

EXECUTIVE SUMMARY

To: Alan S. Johnson, Executive Director
From: Mark E. Bannon, Investigator
Re: C12-010 – Edward Mitchell, City Administrator, City of West Palm Beach

- **Background**

This matter came to the attention of the Commission on Ethics (COE) staff through a sworn complaint submitted by William McCray, a resident of the City of West Palm Beach and a law enforcement deputy sheriff employed by the Palm Beach County Sheriff's Office (PBSO). Complainant is also a former West Palm Beach police officer, who was terminated from employment several years ago, and who filed a wrongful termination lawsuit against the City that may currently be on appeal.

The Complaint lists West Palm Beach City Administrator Edward Mitchell as the Respondent. It alleges that Respondent used his official position as City Administrator to write a complaint letter on City letterhead to PBSO Sheriff Ric Bradshaw, concerning Complainant. The substance of this letter by Respondent was that on June 21, 2012, Complainant attended a hearing at the Palm Beach County Main Courthouse in a PBSO uniform. This hearing involved an employment discrimination case listing Rick M. Curtis as Plaintiff, and the City of West Palm Beach as Defendant, and McCray was not a witness for either party in this case, nor in an on-duty status at the time. Several City staff members reported that they felt this was an attempt to intimidate them at the hearing. City Attorney Claudia McKenna reported this to Respondent, who sent a letter on official City stationery outlining these actions to Sheriff Ric Bradshaw. The letter was then sent to PBSO Internal Affairs Division for review.

The basis of the Complaint by McCray is that by using his position as City Administrator and writing directly to the Sheriff on City letterhead, Respondent sought to, "compel or bully PBSO into terminating my employment, or at a minimum, cause suspensions, or pollute my personnel file with a frivolous complaint." McCray further states in his Complaint, "Ed Mitchell should have been required to go to Internal Affairs at PBSO and give a sworn statement like any other citizen would have had to do. This was an attempt to use the influence, and prestige of the City of West Palm Beach to influence the seriousness of the frivolous complaint."

- **Investigative information and analysis**

1. As the City Administrator and an employee of the City of West Palm Beach, Edward Mitchell is subject to the provisions of the Palm Beach County Code of Ethics (the Code), as of June 1, 2011, when the City came under the jurisdiction of the Commission on Ethics.
2. By his own admission, Complainant did attend a hearing involving the City for a discrimination action filed by a former employee, in which Complainant was not a witness or litigant, in full PBSO uniform, after having taken a vacation day from his employment with PBSO, and had no other business at the courthouse that day. He stated to Investigator Bannon that he had every right to attend a public hearing, and that PBSO policy states that deputies will attend hearings in either a suit, or in uniform. It should be noted that this PBSO policy addresses deputies appearing at such hearings as a witness.
3. The hearing involved the City of West Palm Beach and City staff, at least some of whom advised City Attorney Claudia McKenna at that hearing that they believed Complainant was attempting to intimidate them by attending the hearing in uniform.
4. Complainant is a former West Palm Beach police officer who was terminated from employment, and who filed an employment discrimination action against the City similar to that being addressed in this hearing.

5. The letter written by Respondent to Sheriff Bradshaw was on official West Palm Beach stationary, but did not request that any action be taken by PBSO against Complainant. It was a recitation of information presented to Respondent by the City Attorney who had attended this hearing. Respondent had no further contact or input into the PBSO review of this matter other than to discuss the letter with PBSO Sergeant Chris Soares who was assigned to investigate the issue.
6. Sergeant Chris Soares advised COE Investigator Bannon that Respondent did not at any time attempt to influence his investigation, and did not ask for or demand that PBSO take any action against Complainant, leaving it to PBSO to determine what if any action should be taken based on its own internal policies.
7. Sergeant Soares also verified that while a sworn complaint is preferred, a complaint that lists sufficient information to show a possible violation of PBSO policy will be investigated by PBSO, even if it is anonymous. There is no requirement that any PBSO complaint be made in person or under oath.
8. Because the hearing involved the City and City staff, Respondent was acting within his capacity as the City Administrator to advise the Sheriff that an employee of PBSO was present in a PBSO uniform for the possible purpose of intimidating City personnel at a court hearing involving employment discrimination matters.
9. Finally, no punitive action was taken against complainant as a result of Respondent's letter. He was given specific guidelines to follow to ensure that his actions involving the City of West Palm Beach did not create a nexus to his employment with PBSO.

- **Conclusion**

The Complaint fails to state an allegation of a violation of the Code of Ethics, within the personal knowledge of the Complainant. Staff inquiry has uncovered no additional evidence to support a violation and, therefore, the Complaint lacks LEGAL SUFFICIENCY and should be DISMISSED as LEGALLY INSUFFICIENT.



PALM BEACH COUNTY COMMISSION ON ETHICS

2633 Vista Parkway, West Palm Beach, Florida 33411

Hotline: 877-766-5920 or 561-233-0724

COMPLAINT FORM

1. Complainant (Person bringing Complaint) Add pages, if necessary.

Name: WILLIAM MCCRAY
Address: 3228 GUN CLUB RD
City: WEST PALM BEACH, FL Zip: 33406
Home #: 561-215-5589 Work #: Cell #: 561-215-5589

2. Respondent (Person against whom complaint is made) Add pages, if necessary.

Name: EDWARD MITCHELL
Address: 401 CLEMATIS ST
City: WEST PALM BEACH Zip: 33401
Home #: Work #: 561-822-1600 Cell #:
Title/Office Held or Sought: CITY ADMINISTRATOR FOR CITY OF WEST PALM BEACH

3. IF KNOWN, CHECK THE BOX OR BOXES THAT APPLY

☒ Allegation is against person in
County/Municipal Government

☒ Allegation is about County:
Whistleblower Retaliation

4. STATEMENT OF FACTS BASED ON YOUR PERSONAL KNOWLEDGE

In a separate attachment, please describe in detail the facts and actions that are the basis of your complaint, including the dates when the actions occurred. Also attach any relevant documents as well as names and contact information of persons who may be witnesses to the actions. If known, indicate the section of the ordinance you believe is being violated. For further instructions, see page 2 of this form.

5. OATH

I, the person bringing this complaint, do depose on oath or affirmation and say that the facts set forth in the foregoing complaint and attachments are true and correct, to the best of my knowledge and belief.

William McCray
Signature of Person Making Complaint

STATE OF FLORIDA

COUNTY OF Palm Beach

Sworn to (or affirmed) and subscribed before me this 5th day of September, 2012, by

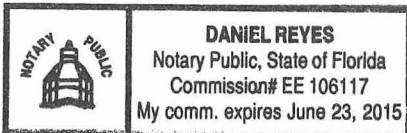
William Howard McCray

(Name of Person Making Statement)

who is personally known to me ☐ or produced identification ☒. Type of identification produced:

FL Drivers License

[Signature]
(Signature of Notary Public, State of Florida)



Daniel Reyes
(Print, Type, or Stamp Commissioned Name of Notary Public)

8/31/2012

Palm Beach County Commission on Ethics

To Whom It May Concern,

I would like to file a 1. Complaint against West Palm Beach City Administrator, Mr. Edward Mitchell. Edward Mitchell is the City Administrator for the City of West Palm Beach. He is responsible for daily operations in the city, and works in a hybrid form of government, sharing power as quasi CEO with City Mayor Geraldine Muoio. Ed Mitchell made a complaint against me being a sworn Sheriff Deputy. The complaint stated that I wore my PBSO uniform to a court hearing. Anyone can make a complaint against any PBSO Deputy for any reason.

2. The unethical violation is not the complaint. The complaint is the egregious abuse of his position to attempt to compel or bully PBSO into terminating my employment, or at a minimum, cause suspensions, or pollute my personnel file with a frivolous complaint.

3. The complaint was written on a City of West Palm Beach official letter head. This is unethical as well for the following reasons. The complaint was accepted by PBSO. Ed Mitchell should have been required to go to Internal Affairs at PBSO and give a sworn statement like any other private citizen would have had to. This was an attempt to use the influence, and prestige of the City of West Palm Beach to influence the seriousness of the frivolous complaint.

4. Ed Mitchell has been responsible for overseeing the second largest law enforcement agency in Palm Beach County. He has directly disciplined police officers, and knows intimately the procedures for filing a complaint against a Law Enforcement Officer. If this has been done to any other Law Enforcement Officer, the city should be able to provide the documentation. If it was not egregious enough that the complaint was filed on an official City Letterhead, Ed Mitchell was not at the site of the alleged violation. Any city employee who was there, including his Deputy Administrator, Dorritt Miller and the City's

2

Chief legal Counsel, Claudia McKenna could have, like any citizen, gone onto the PBSO website, made an IA complaint, or gone into PBSO and been interviewed by Internal Affairs like any other citizen. They should not use their positions, as city employees to have greater access to making official complaints, and or being interviewed via telephone. These abuses have become common for the City of West Palm's Administrators office.

