

# Disposition of the Independent Review Panel



Complainant: Kenneth Edgecombe

IRP Case: A 2005.229

Date: February 22, 2007

MDPD Case: PC 2005-0035

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The Independent Review Panel met on February 22, 2007 for the purpose of publicly reviewing the complaint made by Kenneth Edgecombe against the Miami-Dade Police Department and the department's response to that complaint. The following represents the findings of the Panel:

## A. Recommendations

1- That Officer Alberto Sierra receive a Record of Counseling for:

- Refusing to allow the complainant to get a shirt or shoes before transporting him to jail.
- Using an excessive amount of law enforcement resources to effect the arrest of an individual who could have been mailed a parking ticket or allowed to sign a Promise to Appear (PTA) due to the incident's lack of severity and threat to public safety.

2- That MDPD emphasize judicious use of law enforcement resources and officer discretion in its training.

## B. Incident

The complainant stated he parked in the front of Gloria Floyd Elementary on December 16, 2005, to drop off his sons and boxes of soda for a holiday party. The complainant stated Officer Sierra told him twice he could not park there and to move his vehicle. Officer Sierra tapped on his window gesturing for him to drive away. The complainant then drove off and went home.

While at home, the complainant heard banging on his door. He was about to step into the shower so he grabbed his pajama bottoms and opened the door. He saw a tall white officer and a white female officer. The tall white officer told the complainant to step outside. The complainant stated he wanted to put some clothes on first and, as he turned, Officer Sierra suddenly appeared and asked him why he left the school. The complainant stated Officer Sierra entered his home, cursed at him by stating "put your fucking hands up or I will taser your ass" and then arrested him. The complainant said that when he asked Officer Sierra why he was arrested, the officer called him a "fucking moron." The complainant was charged with Failure to Obey a Law Enforcement Officer.

## C. Allegations

1- Officer Sierra entered the complainant's home without authorization.

2- Officer Sierra used excessive force by threatening to use his Electronic Control Device.

3- Officer Sierra overreacted when he used multiple MDPD officers to track him down and arrest him for a traffic offense.

4- Officer Sierra cursed at the complainant by stating "put your fucking hands up or I will taser your ass" and calling him a "fucking moron."

#### **D. Disposition of the Independent Review Panel**

1- Officer Sierra entered the complainant's home without authorization - **EXONERATED**

Officer Sierra was at the complainant's home to effect an arrest on the complainant. The complainant, who was in his pajama bottoms, stated that when asked to step outside by the tall white male officer, he responded that he wanted to "put something else on" and he backed into the house. The officer did not need authorization to enter the house to arrest the complainant.

2- Officer Sierra used excessive force by threatening to use his Electronic Control Device on the complainant – **NO EVIDENCE TO SUPPORT OR REFUTE THE ALLEGATION**

Officer Sierra is certified to use an ECD and was carrying it at the time. Even though the complainant's statements seem to be credible, there are no independent witnesses to support or refute the allegation.

3- Officer Sierra's actions in arresting the complainant and causing him to be transported to jail were excessive - **SUSTAINED**

Officer Sierra overreacted by physically arresting Mr. Edgecombe and causing him to be transported to jail. Officer Sierra's actions caused critical law enforcement resources (three police officers and Corrections officers) to be used to arrest a man who left the school loading zone area while Officer Sierra was writing him a parking ticket. Officer Sierra could have issued a citation or allowed the complainant to sign a Promise to Appear.

4- Officer Sierra cursed at the complainant. - **NO EVIDENCE TO SUPPORT OR REFUTE THE ALLEGATION**

Even though the complainant's statements seem to be credible, there are no independent witnesses to support or refute the allegation.

#### **E. Other Findings**

1- The sign outside the school reads: "No Parking Passenger Loading Zone 8-9AM 1:30-3:30PM"

2- Officer Sierra acted inappropriately when he took the complainant to jail in pajama bottoms, without shoes or shirt. After the complainant was in custody and secured, the complainant should have been allowed to put on suitable clothing before being taken to jail in a humiliating state of dress.

