigator's recommendation.

04/18/2013 Independent Counsel's Concurrence.

05/03/2013 The Complaints Committee met and voted to table this case until next month's meeting. The Complaints Committee requested that an Invitation to Testify be extended to Mr. Jones, Officer Paulino-Lajara, Agent Raul Guerra, and the Supervisor (unknown at this time) who advised Mr. Jones that no sexual battery or battery had taken place that evening, and that the stop of Mr. Jones by Officer Paulino-Lajara was conducted outside of Officer Lajara-Paulino's assigned area.

05/07/2013 An email request was sent to Mr. Wilcox of P.U.L.S.E. requesting copies of any/all documents or recordings that pertain to Mr. Jones complaint against Officer Paulino-Lajara.

05/20/2013 Invitations to Testify were extended to Jeffrey Jones, Officer Paulino-Lajara, Mr. Wilcox (P.U.L.S.E.), Commander Anita Najiy (Commander of Overtown area the date of incident), Commander Jose Rodriguez (Commander of Wynwood/Edgewater area the night of incident), FEC District Agent, Raul Guerra, Sergeant Ricardo Fernandez (Officer Paulino-Lajara's Sergeant the date of incident).

05/28/2013 Telephonic contact was made with Commander Najiy, who was the Commander in charge of the Overtown area on the night of incident. Commander Najiy advised that any information she has about this complaint was relayed to her from Mr. Wilcox, and that she has no independent knowledge of the incident. Commander Najiy advised that she had been advised that Officer Paulino-Lajara had transported Mr. Jones to a dark location at/near the old City of Miami Cemetery, and Mr. Wilcox and Mr. Jones had concerns because Officer Paulino-Lajara had been accused of misconduct with a female in a dark location previously. Commander Najiy verified from police records that Officer Paulino-Lajara stopped Mr. Jones within the Wynwood patrol area (which is north of 14th Street), and that there were no reported sexual batteries the night of Mr. Jones' arrest.

## **B.5**

**13-00644**

### **DISCUSSION ITEM**

**Case:** David Shenk    **CIP#:** 13-081    **IA#:** 12-101

**Involved Officer(s) and Allegation(s):**

Nestor Garcia, 2184: Discourtesy, Missing Property

**DOI:** March 17, 2012

**Investigated by:** Elisabeth Albert

David Shenk was arrested at a Saint Patrick's day event. Mr. Shenk alleged that at

the time of his arrest, Sergeant Nestor Garcia removed from his possession, and took custody and control of, his brown wallet. Mr. Sherk advised that his wallet contained cash, his Texas Bar Association card, his Texas driver's license, a Texas Concealed Firearm permit, and other personal items/paperwork. Mr. Sherk advised that Sergeant Garcia only returned his Texas driver's license to him and that the next day when he attempted to locate his wallet at MPD Central Station, Sergeant Garcia used profanity and threatened to arrest him again. Internal Affairs found that Mr. Sherk's allegations of Discourtesy and Missing Property were Inconclusive based on the lack of independent witnesses to prove or disprove the allegations.

*\*Note: Sergeant Nestor Garcia is currently on the CIP's Monitoring List.*

**Recommendation:**

Mr. Sherk advised that he was carrying his wallet at the time of his arrest and recalled seeing Sergeant Garcia with his wallet. Sergeant Garcia denied seeing or ever possessing Mr. Sherk's wallet. None of the officers at the arrest scene, or the transporting officers, recall seeing Mr. Sherk's wallet. It is the recommendation of the CIP staff that Mr. Sherk's allegation of MISSING PROPERTY be closed as NOT SUSTAINED. Additionally, there are no witnesses who heard Sergeant Garcia use profanity toward Mr. Sherk during their contact at MPD Central Station. It is recommended that the allegation of DISCOURTESY against Sergeant Garcia be closed as NOT SUSTAINED.