5. The Mayor of West Palm Beach now has an opportunity to enforce some form of discipline on Ed Mitchell for conduct unbecoming of a city employee. This will not happen, and it is my hope that you will find cause, and remedy this conduct from the City of West Palm Beach.

6. This is also a violation of Title 7 Discrimination Federal Statue. The city was found guilty of discrimination and retaliation under Title 7. By Ed Mitchell using official letter head, city time and city resources to send this letter, this is further discrimination and retaliation under Title 7 US Code. Thank You.)

William McCray

West Palm Beach, Fl. 561-215-5589

*The
City
of
West Palm Beach*



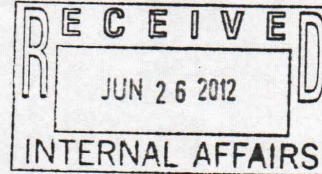
INTERNAL AFFAIRS

HA 12.045
Ed Mitchell
City Administrator
P.O. Box 3366
401 Clematis Street (33401)
West Palm Beach, FL 33402
Telephone: 561-822-1400
Fax: 561-822-1424
e-mail: emitchell@wpb.org

"The Capital City of the Palm Beaches"

June 26, 2012

Palm Beach County Sheriff's Office
Chief Ric Bradshaw
3228 Gun Club Road
West Palm Beach, FL 33406



Re: Deputy William McCray

Dear Chief Bradshaw:

It has been reported to me by City employees that on Thursday, June 21, 2012, Deputy McCray attended a hearing at Courtroom 10D, Palm Beach County Courthouse in the matter styled: Rick M. Curtis, Plaintiff, v. City of West Palm Beach, Defendant, Case No. 50 2011 CA 017027 XXXX MBAO. The Honorable Catherine Brunson was the presiding judge. Deputy McCray was not a witness in the hearing.

I am bringing this to your attention because Deputy McCray was observed in his sheriff's office uniform as opposed to plain clothes. Deputy McCray was observed in his uniform at approximately 12:40 outside Courtroom 10D. He was observed in the courtroom during the hearing which lasted from 1:00 p.m. until 4:00 p.m.

The City employees who attended the hearing are:

Dorritt Miller, Deputy City Administrator
Claudia McKenna, City Attorney
Zoë Panarites, Assistant City Attorney
Kimberly Rothenberg, Assistant City Attorney
Al Leal, MIS Technical Support

The persons who were also in the courtroom who were known to the City employees to know and be able to confirm Deputy McCray's presence are:

Rick M. Curtis
Isidro Garcia, Esquire
Paul McCollough
Robbie Littles
Leonard Corrigan

COPY

**PALM BEACH COUNTY
SHERIFF'S OFFICE**

RIC L. BRADSHAW, SHERIFF



INTER-OFFICE MEMORANDUM

Division of Internal Affairs

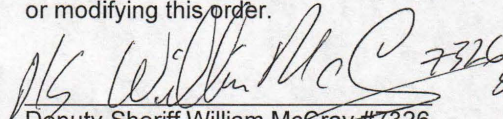
TO: Deputy Sheriff William McCray #7326 DATE: August 10, 2012
FROM: Sergeant Chris Soares FILE:
SUBJECT: Written Order


This memorandum is to serve as a direct order to you from the Division of Internal Affairs:

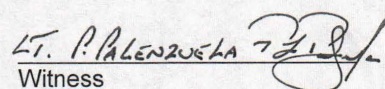
Effective immediately, if you are conducting personal business related to the City of West Palm Beach or any other political matter, not related to PBSO business, the following will be adhered to:


- You will not conduct these activities while on duty
- You will not wear any PBSO uniform or identification while involved in this activity
- You will not identify yourself as an employee of the Palm Beach County Sheriff's Office while involved in this activity
- You are not permitted to use any PBSO vehicle to and from this activity
- You are not to create a nexus to your employment with the Palm Beach County Sheriff's Office with respect of these activities.

This order will remain in effect until such time you receive written notification rescinding or modifying this order.


Deputy Sheriff William McCray #7326


Sergeant Chris Soares #4620


Witness

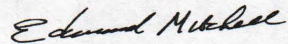

Captain Mark Alexander #4723

COPY

Palm Beach County Sheriff's Office
Sheriff Ric Bradshaw
June 26, 2012
Page 2

If you need any further information regarding Deputy McCray's attendance at this hearing, please let me know.

Sincerely,



Ed Mitchell
City Administrator

C: Dorritt Miller, Deputy City Administrator
Claudia McKenna, City Attorney
Zoë Panarites, Assistant City Attorney
Kimberly Rothenberg, Assistant City Attorney
Al Leal, MIS Technical Support

COPY

"An Equal Opportunity Employer"

Entered By:
 Initials ID#

PALM BEACH COUNTY COMMISSION ON ETHICS
MEMORANDUM OF INQUIRY

To: Alan S. Johnson, Executive Director
From: Mark E. Bannon, Investigator
Re: C12-010 – Edward Mitchell, City Administrator, City of West Palm Beach

- **Background**

This matter came to the attention of the Commission on Ethics (COE) staff through a sworn complaint submitted by William McCray, who lists his address as 3228 Gun Club Road, West Palm Beach, FL 33406. It should be noted that this address is the Headquarters of the Palm Beach County Sheriff's Office (PBSO). Complainant is currently employed as a law enforcement deputy sheriff with PBSO and was formerly a West Palm Beach Police Officer. The Complaint form itself was dated September 5, 2012 and was properly notarized. As a separate attachment, and prior to hand delivering his sworn complaint form to COE staff on September 5, 2012, Complainant had submitted a letter to COE staff dated August 31, 2012. This letter was signed by the Complainant, and is attached to this Complaint Form, as it describes the facts and circumstances that form the basis of this sworn complaint.

The Complaint lists West Palm Beach City Administrator Edward Mitchell as the Respondent. It alleges that Respondent used his official position as City Administrator to write a complaint letter on City letterhead to PBSO Sheriff Ric Bradshaw, concerning Complainant. The substance of this letter by Mitchell was that on June 21, 2012, Deputy McCray attended a hearing at the Palm Beach County Main Courthouse in a PBSO uniform. This hearing involved an employment discrimination case listing Rick M. Curtis as Plaintiff, and the City of West Palm Beach as Defendant, and stated that McCray was not a witness for either party in this case. The basis of the complaint by McCray is that by using his position as City Administrator and writing directly to the Sheriff on City letterhead, Respondent sought to, "compel or bully PBSO into terminating my employment, or at a minimum, cause suspensions, or pollute my personnel file with a frivolous complaint." McCray further states in his Complaint, "Ed Mitchell should have been required to go to Internal Affairs at PBSO and give a sworn statement like any other citizen would have had to do. This was an attempt to use the influence, and prestige of the City of West Palm Beach to influence the seriousness of the frivolous complaint."

I met briefly with McCray at the COE office on September 5, 2012. He provided me with the original sworn Complaint Form, a copy of the June 26, 2012 letter from Respondent Edward Mitchell to Sheriff Ric Bradshaw, a memorandum dated August 10, 2012 to McCray from PBSO Internal Affairs Sergeant Chris Sores, regarding the PBSO complaint from Mitchell and a written order to McCray reference conducting of personal business related to the City of West Palm Beach or any other political matter not related to PBSO business, and a copy of a PBSO leave request form, showing that McCray had taken a vacation day on June 21, 2012, the day he was alleged to have been at the court hearing in uniform.

- **Documents submitted to File**

1. Original sworn Complaint Form signed by William McCray and properly notarized on September 5, 2012. (1 page)
2. Original letter from William McCray to COE dated 8/31/2012, and signed by William McCray listing the basis of his complaint against WPB City Administrator Edward Mitchell. (2 pages)
3. Copy of letter dated June 26, 2012, from City Administrator Edward Mitchell to PBC Sheriff Ric Bradshaw, advising that Complainant had attended a June 21, 2012 hearing at the Courthouse in uniform, and that he was not a witness in the proceedings that involved the City of West Palm Beach. (1 page)
4. Copy of PBSO Memorandum dated August 10, 2012, from Sergeant Chris Soares to Deputy William McCray, with a second memorandum attached listing the terms of "written order". (3 pages)
5. Copy of PBSO leave request form showing that McCray had requested a vacation day for June 21, 2012, and indicating by supervisor signature that this request had been approved. (1 page)
6. Copy of PBSO interoffice memorandum from Sergeant Chris Sores, IAD, reference his Incident Review, with attached written order to D/S William McCray. (3 pages)

7. Copy of PBSO Memorandum, dated January 31, 2011, from Captain C. Calloway to D/S William McCray regarding a written order about use of his assigned PBSO vehicle. (1 page)

