



June 21, 2018

Chief Jorge Colina
Miami Police Department
400 NW 2nd Avenue
Miami, FL 33128

RE: CIP#: 18-027 IA#: 17-206N
Complainant: Mary E. Thomas
Involved Officer: Daniel De La Rosa

Dear Chief Colina:

The Civilian Investigative Panel ("CIP") considered the above case at its meeting on June 19, 2018. The Panel voted to sustain an allegation of improper procedure for improper use of emergency equipment. They sustained another allegation of improper procedure for failure to accept electronic proof of insurance and not sustained an allegation of improper procedure because the complainant alleged that the officer did not explain the citation options. They further not sustained an allegation of discourtesy regarding the request from the complainant that the officer identify himself.

Procedural history: On December 28, 2017 Internal Affairs received a complaint form from Sergeant Gary Sampson against Officer De La Rosa alleging discourtesy. Sergeant Shauntel Kirkland was assigned the investigation. On January 31, 2018, the complaint was closed as a non-complaint because Ms. Thomas' complaint was based on the denial of her request to cancel or void the summons.

Complaint: Ms. Thomas was stopped by Officer De La Rosa who, she alleged, wrote her three traffic tickets out of anger.

Policies considered: Florida State Statute 316.646(1)(a) requires drivers to present proof of security and it shall be in a uniform paper or electronic format. Departmental Order 11, Chapter 1, Section 11.6.9.5 requires officers to give badge number and name on request. Section 11.6.13.3 requires officers to be courteous. Section 11.6.28.1 requires officers to have knowledge of laws which the Police Department enforces. Departmental Order 11, Chapter 1, Section 11.6.56.4 requires officers to obey the traffic laws. Section 11.6.56.12 prohibits officers from using emergency equipment unless

responding to an emergency assignment, when required in the actual and proper performance of a police duty, or when so directed by the dispatcher or a superior officer.

Investigation: Officer De La Rosa did not respond to the CIP. Ms. Thomas provided a statement. She said she was driving eastbound at NW 54th Street and 12th Avenue when she saw two City of Miami Marked police cars driving through the gas station. As she approached, the leading police vehicle came speeding out of the gas station, forcing her to take evasive action into the oncoming traffic lanes to avoid a crash. As Ms. Thomas was taking evasive actions, the officer stopped and activated his emergency lights. The driver of the police car, Officer De La Rosa pulled her over at 1100 NW 54th Street. As he approached, he stated, "You didn't see my fucking lights. Give me your fucking driver's license and registration." She told the officer that the registration was in the glove box and asked to retrieve it. The officer asked her if she thought he was going to shoot her. Ms. Thomas attempted to provide Officer De La Rosa with her phone which had the Geico app showing she had current insurance. He told her no and walked away.

After about 40 minutes, another unidentified male officer who was driving the second police car approached Ms. Thomas to get her address. Ms. Thomas told him that Officer De La Rosa need to be re-trained and advised that she did have current insurance and had proof on her phone. This officer, too, would not take her phone. This second officer returned to his car and approximately 15 minutes later, Officer De La Rosa handed Ms. Thomas three citations and told her to take them to court. He did not advise Ms. Thomas what he cited her for or her options. Ms. Thomas later found out that the address listed on the citations was not the address she had provided to both officers.

Ms. Thomas requested a supervisor and was advised by Officer De La Rosa there were none working. Because Ms. Thomas' initial contact with Officer De La Rosa was so negative, she recorded her subsequent contact with the officer. After she was allowed to leave, she went to the North District Station and explained what happened to Sergeant Gary Sampson. According to Ms. Thomas, Sergeant Sampson called Officer De La Rosa and told him that he had not followed protocol and needed to go to court and withdraw the citations. Sergeant Sampson provided Ms. Thomas with his phone number and requested she contact him the next day to confirm the citations had been withdrawn. When Ms. Thomas contacted Sergeant Sampson the following day, she was advised that the officer refused to void the citations and she needed to go to court.

Ms. Thomas provided two audio/video clips. The first clip shows the unknown officer walk up to Ms. Thomas' vehicle and requests her address. She provided it several times and advised that the PO Box on her license is her correct mailing address. Ms. Thomas advised the officer that she would take any citation to court because the officer needed to be trained. She also said that the first officer refused to take her insurance information. She also told the officer that it was Officer De La Rose who ran the light and put on his lights after she came across the intersection. In the second clip. You can hear Officer De La Rosa ask Ms. Thomas if she had any questions and Ms. Thomas asked what "these," referring to the citations, were for. He tells her that the first one was for no display of insurance. Ms. Thomas tells him that she has insurance and he refused to take it. They debate the issue and Officer De La Rosa tells her to take it to court and show them. The second citation was for Failure to Yield to an Emergency Vehicle. Ms. Thomas advised him that he turned on his lights after he was in front of her. Officer De La Rosa

denied this and he issued her a third citation for failure to change her address because she is required to have a home address on her driver's license. Ms. Thomas said she worked for the State and did not need to put her home address on her license. Ms. Thomas began to ask him a question and he told her that all of his information, his name and unit number, are at the bottom of the citation.