**Procedural History:**

- 04/08/2013 The Internal Affairs ("IA") investigative report was obtained.
- 04/08/2013 Independent Counsel conducted a preliminary review of the case.
- 04/08/2013 Case assigned to Investigator Albert for investigation.
- 04/08/2013 A 10-day letter accompanied by the IA Report was forwarded to the complainant.
- 04/08/2013 An initial notification letter was mailed to the Principle Officer.
- 04/10/2013 Sergeant Garcia's Officer Profile was received and reviewed. Sergeant Garcia was hired 11/29/1988 and he has had 4 Administrative Complaints, 106 Citizen Complaints, 1 Driving Complaint, has had 2 Firearm Discharges, and 25 Use of Force incidents.
- 04/30/2013 Mr. Sherk contacted the CIP office and expressed his displeasure with the Internal Affairs findings. He believes that "grave injustice" was committed because Sergeant Garcia was not terminated. Mr. Sherk maintains that his wallet, which contained \$400.00 in cash and various other documents, was taken from him by Sergeant Garcia, and the only thing that was returned was his identification.

05/13/2013 Mr. Shenk met with and provided the CIP with a taped statement. Mr. Shenk advised the incident occurred at a block party in the area of the Lucky Clover, 1111 SW 1st Avenue, on Saint Patrick's Day. Mr. Shenk advised that shortly after his arrival on the exterior steps to the Lucky Clover, he was approached by a female acquaintance. As he spoke to the female acquaintance, he alleged that a male subject pushed him and that a second male subject attempted to strike him in the face. Mr. Shenk advised that he avoided getting hit, and then ran to MPD officers who were by their patrol vehicles on the side/rear of the stage area and requested their assistance. Mr. Shenk advised he ended up speaking to a total of four MPD officers, including Sergeant Garcia and Officer Miller. Mr. Shenk alleged that Officer Miller accused him of provoking the men and advised him that he had witnessed the contact. Mr. Shenk maintained that Officer Miller could not have heard, or seen (based on his location behind the stage), what had taken place between him and the other parties. Mr. Shenk stated that Officer Miller's statement to Internal Affairs was fabricated to cover for his unprofessionalism and the inappropriate comments he made.

Mr. Shenk maintained that he contacted the police for assistance, but that Sergeant Garcia refused to assist him, and instead arrested him. Mr. Shenk alleged that Sergeant Garcia pushed him three times, advised him that he would not answer his questioning, and told him, "If you don't leave I am going to arrest you." Mr. Shenk stated that he turned to run and was tackled and handcuffed by Sergeant Garcia. Mr. Shenk advised that he was patted down by Sergeant Garcia who took his brown bi-fold wallet from his rear pocket. Mr. Shenk advised that he did not see anyone but Sergeant Garcia with his wallet. Mr. Shenk noticed that his wallet was missing when his property was inventoried at the correctional facility. Mr. Shenk stated that he refused to sign the sealed and vacuumed packed property bag at the jail because his wallet was missing.

Mr. Shenk advised that the following day, upon his release from jail, he responded to MPD Central Station in an attempt to claim his wallet. Mr. Shenk advised that he met with Officer Cesar Villafana who suggested he speak to Sergeant Garcia. Mr. Shenk stated that he advised Officer Villafana that he did not want to speak to Sergeant Garcia, but Sergeant Garcia responded to the station anyway. Mr. Shenk stated that he walked approximately 20 to 30 feet away (to the area of the elevator) in order to avoid further contact with Sergeant Garcia. He stated that that Sergeant Garcia approached him and stated, "Get the fuck out of here" and threatened to arrest him again. Mr. Shenk alleged that Officer Villafana advised him that he was outranked by Sergeant Garcia and could not assist him.

05/14/2013 The Internal Affairs file was reviewed, and two inconsistencies were identified between Mr. Shenk's recorded statement to Internal Affairs and the statement he provided to the CIP. In Mr. Shenk's statement to Internal Affairs, he only identified one male subject, but Mr. Shenk advised the CIP that there were two males, one who pushed him and another who threw the punch at his face. Mr. Shenk advised IA that he did not know the female he was speaking

to when the assault occurred, but he advised the CIP that the female was an acquaintance.

05/16/2013 A copy of Mr. Shenk's Property Intake Report from the Miami Dade Correctional facility was received and reviewed. The only item listed was "1 Board." The report reflects that Mr. Shenk refused to sign for his property at the jail.

05/24/2013 Case submitted for closure with Investigator's recommendation.

05/28/2013 Independent Counsel's Concurrence.