- **Inquiry**

After reviewing the information submitted by Complainant, I went to PBSO Headquarters to obtain information from the Internal Affairs Division (IAD). Since IAD had completed their investigation into this matter, I was able to obtain a copy of the finished report by PBSO Sergeant Chris Soares, which was in the form of an Inter-Office Memorandum from Sergeant Soares to Captain Mark Alexander. The Memorandum by Sergeant Soares stated that on July 2, 2012, IAD received a letter addressed to Sheriff Bradshaw from WPB City Administrator Ed Mitchell. This letter indicated that several City staff members, including City Attorney Claudia McKenna, attended a hearing at the PBC Main Courthouse involving the City. The letter pointed out that McCray was not a witness at this hearing, and that he attended the hearing in PBSO uniform. Some other PBSO internal policy issues were also discussed in the Memorandum, which are not relevant to this Inquiry. The Memorandum did state that after the initial review, Sheriff Bradshaw determined that in lieu of conducting an Administrative Investigation, Deputy McCray was to receive a written order that he not create a "nexus" to his employment with PBSO regarding personal matters. On August 10, 2012, Sergeant Soares met with Deputy McCray and IAD Lieutenant Pete Palenzuela, at which time a written order in the form of a memorandum was given to Deputy McCray. The order itself was also attached to this report, and listed the following "terms" of the written order:

"Effective Immediately, if you are conducting personal business related to the City of West Palm Beach or any other political matter, not related to PBSO business, the following will be adhered to:

1. You will not conduct these activities while on duty.
2. You will not wear any PBSO uniform or identification while involved in this activity.
3. You will not identify yourself as an employee of the Palm Beach County Sheriff's Office while involved in this activity.
4. You are not permitted to use any PBSO vehicle to and from this activity.
5. You are not to create a nexus to your employment with the Palm Beach County Sheriff's office with respect to any of these activities.

After reviewing this information, I was able to speak with Sergeant Soares via telephone. I asked Soares if he had an opportunity to speak with Mitchell about the letter. He stated that he had spoken with him by telephone. I then asked Soares if Mitchell made any mention of any action he was looking for PBSO to take concerning McCray. Soares replied that Mitchell did not, but simply related the information already listed in his letter. I asked Soares if it was the policy of PBSO to investigate a complaint that was not sworn. He replied that where possible, they prefer a sworn complaint. However, the policy requires that regardless of how a complaint is received, if it appears to point to a policy or other type of violation against a PBSO employee, and provides sufficient information to conduct an investigation, IAD must look into the circumstances surrounding the complaint. Based on this discussion with Sergeant Soares, the letter written to PBSO by Respondent would have been reviewed, regardless of whether it was on city stationary, or had the information been received on personal stationary or from an anonymous source.

I made telephone contact with WPB City Attorney Claudia McKenna to discuss the courtroom incident that lead to the complaint being filed with PBSO against McCray. McKenna gave me some historical background about the issues that have involved McCray and the City of West Palm Beach over the past several years. McKenna stated that McCray had been a WPB Police Officer, but had been terminated several years ago. This termination led to an arbitration hearing where the arbiter sided with the City, and upheld the termination. He was later hired by PBSO when Edward Bieluch was Sheriff. After the arbitration hearing, McCray filed suit against the City for wrongful termination, but lost in that action. He filed an appeal with Florida's 4th DCA, and the termination was upheld. She believes he is currently trying to have the Florida Supreme Court hear the case.

McKenna told me that for the past several years, McCray has attended most if not all of the City Commission meetings. Some time ago, someone noticed that while in attendance at one such meeting in "civilian" attire, McCray was armed. Because of what McKenna described as an often confrontational demeanor by McCray at these meetings, several commissioners became concerned at McCray being armed while attending City Commission meetings. Mayor Lois Frankel, or City Administrator Mitchell, contacted PBSO to complain about

McCray being armed at these meetings. At this point in time, Ric Bradshaw was Sheriff, and was aware of the issues between McCray and the City because he had been the Chief of Police in WPB. McKenna claims that McCray was told by a superior at PBSO that while attending City Commission meetings, or conducting other business at the City, he was not to be armed, not to be in uniform, and not to allow for any action that would indicate that he was a PBSO employee, and that none of his actions in such matters were to have any link to his employment as a deputy sheriff. She was not sure whether this particular order had been given in writing, but she was told that it had been given from PBSO to McCray.

McKenna advised that when she observed McCray at the June 21st hearing, she believed he was violating this order. She knew he was not a party to the litigation, and that he was not listed as a witness. But, she could see that he was clearly dressed in a PBSO uniform, although she could not tell if he was armed. She also pointed out that while sitting in the courtroom, McCray fell asleep and was heard to snore by her and several other City employees. She reported this entire incident to Respondent. She states that prior to writing a letter to the Sheriff about this incident, Respondent spoke with Major Robert Van Reeth at PBSO to ascertain whether McCray was on duty, and if not, whether the wearing of a uniform at a hearing where he was not on duty, a witness, or a party to the litigation was allowed. After speaking with PBSO, Respondent sent the letter advising the Sheriff of what had been observed at the hearing.

After speaking with McKenna, I re-contacted PBSO Sergeant Chris Soares at Internal Affairs, to find out if his records indicate that any written order as described by McKenna had been given to McCray. Sergeant Soares was able to locate in the Internal Affairs database, a written order from PBSO Captain Chris Calloway to McCray that indicated that he was not to drive his departmental vehicle to and from City Commission meetings he attended as a private citizen. Soares also provided me with a copy of this document, dated January 31, 2011, in which Captain Calloway refers to McCray's "reported conduct at recent City of West Palm Beach Commission meetings." He does not give any examples of this conduct, and only addresses the use of his assigned PBSO vehicle to travel to such meetings. A copy of this memorandum is submitted to the file.

While it is possible that a verbal order may have been given to McCray by a supervisor addressing other issues with McCray and West Palm Beach, (as McKenna believed), Sergeant Soares was unable to locate any reference to such an order within PBSO Internal Affairs database.

- **Legal Analysis**

The following portions of the PBC Commission on Ethics ordinance are relevant to this Inquiry:

Section 2-254. Creation and jurisdiction.

The Palm Beach County Commission on Ethics (hereinafter "commission on ethics") is hereby established. The jurisdiction of the commission on ethics shall extend to *any person required to comply with the countywide code of ethics*, the county lobbyist registration ordinance, and the county post-employment ordinance... (Emphasis added)

Section 2-442. Definitions.

Official or employee means any official or *employee of the county or the municipalities located within the county*, whether paid or unpaid. (Emphasis added)

As the City Administrator for the City of West Palm Beach, Edward Respondent is subject to the provisions of the PBC Code of Ethics, as of June 1, 2011, when the City of West Palm Beach came under the jurisdiction of the PBC Commission on Ethics.

The following sections of the Palm Beach County Code of Ethics are relevant to this inquiry.

Section 2-443. Prohibited Conduct.

Section 2-443(a), *Misuse of public office or employment*, states in relevant portion:

An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members

of the general public, for any persons or entities listed in subsection 1-7, including: (1) himself; (2) his spouse, domestic partner, or household member; (3) a close family relative; (4) an outside employer or business of his, his spouse, or his domestic partner; (5) a customer or client of him or his outside employer or business; (6) a substantial debtor or creditor of his, his spouse, or domestic partner; or, (7) any civic group, union, or social, charitable or religious group or other not for profit organization of which he or his spouse or domestic partner is an officer or director.

There was no allegation made by the Complainant, nor evidence uncovered during this inquiry, that would indicate any financial benefit was received by Respondent or any of the persons or entities listed in Section 2-443(a)(1-7) as a result of his sending a letter of complaint to PBSO regarding the alleged actions of Complainant.

Section 2-443(b) *Corrupt misuse of official position*, states:


An official or employee shall not use his or her official position or office, or any property or resource which may be within his or her trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or others. For the purposes of this subsection, "*corruptly*" means *done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties.* (Emphasis added)

Complainant alleges that Respondent improperly used his official position to make a complaint against him as a deputy sheriff, by making the complaint to PBSO on City of West Palm Beach official stationery, and by using his title as the City Administrator on his complaint letter to PBSO. This allegation is borne out by the documentary evidence supplied by Complainant in the form of a copy of the complaint letter sent to PBSO.

However, under Section 2-443(b), of the Code of Ethics, the action taken by an employee or official must be taken to "corruptly secure a special privilege, benefit or exemption for himself, herself, or others," and that such action to be considered corrupt must be, "done with wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties." In my discussion with PBSO Sergeant Chris Soares, he stated that he had personal contact with Respondent during his investigation of the issues brought out in the letter from Respondent to PBSO, and aside from discussing the specific allegations themselves, at no time did the Respondent use his official position to attempt to improperly influence any determination or finding that Complainant McCray had violated PBSO policy, or request that Complainant be punished in any manner.