3- The complainant has no prior arrest record. Officer Sierra has had 7 prior Internal Affairs investigations, all "Not Sustained" or "Exonerated," throughout his 18 year career with MDPD. There were 16 allegations in the 7 complaints:

- Use of Force – 5
- Improper Procedure – 3
- Overreaction – 3
- Discourtesy- 3
- Criminal Mischief (Battery) – 1
- Conduct Unbecoming – 1

The Independent Review Panel concluded the complaint on February 22, 2007.

# Independent Review Panel

## Committee Recommendation to the Panel

February 22, 2007

**Complaint:** A 2005.229

**MDPD Case:** PC 2006-0035

**Complainant:** Ken Edgecombe

**Accused Party:** Miami-Dade Police Department (MDPD), Officer Alberto Sierra

**Date Complaint Received:** December 20, 2005

**Materials Reviewed:** Correspondence, IA Case PC 2006-0035, staff notes and committee notes

**Committee:** Glenn P. Falk Esq., Panel Member; Dr. Eduardo Diaz, Executive Director; Carol Boersma, Executive Assistant to the Director; Fernando L. Robreño, Conflict Resolution Specialist

Meeting Date: January 19, 2007

Present: Sgt. Archie Moore, MDPD Professional Compliance Bureau; Ken Edgecombe, Complainant

**Complaint:** The complainant stated he parked in the front of Gloria Floyd Elementary on December 16, 2005, to drop off his sons and boxes of soda for a holiday party. The complainant stated Officer Sierra told him twice he could not park there and to move his vehicle. Officer Sierra tapped on his window gesturing for him to drive away. The complainant then drove off and went home.

While at home, the complainant heard banging on his door. He was about to step into the shower so he grabbed his pajama bottoms and opened the door. He saw a tall white officer and a white female officer. The tall white officer told the complainant to step outside. The complainant stated he wanted to put some clothes on first and, as he turned, Officer Sierra suddenly appeared and asked him why he left the school. The complainant stated Officer Sierra entered his home, cursed at him by stating "put your fucking hands up or I will taser your ass" and then arrested him. The complainant said that when he asked Officer Sierra why he was arrested, the officer called him a "fucking moron." The complainant was charged with Failure to Obey a Law Enforcement Officer.

The complainant alleges that:

- 1- Officer Sierra entered the complainant's home without authorization.
- 2- Officer Sierra used excessive force by threatening to use his Electronic Control Device.
- 3-Officer Sierra overreacted when he used multiple MDPD officers to track him down and arrest him for a traffic offense.
- 4- Officer Sierra cursed at the complainant by stating "put your fucking hands up or I will taser your ass" and calling him a "fucking moron."

**Department Response: MDPD Case PC 2006-0035**

**Investigator: Lt. Chris Carothers**

*The following is excerpted from the MDPD Disposition Memorandum dated June 12, 2006.*

**Allegation# 1 - Officer Sierra entered the complainant's residence without authorization. – NOT SUSTAINED**

Officer Sierra indicated he responded to the complainant's residence to effect the arrest after the complainant failed to comply with his instructions to remain at the school so he could be issued a ticket. Officer Sierra entered the complainant's residence after the complainant stepped backward from the doorway. The complainant was properly charged with "Failure to Obey a Lawful Police Command."

**Allegation #2 - Officer Sierra used excessive force by pointing an Electronic Control Device (ECD) at the complainant prior to his arrest. – NOT SUSTAINED**

Officer Sierra advised that he had an ECD with him but he did not point it at the complainant. Officers Shaw and Blanco both stated they did not see Officer Sierra point his ECD at the complainant. There are no independent witnesses to support the allegation.

**Allegation #3 - Officer Sierra overreacted by tracking down the complainant and arresting him for a traffic offense. – NOT SUSTAINED**

The complainant failed to follow Officer Sierra's lawful command to remain at the school and left the scene. Officer Sierra took the necessary steps to obtain the registered address of the complainant's vehicle and requested back-up prior to responding. Officer Sierra's efforts were not "exhaustive or consuming."