**DISCUSSION ITEM**

**13-00644a**

Case: David Shenk CIP#: 13-081 IA#: 12-101

Involved Officer(s) and Allegation(s):  
Nestor Garcia, 2184: Missing Property

DOI: March 17, 2012  
Investigated by: Elisabeth Albert

**B.6**

**13-00694**

**DISCUSSION ITEM**

Case: Chener Alcy CIP#: 10-064 IA#: 09-381

Involved Officer(s):  
Johnny Brutus-#28539  
Adnnan Anjum-#29283

Allegation(s):  
Improper Procedure

DOI: October 2, 2009

Investigator: Shewanda Y. Hall

On October 2, 2009, Mr. Chener Alcy inadvertently walked into a police perimeter. Mr. Alcy was stopped by a White male and Black male officer. The officers allegedly shouted at Mr. Alcy, "What the fuck are you doing? Didn't you hear me talking to 'you?'" Thereafter, Mr. Alcy was reportedly forced to the ground, where a knee was placed in his back and he was ultimately handcuffed and dragged to a police vehicle. The alleged assault by the officers resulted in Mr. Alcy sustaining abrasions on his arms and on both knees. Mr. Alcy was informed that he was being held in reference to a police shooting but subsequently released 30 minutes later. Internal Affairs rendered a finding of Inconclusive as to the allegations of Abusive Treatment and Discourtesy filed against Officer Anjum based on the absence of independent witnesses. A finding of Substantiated was rendered as to the allegation of Improper Procedure filed against Officer Brutus who acknowledged that he took Mr. Alcy to the ground which resulted in injury; however, he failed to document the force used. Officer Brutus was found to be in violation of Departmental Order 1, Chapter 11§11.6.5.4-**Report to be Made on Any Force Used** which states: *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 copy 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.

**Recommendation(s):**

Close as **No Finding (Summary Disposition)** based on the unavailability of the complainant. The complainant has not responded to any of the CIP's request for contact. Additionally, an on-line database search did not reveal any viable information.

**B.7**

**13-00689**

**DISCUSSION ITEM**

**Case:** Tiffany Gispert **CIP#:** 13-094 **IA#:** 12-176S

**Involved Officer(s):**

George Guillen-#28563

**Allegation(s):**

Discourtesy

Improper Procedure

**DOI:** June 23, 2012

**Investigator:** Shewanda Y. Hall

According to Tiffany Gispert, on June 23, 2012, she was with her brother and some friends at 227 NE 2nd Street, when her friend spat over the balcony and struck a police vehicle parked below. Officer George Guillen was standing next to the vehicle and yelled to her, "Ok, yeah. Whatever you tramp, you whore." Then Officer Guillen began taking photographs of Ms. Gispert and her friends with his cellular phone. Ms. Gispert requested the name of Officer Guillen and he reportedly refused to provide it. Thereafter, Ms. Gispert entered her apartment and left her purse containing her passport and cell phone out on the terrace. Hearing some commotion, Ms. Gispert looked outside and observed the officers searching her purse, which she claims subsequently went missing.

Officer Guillen stated in his sworn statement to Internal Affairs that as he passed by 227 NE 2nd Street, the subjects yelled, "Fuck the police," and spat on his arm from the second floor. The subjects then threw bottles at Officer Guillen before taking shelter in an apartment. Officer Guillen acknowledged that he found and searched the purse left outside by Ms. Gispert and then presented the passport to tenants in an effort to identify which apartment the subjects were leasing. Officer Guillen denied directing any derogatory language towards Ms. Gispert. Internal Affairs rendered a finding of Inconclusive as to the allegation of Discourtesy filed against Officer Guillen based on the absence of independent witnesses. A finding of Cleared was rendered by Internal Affairs as to the allegation of Improper Procedure filed against Officer Guillen based on his compliance with departmental policy(*the purse and its contents were turned into the MPD Property unit*).

**Recommendation(s):**

Close as **No Finding (Summary Disposition)** based on the unavailability of the complainant.

**Procedural History:**

04-10-13 The Internal Affairs investigative report was received.

04-22-10 The case was referred to Independent Counsel for preliminary review and case determination.