The basis of the complaint letter sent by Respondent to PBSO was that the hearing attended by Complainant did involve the City of West Palm Beach, and Complainant was not a witness or a litigant in this proceeding, yet appeared dressed in his PBSO uniform, and while so dressed, had allegedly fallen asleep in the courtroom. The letter to PBSO itself was a recitation of facts as relayed to Respondent from employees who did attend the hearing on behalf of the City, including City Attorney Claudia McKenna, and based upon previous encounters with McCray did believe that his appearance was meant to intimidate WPB employees. At no time did Respondent ask that McCray be punished for these actions. Based on the PBSO response as outlined earlier, no punitive actions were carried out against McCray due to this incident, although he was given specific orders to guide his future behavior when dealing with West Palm Beach, which involved a prohibition against allowing his actions as a resident of the City to create any nexus to his status as a deputy sheriff with PBSO.

Submitted by:


Mark E. Bannon, Investigator
PB County Commission on Ethics


Date

Reviewed by:


(Initials)


Date

PALM BEACH COUNTY COMMISSION ON ETHICS

**MEMORANDUM OF NO LEGAL SUFFICIENCY AND
RECOMMENDATION OF DISMISSAL**

To: Palm Beach County Commission on Ethics
From: Alan S. Johnson, Executive Director
Re: C12-010 – Edward Mitchell, City Administrator, City of West Palm Beach

- **Recommendation**

Regarding the Complaint against Respondent, Edward Mitchell, City of West Palm Beach Administrator, the Executive Director has found **NO LEGAL SUFFICIENCY** in complaint number C12-010 and recommends **DISMISSAL** pursuant to Art. V, §2-260(b) and Rule of Procedure 4.2.

Legal sufficiency exists where there is an allegation containing the elements of a violation of an ordinance within the jurisdiction of the Ethics Commission, purportedly committed by an individual within the authority of the Ethics Commission, based substantially on the personal knowledge of the Complainant, relating to an alleged violation occurring after the effective date of the code, and filed with the Ethics Commission within two years of the alleged violation.

- **Background**

This matter came to the attention of the Commission on Ethics (COE) staff through a sworn complaint submitted by William McCray, who lists his address as 3228 Gun Club Road, West Palm Beach, FL 33406. It should be noted that this address is the Headquarters of the Palm Beach County Sheriff's Office (PBSO). Complainant is currently employed as a law enforcement deputy sheriff with PBSO and was formerly a West Palm Beach Police Officer. The Complaint form itself was dated September 5, 2012 and was properly notarized. As a separate attachment, and prior to hand delivering his sworn complaint form to COE staff on September 5, 2012, Complainant had submitted a letter to COE staff dated August 31, 2012. This letter was signed by the Complainant, and is attached to this Complaint Form, as it describes the facts and circumstances that form the basis of this sworn complaint.

The Complaint lists West Palm Beach City Administrator Edward Mitchell as the Respondent. It alleges that Respondent used his official position as City Administrator to write a complaint letter on City letterhead to PBSO Sheriff Ric Bradshaw, concerning Complainant. The substance of this letter by Mitchell was that on June 21, 2012, Deputy McCray attended a hearing at the Palm Beach County Main Courthouse in a PBSO uniform. This hearing involved an employment discrimination case listing Rick M. Curtis as Plaintiff, and the City of West Palm Beach as Defendant, and stated that McCray was not a witness for either party in this case. The basis of the complaint by McCray is that by using his position as City Administrator and writing directly to the Sheriff on City letterhead, Respondent sought to, "compel or bully PBSO into terminating my employment, or at a minimum, cause suspensions, or pollute my personnel file with a frivolous complaint." McCray further states in his Complaint, "Ed Mitchell should have been required to go to Internal Affairs at PBSO and give a sworn statement like any other citizen would have had to do. This was an attempt to use the influence, and prestige of the City of West Palm Beach to influence the seriousness of the frivolous complaint."

Pursuant to COE Rule of Procedure 4.1.3, a limited inquiry was conducted. COE Investigator Mark Bannon obtained documentation from the Palm Beach County Sheriff's Office (PBSO) as well as statements from Internal Affairs Investigators and the City Attorney. The Attorney's concerns were based upon prior instances of Complainant allegedly appearing at employment discrimination and other City matters in uniform or armed. Other than generally referring this matter to PBSO at the request of the City Attorney, Respondent had no further contact or input into the PBSO review of this matter.

- Analysis

As a City of West Palm Beach City Manager, Respondent is subject to the provisions of the Palm Beach County Code of Ethics (the Code), as of June 1, 2011, when the Village came under the jurisdiction of the COE.

The following sections of the Palm Beach County Code of Ethics are relevant to this inquiry.

Section 2-443(a), *Misuse of public office or employment* prohibits Respondent, a public employee, from using his official position or office, in a manner which he knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public for specified individuals and entities, including the Respondent himself.

There is no evidence or allegation that the actions of Respondent would result in a financial benefit to anyone.

Section 2-443(b) *Corrupt misuse of official position* states as follows:

An official or employee shall not use his or her official position or office, or any property or resource which may be within his or her trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or others. For the purposes of this subsection, "*corruptly*" means *done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties.* (Emphasis added)

There was no evidence presented by Complainant or found during this inquiry to indicate Respondent acted corruptly. The fact that he used official letterhead to notify PBSO of Complainant's actions does not alter the fact that he was acting in his official capacity in response to staff concerns that the Complainant was present in a PBSO uniform for the purpose of intimidating City personnel at a court hearing involving employment discrimination matters. Respondent referred this information to PBSO without demanding official action or otherwise attempting to influence the internal process at PBSO. These actions were not inconsistent with the proper performance of Respondent's public duties. Whatever action PBSO was to take or not take in this matter was entirely dependent on its own internal policies and procedures.

- Conclusion

Based on the fact that the allegations provided in the Complaint, even if true, do not allege a violation of any provision of the Palm Beach County Code of Ethics, and the COE Inquiry did not find any evidence of such a violation, there is **NO LEGAL SUFFICIENCY** to open a formal investigation into this matter.

It is the recommendation of staff that this **COMPLAINT** be **DISMISSED** based upon a finding of **NO LEGAL SUFFICIENCY**.

BY:



Alan S. Johnson, Executive Director
Florida bar #223352
Commission on Ethics

Date

10/05/2012
Nunc PRO TUNC
09/25/2012



Palm Beach County Commission on Ethics

Commissioners

Manuel Farach, *Chair*
Robin N. Fiore, *Vice Chair*
Ronald E. Harbison
Daniel T. Galo
Patricia L. Archer

Executive Director

Alan S. Johnson

In Re: Edward Mitchell
City of West Palm Beach

C12-010

PUBLIC REPORT AND FINAL ORDER OF DISMISSAL

COMPLAINANT, William McCray, filed a **COMPLAINT** on September 5, 2012 alleging a possible ethics violation involving **RESPONDENT**, Edward Mitchell, West Palm Beach City Administrator.

The **COMPLAINT** alleges **RESPONDENT** corruptly misused his official position by sending an unsworn complaint to **COMPLAINANT'S** employer, Palm Beach County Sheriff's Office (PBSO), using official City letterhead and his official title.

On September 25, 2012, after reviewing the **COMPLAINT**, supporting affidavit and memorandum of inquiry, the **COMPLAINT** was determined by staff to be **LEGALLY INSUFFICIENT**, and presented to the Commission on Ethics on October 4, 2012 with a recommendation of dismissal as **LEGALLY INSUFFICIENT**.

The Commission on Ethics reviewed the **COMPLAINT** and memorandum of inquiry and determined that there is no allegation by **COMPLAINANT**, or information known or uncovered by staff inquiry to indicate that **RESPONDENT** acted in his official position in violation of the Code of Ethics.

Therefore, the Commission has determined that the actions taken by the **RESPONDENT**, Edward Mitchell, do not constitute a violation of the Code of Ethics and **DISMISSED** the **COMPLAINT** on October 4, 2012, due to **NO LEGAL SUFFICIENCY**.

Therefore it is:

ORDERED AND ADJUDGED THAT the **COMPLAINT** against **RESPONDENT**, Edward Mitchell, is hereby **DISMISSED**.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on October 4, 2012.

Palm Beach County Commission on Ethics

By: 

Manuel Farach, Chair

10/10/12

To Governor Rick Scott, Attorney General Pam Bondi, County Commissioner's Steve Abrams, Priscilla Taylor, Shelley Vana, Jess Santamaria, Burt Aaronson, Karen Marcus, Paulette Burdick, State Ethics Commission Chair, Susan Horovitz Maurer, PBC Executive Director, Alan S. Johnson, PBC Ethic's Commissioners, Manuel Farach, Robin N. Fiore, Ronald Harbison, Daniel T. Galo, Patricia L. Archer.

I, William McCray made an ethics complaint against City Administrator Edward Mitchell on August 31, 2012. The investigation was assigned to Mark E Bannon. Bannon's investigation was one of the most biased egregious one-sided investigations that myself and others who have read this incompetent and complete report, has ever seen. The investigation was so biased in favor of Edward Mitchell that it would almost appear that Mr. Bannon was legal counsel, employed by Edward Mitchell, working for him in the City of West Palm Beach.