**Allegation #4 – Officer Sierra yelled to the complainant, “Put your fucking hands up or I’m going to Taser your ass,” then called him a “Fucking moron.” – NOT SUSTAINED**

Officer Sierra stated he never made those statements. Officers Shaw and Blanco stated they did not hear Officer Sierra make those statements. There are no independent witnesses to support the allegation.

***Summary of Statements***

**Statement of Officer Alberto Sierra (Kendall District)**

Officer Sierra stated that while he was standing in front of the school he observed the complainant park his vehicle under a no-parking sign. When Officer Sierra told the complainant he could not park there, the complainant walked towards the school. Officer Sierra was standing behind the complainant’s vehicle, writing him a parking citation, when the complainant returned to the vehicle and started the ignition. Officer Sierra stated he knocked on the complainant’s window and told the complainant not to leave because he was issuing him a citation. Officer Sierra stated that when the complainant drove away, he ran back to his unit and obtained the complainant’s address. At that point he decided he was going to arrest the complainant.

Officer Sierra stated he requested back-up prior to responding to the complainant’s residence. Officer Sierra stated he knocked on the complainant’s door and when he answered, he “seemed like he was dumbfounded, didn’t understand what was going on.” Officer Sierra asked him why he drove away. Officer Sierra stated he grabbed the complainant’s hand and told him he was under arrest. Officer Sierra stated the complainant stepped back into his house and pulled him inside. Officer Sierra recalled that he and Officer Blanco handcuffed the complainant. Officer Sierra stated he did not point his ECD at the complainant nor curse at him.

**Statement of Officer Stefanie Shaw (Kendall District)**

Officer Shaw stated she responded to the complainant’s residence as back-up. Officer Shaw stated when she arrived, she saw Officers Sierra and Blanco standing outside of the residence and then saw the complainant open the front door. Officer Shaw stated that she and Officers Sierra and Blanco entered the residence to arrest the complainant. Officer Shaw stated she did not witness Officers Sierra or Blanco point an ECD at the complainant nor curse at him.

**Statement of Officer Armando Blanco (Kendall District)**

Officer Blanco stated he responded to the complainant’s residence as backup. Officer Blanco stated when he arrived, he saw the complainant talking with Officer Sierra and then saw the complainant quickly turn around and enter the residence. Officer Blanco advised he saw Officer Sierra follow the complainant inside. Officer Blanco stated he exited his unit and entered the residence as well. Officer Blanco stated he saw Officer Sierra handcuff the complainant. Officer Blanco stated he did not see Officer Sierra point his ECD at the complainant nor curse at him.

***\*The criminal case was closed on March 18, 2006. The complainant was granted a “withhold of adjudication” and was required to pay a fine of \$298.00.***

## **Committee Remarks:**

### Issue with Clothing

Mr. Falk asked Mr. Edgecombe to describe how he was dressed when he was taken to jail.

Mr. Edgecombe stated he asked Officer Sierra to let him put on his shirt, which was hanging on a chair nearby. Officer Sierra said no and took him out of his house in his pajama bottoms, without shoes or shirt. Mr. Edgecombe stated that a mechanic at the district station offered him a mechanic's shirt. When he arrived at TGK he was given flip flops by Corrections' staff.

Mr. Edgecombe stated he was humiliated when his wife came to pick him up from jail because he was dressed in pajama bottoms, a mechanic's shirt and jail flip flops.

Ms. Boersma asked Mr. Edgecombe why he thought Officer Sierra denied him appropriate attire. Mr. Edgecombe theorized that Officer Sierra was mad that he had apparently ignored the officer's command to remain at the school.

### Issue with Officer Sierra's Entry into House

Dr. Diaz asked Mr. Edgecombe to describe where he was when Officer Sierra first touched him. Mr. Edgecombe stated he believed Officer Sierra first touched him while he was standing in the middle of his living room. He also stated that it was Officer Blanco who handcuffed him.