04-30-13 A 10-Day letter along with a copy of the Internal Affairs investigative report was forwarded to the complainant.

05-28-13 Telephonic contact was initiated with the complainant and the telephone number is inoperable.

05-28-13 An on-line database did not reveal any new information regarding the complainant.

05-28-13 Case submitted with Investigator's recommendation of No Finding.

05-28-13 Independent Counsel's concurrence.

**B.8****13-00688****DISCUSSION ITEM**

**Case:** Damaso Lainez **CIP#:** 13-093 **IA#:** 12-189S

**Involved Officer(s):**

Juan Mendez-#4709

**Allegation(s):**

Improper Procedure

**DOI:** April 4, 2012

**Investigator:** Shewanda Y. Hall

Mr. Damaso Lainez, stated that on April 4, 2012, he attempted to enter to the Studio 60 Café & Nightclub, located at 2300 N.W. 36 Street, when a plain clothed security guard (*later identified as Sergeant Juan Mendez*), refused him entry. Mr. Lainez stated that when he demanded an explanation as to why he was denied admittance into the club, Sergeant Mendez pushed him on his chest and arrested him for Disorderly Intoxication. It was additionally alleged by Mr. Lainez, that Sergeant Mendez was not in uniform and did not identify himself as a police officer. Sergeant Mendez stated that he arrested Mr. Lainez for Disorderly Intoxication and refusing to leave the area after receiving police instructions to do so. Internal Affairs rendered a finding of Cleared based on sworn and civilian witness statements that Sergeant Mendez was in uniform and a marked police unit on the night in question.

**Recommendation(s):**

Close as **No Finding (Summary Disposition)** based on the unavailability of the complainant.

**Procedural History:**

04-18-13 The Internal Affairs investigative report was received.

04-18-13 The case was referred to Independent Counsel for preliminary review and case determination.

04-30-13 A 10-Day letter along with a copy of the Internal Affairs investigative report was forwarded to the complainant.

04-30-13 An on-line database did not reveal any viable information regarding the complainant or witnesses.

05-28-13 A subsequent on-line database search revealed that the charge of Disorderly Intoxication against Damaso Lainez was dispositioned as Nolle Pros.

05-28-13 Case submitted with Investigator's recommendation of No Finding.

05-28-13 Independent Counsel's concurrence.

## **B.9**

**13-00691**

### **DISCUSSION ITEM**

**Case:** David Eisenman **CIP#:** 10-063 **IA#:** 09-346

**Involved Officer(s):**

Unknown

**Allegation(s):**

Abusive Treatment

**DOI:** February 1, 2009

**Investigator:** Shewanda Y. Hall

The Miami Police responded to 3219 Bird Avenue on February 1, 2009, regarding a domestic violence complaint between complainant, David S. Eisenman and Teresa O'Rourke. Mr. Eisenman stated that he called 911 and was advised to leave the residence and wait for the police on the curb. While waiting for the police on the curb, Mr. Eisenman claimed that an unidentified Hispanic male officer came around the corner, and tackled him to the ground which caused a scrape to his left knee. The officer then grabbed his hair and slammed his head into the curb which resulted in a bruised forehead. Mr. Eisenman stated that the officer also hit him on the back of the head with something as he yelled, "Woman beater." Internal Affairs Cleared the unidentified officer as to the allegation of Abusive Treatment based on Dr. Emma Lew's examination of the injuries which indicated that the injuries appeared dated and not recently inflicted. Additionally, sworn and civilian witnesses denied observing any injuries to Mr. Eisenman during his contact with law enforcement.

**Recommendation(s):**

Close as **No Finding (Summary Disposition)** based on the unavailability of the complainant. The complainant did not respond to any of the CIP's request for contact. An on-line database

did not reveal any viable information regarding the complainant. Additionally, Dr. Emma Lew, Miami-Dade Deputy Chief Medical Examiner examined photographs of the complainant's injuries and concluded that the abrasion on the complainant's knee appeared to be two (2) weeks old and the facial injuries which appeared to be crusting over, were a few days to one week old.