Kimberly Mitchell, a commissioner for the City of West Palm Beach who clearly committed an ethics violation was cleared by this ethics board. Now another person who works for the city of West Palm Beach, with the last name Mitchell, has been cleared as well by this ethics board. Clearing Edward Mitchell is one thing but to turn the entire report around and impugn the person who made the complaint makes it appear that this was an investigation on the complainant, which is unconscionable. Let me explain the reasons so that you can understand the gravity of the gross negligence of this now public record produced by your investigator, Mr. Bannon.

Executive Summery Portion of investigation.

#1. Mr. Bannon said that I took a vacation day from my employment and went to court in full uniform, and that city employees felt intimidated. All of these so called intimidated employees names should have been listed and each one should have been interviewed by Mr. Bannon for veracity and truthfulness of their stories. It is important to note that Mr. Bannon knew I worked a half a day

and immediately went to view the court proceeding before the conclusion upon leaving work. He implied that I took off the whole day and put on a PBSO uniform, just to go to court and intimidate WPB employees which is blatantly misleading. Mr. Bannon knew I had no idea that any of the city employees would be at the proceeding. Most of the employees were not witnesses and did not testify or participate in this trial.

#4. My status as a terminated West Palm Beach Police Officer who filed an employment discrimination action against the city, similar to that being addressed in the hearing has no relevance to this complaint made by me against West Palm Beach City Administrator, Edward Mitchell.

#6. Mr. Bannon advises that. Internal affairs Sgt. Soares advised him that respondent did not ask for or demand PBSO take action against Deputy Sheriff McCray. That makes no sense at all because this was the expectation from the complaint on the city letterhead.

#7. I.A. Sgt. Soares also verified that a sworn statement is preferred when making a complaint against a PBSO Deputy Sheriff to Bannon.

#8. I could not have known before getting in the court room that city employees, outside of an Attorney, were even at this hearing. If I see a city employee while working and I have seen City Attorney, Douglas Yeargin more than once at a Chick-fil-A on Okeechobee Boulevard, near the turnpike, in PBSO jurisdiction. I have also seen many other city employees while working in an official capacity. Should I run to my patrol car next time as to not intimidate them? If city employees are afraid of a uniformed law-enforcement officer, maybe they should be afraid of their officers who have been arrested for vandalizing cars and other officers who were caught on video beating a handcuffed prisoner and both groups are still employed by the city as police officers.

When the entire West Palm Beach Police Department's Motor Division, showed up in full uniform, for a trial involving the death of a fine officer, did Edward Mitchell make a complaint of intimidation to the chief of police, his subordinate, about witness intimidation?

Memorandum of Inquiry

Bannon advised he made contact with City Attorney Claudia McKenna via phone. He writes, she gave him some historical background about issues that involve McCray and the City of West Palm Beach of the past several years. McKenna states that on June 21st, she saw McCray in the court room in uniform and did not know if he was armed or not. If she would have been wearing her glasses she would have clearly seen, McCray was unarmed. If Bannon would have checked the PBSO sign in log, he could have answered this irrelevant question.

This has absolutely zero relevance to McCray's complaint. McKenna states that prior to writing the letter to Sheriff Bradshaw, respondent (unknown who) spoke to Maj. Robert Van Reeth of PBSO to ascertain whether McCray was on duty and if wearing his uniform and not being a witness was a violation of PBSO policy? She never mentions intimidation which clearly shows this is a fishing expedition with a senior PBSO staff member for a police violation.

This is a complete violation of police officers Bill of Rights because any conversation with Major Van Reeth should have been recorded via tape or transcription and provided to Deputy McCray as material provided by internal affairs. Bannon should have also interviewed Maj. Robert Van Reeth to find out what was discussed between him and the unknown respondent. Bannon writes about McCrays termination and an arbitrator who sided with the city, and upheld the termination.

Bannon then says I filed a suit against the city for wrongful termination and lost. This is a complete lie and he wrote this libel statement from a phone conversation? McCray's lawsuit was filed in 2000 and McCray was terminated one year later in 2001, which clearly shows retaliation from the city. Bannon could have easily asked for records from McKenna or McCray to disprove her lies. Bannon did not say that an all-white jury awarded me \$230,000 in this trial, he says I lost. Bannon then says McCray filed an appeal with the fourth District Court of Appeal, which is another outright lie in this public record. The truth is, the City of West Palm Beach was upset that they lost the case and filed an appeal with the Fourth DCA, and

McCray was forced by this action to file a cross appeal after their initial appeal. Bannon then writes that McCray has attended most, if not all of the city commission meetings since this action. He then talks of a confrontational demeanor by McCray at these meetings, according to Claudia McKenna. When did McKenna become an expert qualified to determine confrontational demeanor or any type of human behavior? Bannon then talks about Rick Bradshaw being aware of these issues between McCray and the city of West Palm Beach, but Issues he talks about are when Rick Bradshaw was no longer the chief of police for the city of West Palm Beach. Bannon says he knows what Rick Bradshaw knew but never once does he say he spoke with Rick Bradshaw via phone or face-to-face.

This is obviously pure speculation and innuendo. I hope any future investigations by Bannon, are scrutinized when he uses someone else's name as to what they know. McKenna claims McCray was told by a supervisor at PBSO (A MYSTERIOUS PHANTOM) that he was not supposed to be armed or indicate he was a PBSO employee and he would get a sworn statement from that person. Bannon should have gotten a sworn statement from that person. McKenna further went on to say that she was not sure this particular order had been given in writing but she was told it had been given to McCray from PBSO. McKenna was not sure because she knew this to be a particular lie, and another violation of McCrays Officers Bill of Rights, not to have documentation as to who told her this, when and for McCray to have the documentation of this alleged conversation.

The biggest question for anyone reading this is what does any of this have to do with it Ed Mitchell violating ethics like he did in McCrays complaint? Bannon, after speaking with McKenna, re-contacted PBSO Sgt Soares at internal affairs and he was unable to find proof of any of Mckennas wild allegations (LIES) in this once again, public report. Bannon never re-contacted McCray for input of the ridiculous biased accusations nor did he contact people whose names Mckenna threw under the bus. Bannon then talks about me falling asleep in the court room, reported by McKenna and apparently witnessed by several city employees (PHANTOMS) who Bannon never interviewed, for this once again public document.

This was never part of Mr. Mitchell's complaint to PBSO about me. It had no place being incorporated in this biased report by Bannon. Bannon had McCrays address, phone number, email, and never sent McCray a copy of, nor even let him know that this so-called investigation was complete.

Memorandum of Legal Sufficiency and Recommendation of Dismissal Background:

Bannon advises the city attorney's concerns were based upon prior instances of the complainant allegedly appearing at employment discrimination and other city matters in uniform or armed. He gives no dates or times of the allegations made by the unnamed person in this portion of his investigation other than city attorney. Bannon is a former PBSO Lt and internal affairs investigator, and knows the PBSO policy for Deputy Sheriffs to be armed at almost all times, and the City of West Palm Beach not being an exception for not being armed. Maybe the city of West Palm Beach wanted me to be unarmed because they are experts in human behavior, or maybe because my race is black. Bannon should have asked McKenna why, as any good investigator would have, if it was relevant to my complaint, which it was not.

Bannon most importantly fails to mention The City of West Palm Beach wishes or ordinances does not supersede state and federal laws for the carrying of firearms by sworn law enforcement officers.

MR. BANNON IS A SEASONED FORMER LAW-ENFORCEMENT INTERNAL AFFAIRS INVESTIGATOR AND CLEARLY KNOWS HOW TO WRITE FACT ~~OR~~ FICTION DEPENDING ON WHICH RENDITION HE WANTS TO USE TO SKEW THE INVESTIGATION. I WOULD HATE TO FIND TAXPAYERS OF WEST PALM BEACH ARE BELIEVING THE PALM BEACH COUNTY ETHICS BOARD IS A CLANDESTINE ORGANIZATION DESIGNED TO GIVE COVER AND FACILITATE FURTHER CORRUPTION COMMITTED BY OFFICIALS IN PALM BEACH COUNTY AND CONTINUE TO GIVE PERCEIVED PASSES.

IT APPEARS MR. BANNON CLEARLY CANNOT SEPARATE HIS

PAST EMPLOYMENT WITH PBSO AND DO AN UNBIASED REPORT WITHOUT COMPROMISING HIS PERSONAL FEELINGS AND DO AN IMPARTIAL INVESTIGATION INVOLVING A FORMER LAW-ENFORCEMENT OFFICER OR CURRENT LAW-ENFORCEMENT OFFICER. IN THE FUTURE HE SHOULD BE RECUSED FROM PERFORMING ANY INVESTIGATIONS INVOLVING ANY FORM OR TYPE OF LAW-ENFORCEMENT AGENCY OR EMPLOYEE.