Ms. Thomas provided text messages between her and Sergeant Sampson. They concern the filing of a complaint.

Officer De La Rosa's worksheet shows he was on a traffic stop with Ms. Thomas for one hour and 6 minutes. His remarks state, "Vehicle almost collided with me while I was coming out to 54th Street. Emergency lights were used to warn driver and attempt to avoid collision. Driver drove through turning lane and continued driving. Driver refused to show proof of insurance. Driver also stated she had a different address that was not reflected on her Florida driver's license." The worksheet did not indicate that he was responding to an emergency call for service. It showed that he had just cleared a call about a stolen wallet.

The Miami Dade Clerk of Court records show that the citations for Proof of Insurance and Failure to Change Address were dismissed complied, and the citation for Failure to Yield Right of Way to an Emergency Vehicle was dismissed at the officer's request.

Because this complaint was closed by Internal Affairs because the act of complained of did not require additional investigation because it did not violate any departmental rules and regulations and because Ms. Thomas filed her complaint based on the denial of her request to void the citation, staff requested the original RF 121 complaint form submitted by Sergeant Sampson. The form stated that Ms. Thomas complained that the officer gave her three citations out of anger and that he was discourteous. There was no mention of her request to have the citations cancelled or voided. Ms. Thomas said that she never told anyone from Internal Affairs or Sergeant Sampson that he had hired an attorney or that she was upset after the officer refused to void the citations. Ms. Thomas said that she told Sergeant Sampson only the facts that were documented in his complaint form and she was unhappy with how she was treated.

According to Ms. Thomas, the only other police representative she spoke to about her complaint was Internal Affairs Detective Roberto Lores. Detective Lores called her to get information about a ticket because his printout of the summons showed it as assigned to a different person. The issue discussed was documented on the complaint form by Detective Lores. Ms. Thomas maintained that she has not spoken to anyone else from Internal Affairs and she never told anyone that she had hired an attorney and that the nature of the complaint was that Officer De La Rose refused to cancel or void the traffic citations. There was no statement provided by Internal Affairs concerning Ms. Thomas' complaint.

CIP resolution of the complaint: Based on Officer De La Rosa's worksheet, it does not appear that he was on an emergency assignment at the time of the incident, therefore, he had no cause to activate his emergency devices. If he was responding to an emergency call, he was not exercising good judgment and care with due regard to the safety of life and property. There, the Panel voted to sustain this allegation of improper procedure. The panel voted to sustain an allegation of improper procedure for

failure to accept Ms. Thomas' electronic proof of insurance. Florida state statute permits this. The panel voted to not sustain the allegation of improper procedure as to the allegation that he failed to explain the citation options. They voted to not sustain the allegation of discourtesy.

The Panel voiced concern that this matter was classified as a non-complaint by Internal Affairs. There was no evidence to support the notion that Ms. Thomas was only interested in having her citations voided. She has been consistent since the day of the incident that she was unhappy with the treatment she received from the officer.

Please let me know if you will need any further information. Thank you for your kind attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cristina Beamud".

Cristina Beamud
Executive Director

cc: Emilio T. Gonzalez, City Manager
Joseph Napoli, Deputy City Manager

City of Miami



EMILIO T. GONZALEZ, Ph.D.
City Manager

JUL 16 2018

Ms. Cristina Beamud
Civilian Investigative Panel
970 SW 1st Street #305
Miami, Florida 33130

RECEIVED

JUL 20 2018

C.I.P.

RE: Civilian Investigative Panel Complaint Review
Internal Affairs Case #C17-206N
Civilian Investigative Panel Case #18-027

Dear Ms. Beamud:

This letter is written in response to your letter regarding the findings and conclusions of the Civilian Investigative Panel (CIP) at its meeting on June 19, 2018, pertaining to the above-referenced case. Your letter was thereafter brought to the attention of the Internal Affairs Section for appropriate review and response. The outcome of their review is as follows.

- The complaint was filed with the Internal Affairs Section against Officer Daniel De La Rosa alleging Improper Procedure and Discourtesy.
- The CIP reviewed the complaint on June 19, 2018 and voted to Sustain the allegation of Improper Procedure against Officer De La Rosa and to Not Sustain the allegation of Discourtesy.
- The Miami Police Department Internal Affairs Section reviewed this complaint. As part of the initial review, Mrs. Thomas was contacted by the Internal Affairs Section. She stated she would provide additional details along with video of the incident however, she failed to do so. It was determined at that time, the act complained of did not require additional investigation because the police officer did not violate any departmental regulations. The information provided was documented and was filed in the Office of Internal Affairs.

If you should have any further questions, please contact Major Jesus Ibalmea at (305) 835-2000, Monday through Friday 8:00 am to 5:00 pm. If Major Ibalmea is unavailable when you call, please leave a contact number where you can be reached.

Thank you for bringing this matter to our attention.

Sincerely,

Major Jesus Ibalmea
Commander
Internal Affairs Section
for Jorge R. Colina
Chief of Police

JRC:Jl:ac

cc: George Wysong, Legal Advisor
Emilio T. Gonzalez, City Manager



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