**B.10****13-00597****DISCUSSION ITEM**

**Case:** Martin Stanley    **CIP#:** 13-071    **IA#:** 12-276

**Involved Officer(s) and Allegation(s):**

Shantavia Pitts, 29237: Negligence of Duty, Discourtesy

Richard Alleyne, 0063: Misconduct, Negligence of Duty, Discourtesy

**DOI:** August 12, 2012 and October 29, 2012

**Investigated by: Elisabeth Albert**

Martin Stanley alleged that during two separate contacts with Officers Pitts and Alleyne, the officers failed to take necessary police action. Mr. Stanley further alleged that during the first contact, Officer Alleyne advised him that he would have to pay a neighborhood drug dealer if he wanted to do business in the area, and that during the second contact with the officers, they told him to "shut up." Internal Affairs Cleared Officer Pitts of Mr. Stanley's allegation of Negligence of Duty because documents show that she was not on the scene. Internal Affairs found the allegation against Officer Pitts of Discourtesy was Inconclusive based on the lack of independent witnesses to prove or disprove the allegation. Internal Affairs found the allegations of Misconduct, Negligence of Duty, and Discourtesy against Officer Alleyne was Inconclusive based on the lack of independent witnesses to prove or disprove the allegation .

**Recommendation:**

Attempts to contact Mr. Stanley by telephone and in person have all proven negative. It is therefore the recommendation of the CIP Staff that Mr. Stanley's complaints against Officers Pitts and Alleyne be closed as NO FINDING.

**Procedural History:**

04/08/2013    The Internal Affairs ("IA") investigative report was obtained.

04/08/2013    Independent Counsel conducted a preliminary review of the case.

04/08/2013    Case assigned to Investigator Albert for investigation.

04/08/2013    A 10-day letter accompanied by the IA Report was forwarded to the complainant.

04/08/2013 An initial notification letter was mailed to the Principle Officers.

04/10/2013 The Officer Profiles were obtained and reviewed: Officer Alleyne was hired 01/18/2000 and has received 8 Citizen Complaints, 1 Driving Complaint, has been Relieved of Duty one time, and has generated 4 Use of Force reports; Officer Pitts was hired 09/15/2008 and has 3 Citizen Complaints.

05/13/2013 Case submitted for closure with Investigator's recommendation.

05/28/2013 Independent Counsel's Concurrence.

## **B.11**

**13-00632**

### **DISCUSSION ITEM**

**Case:** Ernesto Toledo    **CIP#:** 13-073    **IA#:** 12-070

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

Michel Toro, 404710: Discourtesy, Damaged Property, Abusive Treatment  
Javier Solis, 40476: Discourtesy

**DOI:** March 2, 2012

#### **Investigated by: Elisabeth Albert**

Ernesto Toledo patronized Azucar Nightclub and upon leaving the club observed officers ticketing his vehicle. Mr. Toledo made contact with the officers and learned that the parking ticket was a result of him being illegally parked. Mr. Toledo admitted that he got very upset. Mr. Toledo alleged that officers pushed his face onto the hood of his car and broke his cellular telephone when they threw it on the ground. Mr. Toledo was arrested for having an expired license tag. Mr. Toledo alleged that one of the officers told him, "I told you to get the fuck out of here, and you're resisting" and another officer stated, "Fucking arrest him." Mr. Toledo's vehicle was towed for not having a current tag assigned to the vehicle. Mr. Toledo was un-arrested by Sergeant Oriel Tameron and the package for unarrest was completed. Internal Affairs Cleared both officers of Mr. Toledo's allegations based on the Complainant's sworn statement and witness accounts of the incident.

#### **Recommendation:**

The CIP has not been able to contact Mr. Toledo by mail, telephone, or during a field visit. It is therefore the recommendation of the CIP that Mr. Toledo's allegations against Officers Toro and Solis be closed as NO FINDING.

#### **Procedural History:**

04/08/2013 The Internal Affairs ("IA") investigative report was obtained.

04/08/2013 Independent Counsel conducted a preliminary review of the case.

- 04/08/2013 Case assigned to Investigator Albert for investigation.
- 04/08/2013 A 10-day letter accompanied by the IA Report was forwarded to the complainant.
- 04/08/2013 An initial notification letter was mailed to the Principal Officers.
- 05/21/2013 Case submitted for closure with Investigator's recommendation.
- 05/28/2013 Independent Counsel's Concurrence.