I WOULD HOPE THAT THE PALM BEACH COUNTY ETHICS BOARD WOULD HAVE ENOUGH ETHICS IN THE FUTURE TO ENSURE AN INVESTIGATOR LIKE BANNON, WHO KNOWS BETTER OR SHOULD have KNOWN BETTER, NOT WRITE SUCH A COMPLETELY BIASED REPORT WITH SO MUCH VITRIOL AGAINST THE PERSON WHO MADE THE COMPLAINT EVER AGAIN. A BAR COMPLAINT SHOULD BE FILED AGAINST MR. BANNON FOR SUCH A BIASED ONE-SIDED INVESTIGATION AGAINST THE COMPLAINANT. IF HE WOULD CONDUCT SUCH INVESTIGATION AGAINST A TAXPAYER, HEAVEN HELP A POTENTIAL CLIENT RETAINING HIM FOR ATTORNEY SERVICES. OBVIOUSLY, MR. BANNON PROBABLY FEELS THAT THERE IS NO OVERSIGHT OF THE ETHICS BOARD TO WRITE SUCH A GROSSLY UNFAIR INVESTIGATION.

This analysis of Bannon's report is not due to anger of Edward Mitchell's clearance of an ethics violation but of the unashamed, unmitigated attempt to try to exonerate Ed Mitchell and the City of West Palm Beach from further corruption that everyone knows the city has been committing on a consistent basis, as have been reported by the Palm beach Post and other media sources, in an attempt to paint me as a villain. The report should have made an attempt to say if Edward Mitchell was guilty of ethics violations or not and not give an over decades biased view of WPB Litigation against McCray.

The integrity and credibility of the Ethics Commission is now compromised due to the fact that any citizen, in Palm Beach County, will now know that If a complaint is made against a public official, the Palm Beach County Ethics Commission, instead of conducting an impartial investigation, will make a personal, liable attack on the

complainant instead of doing an impartial investigation. Some of Mr. Bannon's Final Orders on filed complaints, contain less investigatory comments where fault "was" found than in his Final order on the complaint he investigated for me where "no" fault was found on Ed Mitchell! The demonization of taxpaying citizens of West Palm Beach, attempting to expose corruption, must not be tolerated.

My complaint against Edward Mitchell and Mr. Bannon's investigation can be viewed at www.palmbeachcountyethics.com Select "complaints"

*The
City
of
West Palm Beach*



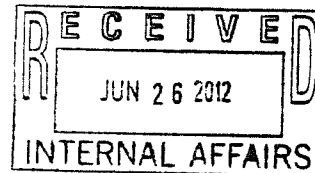
INTERNAL AFFAIRS

1A 12.045
Ed Mitchell
City Administrator
P.O. Box 3366
401 Clematis Street (33401)
West Palm Beach, FL 33402
Telephone: 561-822-1400
Fax: 561-822-1424
e-mail: emitchell@wpb.org

"The Capital City of the Palm Beaches"

June 26, 2012

Palm Beach County Sheriff's Office
Chief Ric Bradshaw
3228 Gun Club Road
West Palm Beach, FL 33406



Re: Deputy William McCray

Dear Chief Bradshaw:

It has been reported to me by City employees that on Thursday, June 21, 2012, Deputy McCray attended a hearing at Courtroom 10D, Palm Beach County Courthouse in the matter styled: Rick M. Curtis, Plaintiff, v. City of West Palm Beach, Defendant, Case No. 50 2011 CA 017027 XXXX MBAO. The Honorable Catherine Brunson was the presiding judge. Deputy McCray was not a witness in the hearing.

I am bringing this to your attention because Deputy McCray was observed in his sheriff's office uniform as opposed to plain clothes. Deputy McCray was observed in his uniform at approximately 12:40 outside Courtroom 10D. He was observed in the courtroom during the hearing which lasted from 1:00 p.m. until 4:00 p.m.

The City employees who attended the hearing are:

Dorritt Miller, Deputy City Administrator
Claudia McKenna, City Attorney
Zoë Panarites, Assistant City Attorney
Kimberly Rothenberg, Assistant City Attorney
Al Leal, MIS Technical Support

The persons who were also in the courtroom who were known to the City employees to know and be able to confirm Deputy McCray's presence are:

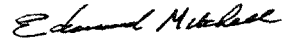
Rick M. Curtis
Isidro Garcia, Esquire
Paul McCollough
Robbie Littles
Leonard Corrigan

COPY

Palm Beach County Sheriff's Office
Sheriff Ric Bradshaw
June 26, 2012
Page 2

If you need any further information regarding Deputy McCray's attendance at this hearing, please let me know.

Sincerely,



Ed Mitchell
City Administrator

C: Dorritt Miller, Deputy City Administrator
Claudia McKenna, City Attorney
Zoë Panarites, Assistant City Attorney
Kimberly Rothenberg, Assistant City Attorney
Al Leal, MIS Technical Support

COPY

"An Equal Opportunity Employer"

8/31/2012

Palm Beach County Commission on Ethics

To Whom It May Concern,

I would like to file a 1. Complaint against West Palm Beach City Administrator, Mr. Edward Mitchell. Edward Mitchell is the City Administrator for the City of West Palm Beach. He is responsible for daily operations in the city, and works in a hybrid form of government, sharing power as quasi CEO with City Mayor Geraldine Muoio. Ed Mitchell made a complaint against me being a sworn Sheriff Deputy. The complaint stated that I wore my PBSO uniform to a court hearing. Anyone can make a complaint against any PBSO Deputy for any reason.

2. The unethical violation is not the complaint. The complaint is the egregious abuse of his position to attempt to compel or bully PBSO into terminating my employment, or at a minimum, cause suspensions, or pollute my personnel file with a frivolous complaint.

3. The complaint was written on a City of West Palm Beach official letter head. This is unethical as well for the following reasons. The complaint was accepted by PBSO. Ed Mitchell should have been required to go to Internal Affairs at PBSO and give a sworn statement like any other private citizen would have had to. This was an attempt to use the influence, and prestige of the City of West Palm Beach to influence the seriousness of the frivolous complaint.

4. Ed Mitchell has been responsible for overseeing the second largest law enforcement agency in Palm Beach County. He has directly disciplined police officers, and knows intimately the procedures for filing a complaint against a Law Enforcement Officer. If this has been done to any other Law Enforcement Officer, the city should be able to provide the documentation. If it was not egregious enough that the complaint was filed on an official City Letterhead, Ed Mitchell was not at the site of the alleged violation. Any city employee who was there, including his Deputy Administrator, Dorritt Miller and the City's

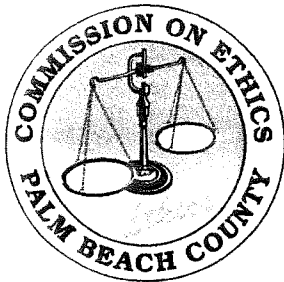
Chief legal Counsel, Claudia McKenna could have, like any citizen, gone onto the PBSO website, made an IA complaint, or gone into PBSO and been interviewed by Internal Affairs like any other citizen. They should not use their positions, as city employees to have greater access to making official complaints, and or being interviewed via telephone. These abuses have become common for the City of West Palm's Administrators office.

5. The Mayor of West Palm Beach now has an opportunity to enforce some form of discipline on Ed Mitchell for conduct unbecoming of a city employee. This will not happen, and it is my hope that you will find cause, and remedy this conduct from the City of West Palm Beach.

6. This is also a violation of Title 7 Discrimination Federal Statue. The city was found guilty of discrimination and retaliation under Title 7. By Ed Mitchell using official letter head, city time and city resources to send this letter, this is further discrimination and retaliation under Title 7 US Code. Thank You.

William McCray
West Palm Beach, Fl. 561-215-5589

CC: County Commissioner's, Burt Aaronson, Priscilla Taylor, Karen Marcus, Paulette Burdick, Shelley Vana, Jess Santamaria, Steve Abrams,



Palm Beach County Commission on Ethics

Commissioners

Manuel Farach, *Chair*
Robin N. Fiore, *Vice Chair*
Ronald E. Harbison
Daniel T. Galo
Patricia L. Archer

Executive Director

Alan S. Johnson

In Re: Edward Mitchell
City of West Palm Beach

C12-010

PUBLIC REPORT AND FINAL ORDER OF DISMISSAL

COMPLAINANT, William McCray, filed a **COMPLAINT** on September 5, 2012 alleging a possible ethics violation involving **RESPONDENT**, Edward Mitchell, West Palm Beach City Administrator.

The **COMPLAINT** alleges **RESPONDENT** corruptly misused his official position by sending an unsworn complaint to **COMPLAINANT'S** employer, Palm Beach County Sheriff's Office (PBSO), using official City letterhead and his official title.

On September 25, 2012, after reviewing the **COMPLAINT**, supporting affidavit and memorandum of inquiry, the **COMPLAINT** was determined by staff to be **LEGALLY INSUFFICIENT**, and presented to the Commission on Ethics on October 4, 2012 with a recommendation of dismissal as **LEGALLY INSUFFICIENT**.