Dr. Diaz asked Mr. Edgecombe if he gave permission for the officers to enter his home. Mr. Edgecombe stated he did not, the officers came in after he retreated back into his room to retrieve his shirt. He stated that Officers Sierra and Blanco entered almost simultaneously.

Mr. Falk asked Mr. Edgecombe if he told the officers that he was going back inside his house. Mr. Edgecombe stated he did but they told him that he needed to come out farther from his doorway.

Mr. Edgecombe stated that he asked Officer Sierra to close the door of his house but the officer declined to do so. Mr. Edgecombe stated that the female officer at the scene volunteered to lock his front door for him and did so.

### Issue with Car Window

Dr. Diaz asked Mr. Edgecombe if his car window was lowered when Officer Sierra approached him. Mr. Edgecombe stated the window was not down. Dr. Diaz pointed out that in Officer Sierra's statement he stated Mr. Edgecombe's window was open.

### Issue with the Use of Backup Officers

Sgt. Moore, representing MDPD at the committee meeting, theorized that Officer Sierra requested backup because Mr. Edgecombe left the school against the officer's orders and he determined he would not go to Mr. Edgecombe's home alone. It is standard procedure to call for assistance in a case like this. Mr. Falk pointed out that the file stated Officer Sierra called for backup for "a vehicle who refused to stop for him."

Dr. Diaz stated he felt that the resources utilized for this misdemeanor case were excessive and could have been put to better use.

### **Committee Findings:**

#### **A. Regarding the allegations**

- 1- Officer Sierra entered the complainant's home without authorization - **EXONERATED**

Officer Sierra was at the complainant's home to effect an arrest on the complainant. The complainant, who was in his pajama bottoms, stated that when asked to step outside by the tall white male officer, he responded that he wanted to "put something else on" and he backed into the house. The officer did not need authorization to enter the house to arrest the complainant.

- 2- Officer Sierra used excessive force by threatening to use his Electronic Control Device on the complainant – **NO EVIDENCE TO SUPPORT OR REFUTE THE ALLEGATION**

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Officer Sierra overreacted by physically arresting Mr. Edgecombe and causing him to be transported to jail. Officer Sierra's actions caused critical law enforcement resources (three police officers and Corrections officers) to be used to arrest a man who left the school loading zone area while Officer Sierra was writing him a parking ticket. Officer Sierra could have issued a citation or allowed the complainant to sign a Promise to Appear.

- 4- Officer Sierra cursed at the complainant. - **NO EVIDENCE TO SUPPORT OR REFUTE THE ALLEGATION**

Even though the complainant's statements seem to be credible, there are no independent witnesses to support or refute the allegation.

#### **B. Other Findings:**

- 1- The sign outside the school reads: "No Parking Passenger Loading Zone 8-9AM 1:30-3:30PM"
- 2- Officer Sierra acted inappropriately when he took the complainant to jail in pajama bottoms, without shoes or shirt. After the complainant was in custody and secured,

the complainant should have been allowed to put on suitable clothing before being taken to jail in a humiliating state of dress.

- 3- The complainant has no prior arrest record. Officer Sierra has had 7 prior Internal Affairs investigations, all “Not Sustained” or “Exonerated,” throughout his 18 year career with MDPD. There were 16 allegations in the 7 complaints:

Use of Force – 5  
Improper Procedure – 3  
Overreaction – 3  
Discourtesy- 3  
Criminal Mischief (Battery) – 1  
Conduct Unbecoming – 1

### **Recommendations:**

- 1- That Officer Sierra receive a Record of Counseling for:
  - Refusing to allow the complainant to get a shirt or shoes before transporting him to jail.
  - Using an excessive amount of law enforcement resources to effect the arrest of an individual who could have been mailed a parking ticket or allowed to sign a Promise to Appear (PTA) due to the incident’s lack of severity and threat to public safety.
- 2- That MDPD emphasize judicious use of law enforcement resources and officer discretion in its training.
- 3- That the complaint be concluded.