**B.12****13-00596****DISCUSSION ITEM****Case:** Carlos Padron    **CIP#:** 13-074    **IA#:** 11-243**Involved Officer and Allegation(s):**

Ivan Moreno, 27908: Abusive Treatment, Discourtesy, Missing Property

**DOI:** September 27, 2011**Investigated by:** Elisabeth Albert

Carlos Padron was among a group of people who were contacted by the police at 799 SW 4th Street (3rd Street Park). Mr. Padron alleged that during the contact Officer Moreno told him, "Oh, you think you're a smart ass? You think you're funny? I am going to kill you. This is the last face you are going to see." Mr. Padron further alleged, Officer Moreno placed him in choke holds that he was continually able to escape from, grabbed him by the handcuffs and lifted him off the ground, and took his cellular telephone and did not return it. Mr. Padron was arrested for Battery on a Law Enforcement Officer, Resisting Arrest with Violence, and Resisting Arrest without Violence. Internal Affairs found that Mr. Padron's allegations against Officer Moreno were Inconclusive based on the lack of independent witnesses to prove or disprove the allegations.

**Recommendation:**

The CIP has not been able to contact Mr. Padron by mail, telephone, or during a field visit. It is therefore the recommendation of the CIP that the Complainants allegations against Officer Moreno be closed as NO FINDING.

**Procedural History:**

- 04/08/2013 The Internal Affairs ("IA") investigative report was obtained.
- 04/08/2013 Independent Counsel conducted a preliminary review of the case.
- 04/08/2013 Case assigned to Investigator Albert for investigation.
- 04/08/2013 A 10-day letter accompanied by the IA Report was forwarded to

the complainant.

04/08/2013 An initial notification letter was mailed to the Principal Officer.

04/10/2013 Officer Moreno's Officer Profile was obtained and reviewed. Officer Moreno was hired 02/25/2007 and has received 18 Citizen Complaints, and has had 16 Use of Force cases.

04/29/2013 Responded to the address listed in the IA Report in an attempt to contact the Complainant. Contact was made with Carlos Padron, who advised that he is the uncle of the Complainant (with the same name). Mr. Padron made telephone contact with the Complainant's father who noted the CIP's contact information and advised he would have the Complainant make contact. A business card was left with Mr. Padron (uncle) with the contact information for the CIP.

05/13/2013 Case submitted for closure with Investigator's recommendation.

05/28/2013 Independent Counsel's Concurrence.

## B.13

13-00498

### **DISCUSSION ITEM**

**Case:** Frederick Williams    **CIP#:** 13-082    **IA#:** 12-178S

#### **Involved Officer and Allegation:**

Michael New: 27511: Discourtesy

**DOI:** June 26, 2012

#### **Investigated by: Elisabeth Albert**

Frederick Williams' son was arrested by Officer New. While his son was being handcuffed, Mr. Williams asked Officer New not to break his son's arm. Mr. Williams alleged that Officer New responded, "You better get your ass from over there or I will do the same to you" and "I don't give a fuck who you call. Call who you want." Internal Affairs found Mr. William' complaint of Discourtesy against Officer New was Inconclusive based on the lack of independent witnesses to prove or disprove the allegation.

#### **Recommendation:**

The CIP has not been able to contact Mr. Williams by mail, telephone, or during a field visit. It is therefore the recommendation of the CIP that the Complainants allegations against Officer New be closed as NO FINDING.

#### **Procedural History:**

04/08/2013 The Internal Affairs ("IA") investigative report was obtained.

- 04/08/2013 Independent Counsel conducted a preliminary review of the case.
- 04/08/2013 Case assigned to Investigator Albert for investigation.
- 04/08/2013 A 10-day letter accompanied by the IA Report was forwarded to the complainant.
- 04/08/2013 An initial notification letter was mailed to the Principal Officer.
- 04/10/2013 Officer New's Officer Profile was received and reviewed. He was hired 01/27/2006 and has received 8 Citizen Complaints and 17 Use of Force incidents.
- 05/20/2013 Case submitted for closure with Investigator's recommendation.
- 05/28/2013 Independent Counsel's Concurrence.