The Commission on Ethics reviewed the **COMPLAINT** and memorandum of inquiry and determined that there is no allegation by **COMPLAINANT**, or information known or uncovered by staff inquiry to indicate that **RESPONDENT** acted in his official position in violation of the Code of Ethics.

Therefore, the Commission has determined that the actions taken by the **RESPONDENT**, Edward Mitchell, do not constitute a violation of the Code of Ethics and **DISMISSED** the **COMPLAINT** on October 4, 2012, due to **NO LEGAL SUFFICIENCY**.

Therefore it is:

ORDERED AND ADJUDGED THAT the **COMPLAINT** against **RESPONDENT**, Edward Mitchell, is hereby **DISMISSED**.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on October 4, 2012.

Palm Beach County Commission on Ethics

By: _____

Manuel Farach, *Chair*



INTER-OFFICE MEMORANDUM
Division of Internal Affairs

TO: Deputy Sheriff William McCray #7326 DATE: August 10, 2012
FROM: Sergeant Chris Soares FILE:
SUBJECT: Written Order

This memorandum is to serve as a direct order to you from the Division of Internal Affairs:

Effective immediately, if you are conducting personal business related to the City of West Palm Beach or any other political matter, not related to PBSO business, the following will be adhered to:

- You will not conduct these activities while on duty
- You will not wear any PBSO uniform or identification while involved in this activity
- You will not identify yourself as an employee of the Palm Beach County Sheriff's Office while involved in this activity
- You are not permitted to use any PBSO vehicle to and from this activity
- You are not to create a nexus to your employment with the Palm Beach County Sheriff's Office with respect of these activities.

This order will remain in effect until such time you receive written notification rescinding or modifying this order.

W. McCray 7326 8/10/12
Deputy Sheriff William McCray #7326

Sgt. C. Soares #4620
Sergeant Chris Soares #4620

LT. P. Alenzuela 7326
Witness

Capt. Mark Alexander 4723
Captain Mark Alexander #4723

COPY

TAMS OVERTIME LEAVE APPROVAL FORM

W. McLean 7326
Employee Name ID#

Employee Name

ID#

Dept./Dist./Bureau/Unit

TAMS Period

Overtime Request

[illegible]

Leave Request

[illegible]

Earning Codes

CSG	Contract SVS Comp
CSG	Contract SVS Pay
CTC	Court Comp (3 hrs min)
CTS	Court Pay
DGS	Dog Care (pay only)
EFF	Emerg. Field Force (pay only)
HGC	Hospital Guard Comp
HGS	Hospital Guard Pay
HOL	Holiday Pay
HRG	Honor Guard (pay only)
LCC	Late Call Comp
LCC	Late Call Pay
PGC	Personnel Shortage Comp
PSD	Personnel Shortage Pay
SDC	Special Duty Comp
SOS	Special Duty Pay
SHC	Shift Held Over Comp
SHS	Shift Held Over Pay
SRT	Spec Response Team (pay only)
TRC	Training Comp
TRS	Training Pay

Absence Codes

ADM	Admin Leave w/pay
ALT	Alternate Duty
BER	Bereavement Leave
CMF	Comp
HDT	Holiday Time Taken
JRY	Jury Duty
MIL	Military Leave
NOO	No Pay Other
NOP	No Pay Suspension
NOS	No Pay Sick
NOU	No Pay Unexcused
NOV	No Pay Vacation
SCK	Sick
VAC	Vacation
WRC	Workers Comp
	Balances
CMF	<hr/>
SCK	<hr/>
VAC	<hr/>
HOL	<hr/>

Balances

Employee: D. M. C. 13 H

Date: 6/20/12

Approved By: Jab Nazaria 1950

Print Name



ID#

Approved By: J. Hill

Print Name _____

Signature

Top

Approved By: _____

Print Name _____

Signature

ID#

PBSO #0303CG REV 10/03

CLEAR

COPY

Date _____
Entered By:

Initials

ID#

PALM BEACH COUNTY COMMISSION ON ETHICS
MEMORANDUM OF INQUIRY

To: Alan S. Johnson, Executive Director
From: Mark E. Bannon, Investigator
Re: C12-010 – Edward Mitchell, City Administrator, City of West Palm Beach

- **Background**

This matter came to the attention of the Commission on Ethics (COE) staff through a sworn complaint submitted by William McCray, who lists his address as 3228 Gun Club Road, West Palm Beach, FL 33406. It should be noted that this address is the Headquarters of the Palm Beach County Sheriff's Office (PBSO). Complainant is currently employed as a law enforcement deputy sheriff with PBSO and was formerly a West Palm Beach Police Officer. The Complaint form itself was dated September 5, 2012 and was properly notarized. As a separate attachment, and prior to hand delivering his sworn complaint form to COE staff on September 5, 2012, Complainant had submitted a letter to COE staff dated August 31, 2012. This letter was signed by the Complainant, and is attached to this Complaint Form, as it describes the facts and circumstances that form the basis of this sworn complaint.

The Complaint lists West Palm Beach City Administrator Edward Mitchell as the Respondent. It alleges that Respondent used his official position as City Administrator to write a complaint letter on City letterhead to PBSO Sheriff Ric Bradshaw, concerning Complainant. The substance of this letter by Mitchell was that on June 21, 2012, Deputy McCray attended a hearing at the Palm Beach County Main Courthouse in a PBSO uniform. This hearing involved an employment discrimination case listing Rick M. Curtis as Plaintiff, and the City of West Palm Beach as Defendant, and stated that McCray was not a witness for either party in this case. The basis of the complaint by McCray is that by using his position as City Administrator and writing directly to the Sheriff on City letterhead, Respondent sought to, "compel or bully PBSO into terminating my employment, or at a minimum, cause suspensions, or pollute my personnel file with a frivolous complaint." McCray further states in his Complaint, "Ed Mitchell should have been required to go to Internal Affairs at PBSO and give a sworn statement like any other citizen would have had to do. This was an attempt to use the influence, and prestige of the City of West Palm Beach to influence the seriousness of the frivolous complaint."

I met briefly with McCray at the COE office on September 5, 2012. He provided me with the original sworn Complaint Form, a copy of the June 26, 2012 letter from Respondent Edward Mitchell to Sheriff Ric Bradshaw, a memorandum dated August 10, 2012 to McCray from PBSO Internal Affairs Sergeant Chris Sores, regarding the PBSO complaint from Mitchell and a written order to McCray reference conducting of personal business related to the City of West Palm Beach or any other political matter not related to PBSO business, and a copy of a PBSO leave request form, showing that McCray had taken a vacation day on June 21, 2012, the day he was alleged to have been at the court hearing in uniform.

- **Documents submitted to File**

1. Original sworn Complaint Form signed by William McCray and properly notarized on September 5, 2012. (1 page)
2. Original letter from William McCray to COE dated 8/31/2012, and signed by William McCray listing the basis of his complaint against WPB City Administrator Edward Mitchell. (2 pages)
3. Copy of letter dated June 26, 2012, from City Administrator Edward Mitchell to PBC Sheriff Ric Bradshaw, advising that Complainant had attended a June 21, 2012 hearing at the Courthouse in uniform, and that he was not a witness in the proceedings that involved the City of West Palm Beach. (1 page)
4. Copy of PBSO Memorandum dated August 10, 2012, from Sergeant Chris Soares to Deputy William McCray, with a second memorandum attached listing the terms of "written order". (3 pages)
5. Copy of PBSO leave request form showing that McCray had requested a vacation day for June 21, 2012, and indicating by supervisor signature that this request had been approved. (1 page)
6. Copy of PBSO interoffice memorandum from Sergeant Chris Sores, IAD, reference his Incident Review, with attached written order to D/S William McCray. (3 pages)

7. Copy of PBSO Memorandum, dated January 31, 2011, from Captain C. Calloway to D/S William McCray regarding a written order about use of his assigned PBSO vehicle. (1 page)

- **Inquiry**

After reviewing the information submitted by Complainant, I went to PBSO Headquarters to obtain information from the Internal Affairs Division (IAD). Since IAD had completed their investigation into this matter, I was able to obtain a copy of the finished report by PBSO Sergeant Chris Soares, which was in the form of an Inter-Office Memorandum from Sergeant Soares to Captain Mark Alexander. The Memorandum by Sergeant Soares stated that on July 2, 2012, IAD received a letter addressed to Sheriff Bradshaw from WPB City Administrator Ed Mitchell. This letter indicated that several City staff members, including City Attorney Claudia McKenna, attended a hearing at the PBC Main Courthouse involving the City. The letter pointed out that McCray was not a witness at this hearing, and that he attended the hearing in PBSO uniform. Some other PBSO internal policy issues were also discussed in the Memorandum, which are not relevant to this Inquiry. The Memorandum did state that after the initial review, Sheriff Bradshaw determined that in lieu of conducting an Administrative Investigation, Deputy McCray was to receive a written order that he not create a "nexus" to his employment with PBSO regarding personal matters. On August 10, 2012, Sergeant Soares met with Deputy McCray and IAD Lieutenant Pete Palenzuela, at which time a written order in the form of a memorandum was given to Deputy McCray. The order itself was also attached to this report, and listed the following "terms" of the written order:

"Effective Immediately, if you are conducting personal business related to the City of West Palm Beach or any other political matter, not related to PBSO business, the following will be adhered to:

1. You will not conduct these activities while on duty.
2. You will not wear any PBSO uniform or identification while involved in this activity.
3. You will not identify yourself as an employee of the Palm Beach County Sheriff's Office while involved in this activity.
4. You are not permitted to use any PBSO vehicle to and from this activity.
5. You are not to create a nexus to your employment with the Palm Beach County Sheriff's office with respect to any of these activities.