**B.14****13-00680****DISCUSSION ITEM****Case:** Mary Olszewska **CIP#:** 13-079 **IA#:** 12-078S**Involved Officer(s) and Allegation(s):**

Jairo Lozano, 4174: Negligence of Duty

**DOI:** March 13, 2012**Investigated by:** Elisabeth Albert

Ms. Olszewska wrote a letter to Internal Affairs documenting her complaint. The investigator assigned to the case erroneously believed the complaint was direct filed through the CIP. In her letter, Ms. Olszewska stated that she was involved in a hit and run traffic crash on South Dixie Highway and 17th Avenue, and when Officer Lozano arrived at the scene he refused to investigate or write a crash report. Internal Affairs Cleared Officer Lozano of Ms. Olszewska's allegation of Negligence of Duty based on the lack of injuries or property damage, and the officers determination that an accident report was not required.

**Recommendation:**

The CIP staff has been unsuccessful in further contact with Ms. Olszewska, and recommends that the allegation of NEGLIGENCE OF DUTY against Officer Lozano be closed as NO FINDING.

**Procedural History:**

- 04/08/2013 The Internal Affairs ("IA") investigative report was obtained.
- 04/08/2013 Independent Counsel conducted a preliminary review of the case.

- 04/08/2013 Case assigned to Investigator Albert for investigation.
- 04/08/2013 A 10-day letter accompanied by the IA Report was forwarded to the complainant.
- 04/08/2013 An initial notification letter was mailed to the Principal Officer.
- 04/10/2013 Officer Lozano's Officer Profile was received and reviewed. He was hired 05/24/1982 and has received 30 Citizen Complaints, was Relieved of Duty once, and has 2 Use of Force incidents.
- 04/15/2013 Telephone contact was made with Ms. Olszewska who advised that she is currently residing in California. Ms. Olszewska called for police assistance after her vehicle was rear ended at a traffic light on South Dixie Highway. Ms. Olszewska alleged that when Officer Lozano arrived to her location, he yelled at her and told her that he had better things to do.
- 06/07/2013 Case submitted for closure with Investigator's recommendation.
- 05/28/2013 Independent Counsel's Concurrence.

**B.15****13-00578****DISCUSSION ITEM****Case:** William Carroll **CIP#:** 13-080 **IA#:** 12-207S**Involved Officer(s) and Allegation(s):**

Carol Gaines, 28604: Discourtesy

Freddy Mesa, 28615: Discourtesy

**DOI:** August 2, 2012**Investigated by: Elisabeth Albert**

William Carroll stated that Officers Gaines and Mesa, who responded to a domestic dispute at his apartment, were discourteous. Mr. Carroll alleged that Officer Gainous told him to, "Sit your ass down", and Officer Mesa stated, "Nigger, keep your ass quiet and sit your ass down." Internal Affairs Cleared both officers of the allegation of Discourtesy based on a witnesses statement.

**Recommendation:**

Mr. Carroll advised that he wished to withdraw his complaint. It is the recommendation of the CIP staff that the allegation of Discourtesy against Officers Gainous and Mesa be closed as NO FINDING.

**Procedural History:**

04/08/2013 The Internal Affairs ("IA") investigative report was obtained.

- 04/08/2013 Independent Counsel conducted a preliminary review of the case.
- 04/08/2013 Case assigned to Investigator Albert for investigation.
- 04/08/2013 A 10-day letter accompanied by the IA Report was forwarded to the complainant.
- 04/08/2013 An initial notification letter was mailed to the Principal Officers.
- 05/06/2013 Telephonic contact was made with Mr. Carroll who advised that he wishes to withdraw this complaint against Officers Gainous and Mesa.
- 05/06/2013 Case submitted for closure with Investigator's recommendation.
- 05/28/2013 Independent Counsel's Concurrence.

**C. PUBLIC FORUM****D. ANNOUNCEMENTS**

D.1 Financial Disclosure Statements Due  
Deadline July 1, 2013

D.2 Complaints Committee Meeting  
July 5, 2013 @ 12:00 Noon  
CIP Office

D.3 Next Regular CIP Meeting  
July 16, 2013 @ 5:30 P.M.  
City Hall Commission Chambers