After reviewing this information, I was able to speak with Sergeant Soares via telephone. I asked Soares if he had an opportunity to speak with Mitchell about the letter. He stated that he had spoken with him by telephone. I then asked Soares if Mitchell made any mention of any action he was looking for PBSO to take concerning McCray. Soares replied that Mitchell did not, but simply related the information already listed in his letter. I asked Soares if it was the policy of PBSO to investigate a complaint that was not sworn. He replied that where possible, they prefer a sworn complaint. However, the policy requires that regardless of how a complaint is received, if it appears to point to a policy or other type of violation against a PBSO employee, and provides sufficient information to conduct an investigation, IAD must look into the circumstances surrounding the complaint. Based on this discussion with Sergeant Soares, the letter written to PBSO by Respondent would have been reviewed, regardless of whether it was on city stationary, or had the information been received on personal stationary or from an anonymous source.

I made telephone contact with WPB City Attorney Claudia McKenna to discuss the courtroom incident that lead to the complaint being filed with PBSO against McCray. McKenna gave me some historical background about the issues that have involved McCray and the City of West Palm Beach over the past several years. McKenna stated that McCray had been a WPB Police Officer, but had been terminated several years ago. This termination led to an arbitration hearing where the arbiter sided with the City, and upheld the termination. He was later hired by PBSO when Edward Bieluch was Sheriff. After the arbitration hearing, McCray filed suit against the City for wrongful termination, but lost in that action. He filed an appeal with Florida's 4th DCA, and the termination was upheld. She believes he is currently trying to have the Florida Supreme Court hear the case.

McKenna told me that for the past several years, McCray has attended most if not all of the City Commission meetings. Some time ago, someone noticed that while in attendance at one such meeting in "civilian" attire, McCray was armed. Because of what McKenna described as an often confrontational demeanor by McCray at these meetings, several commissioners became concerned at McCray being armed while attending City Commission meetings. Mayor Lois Frankel, or City Administrator Mitchell, contacted PBSO to complain about

McCray being armed at these meetings. At this point in time, Ric Bradshaw was Sheriff, and was aware of the issues between McCray and the City because he had been the Chief of Police in WPB. McKenna claims that McCray was told by a superior at PBSO that while attending City Commission meetings, or conducting other business at the City, he was not to be armed, not to be in uniform, and not to allow for any action that would indicate that he was a PBSO employee, and that none of his actions in such matters were to have any link to his employment as a deputy sheriff. She was not sure whether this particular order had been given in writing, but she was told that it had been given from PBSO to McCray.

McKenna advised that when she observed McCray at the June 21st hearing, she believed he was violating this order. She knew he was not a party to the litigation, and that he was not listed as a witness. But, she could see that he was clearly dressed in a PBSO uniform, although she could not tell if he was armed. She also pointed out that while sitting in the courtroom, McCray fell asleep and was heard to snore by her and several other City employees. She reported this entire incident to Respondent. She states that prior to writing a letter to the Sheriff about this incident, Respondent spoke with Major Robert Van Reeth at PBSO to ascertain whether McCray was on duty, and if not, whether the wearing of a uniform at a hearing where he was not on duty, a witness, or a party to the litigation was allowed. After speaking with PBSO, Respondent sent the letter advising the Sheriff of what had been observed at the hearing.

After speaking with McKenna, I re-contacted PBSO Sergeant Chris Soares at Internal Affairs, to find out if his records indicate that any written order as described by McKenna had been given to McCray. Sergeant Soares was able to locate in the Internal Affairs database, a written order from PBSO Captain Chris Calloway to McCray that indicated that he was not to drive his departmental vehicle to and from City Commission meetings he attended as a private citizen. Soares also provided me with a copy of this document, dated January 31, 2011, in which Captain Calloway refers to McCray's "reported conduct at recent City of West Palm Beach Commission meetings." He does not give any examples of this conduct, and only addresses the use of his assigned PBSO vehicle to travel to such meetings. A copy of this memorandum is submitted to the file.

While it is possible that a verbal order may have been given to McCray by a supervisor addressing other issues with McCray and West Palm Beach, (as McKenna believed), Sergeant Soares was unable to locate any reference to such an order within PBSO Internal Affairs database.

- **Legal Analysis**

The following portions of the PBC Commission on Ethics ordinance are relevant to this Inquiry:

Section 2-254. Creation and jurisdiction.

The Palm Beach County Commission on Ethics (hereinafter "commission on ethics") is hereby established. The jurisdiction of the commission on ethics shall extend to *any person required to comply with the countywide code of ethics*, the county lobbyist registration ordinance, and the county post-employment ordinance... (Emphasis added)

Section 2-442. Definitions.

Official or employee means any official or employee of the county or the municipalities located within the county, whether paid or unpaid. (Emphasis added)

As the City Administrator for the City of West Palm Beach, Edward Respondent is subject to the provisions of the PBC Code of Ethics, as of June 1, 2011, when the City of West Palm Beach came under the jurisdiction of the PBC Commission on Ethics.

The following sections of the Palm Beach County Code of Ethics are relevant to this inquiry.

Section 2-443. Prohibited Conduct.

Section 2-443(a), Misuse of public office or employment, states in relevant portion:

An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members

of the general public, for any persons or entities listed in subsection 1-7, including: (1) himself; (2) his spouse, domestic partner, or household member; (3) a close family relative; (4) an outside employer or business of his, his spouse, or his domestic partner; (5) a customer or client of him or his outside employer or business; (6) a substantial debtor or creditor of his, his spouse, or domestic partner; or, (7) any civic group, union, or social, charitable or religious group or other not for profit organization of which he or his spouse or domestic partner is an officer or director.

There was no allegation made by the Complainant, nor evidence uncovered during this inquiry, that would indicate any financial benefit was received by Respondent or any of the persons or entities listed in Section 2-443(a)(1-7) as a result of his sending a letter of complaint to PBSO regarding the alleged actions of Complainant.

Section 2-443(b) *Corrupt misuse of official position*, states:

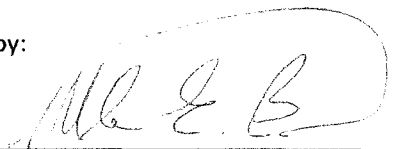
An official or employee shall not use his or her official position or office, or any property or resource which may be within his or her trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or others. For the purposes of this subsection, "*corruptly*" means *done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties.* (Emphasis added)

Complainant alleges that Respondent improperly used his official position to make a complaint against him as a deputy sheriff, by making the complaint to PBSO on City of West Palm Beach official stationery, and by using his title as the City Administrator on his complaint letter to PBSO. This allegation is borne out by the documentary evidence supplied by Complainant in the form of a copy of the complaint letter sent to PBSO.

However, under Section 2-443(b), of the Code of Ethics, the action taken by an employee or official must be taken to "corruptly secure a special privilege, benefit or exemption for himself, herself, or others," and that such action to be considered corrupt must be, "done with wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties." In my discussion with PBSO Sergeant Chris Soares, he stated that he had personal contact with Respondent during his investigation of the issues brought out in the letter from Respondent to PBSO, and aside from discussing the specific allegations themselves, at no time did the Respondent use his official position to attempt to improperly influence any determination or finding that Complainant McCray had violated PBSO policy, or request that Complainant be punished in any manner.

The basis of the complaint letter sent by Respondent to PBSO was that the hearing attended by Complainant did involve the City of West Palm Beach, and Complainant was not a witness or a litigant in this proceeding, yet appeared dressed in his PBSO uniform, and while so dressed, had allegedly fallen asleep in the courtroom. The letter to PBSO itself was a recitation of facts as relayed to Respondent from employees who did attend the hearing on behalf of the City, including City Attorney Claudia McKenna, and based upon previous encounters with McCray did believe that his appearance was meant to intimidate WPB employees. At no time did Respondent ask that McCray be punished for these actions. Based on the PBSO response as outlined earlier, no punitive actions were carried out against McCray due to this incident, although he was given specific orders to guide his future behavior when dealing with West Palm Beach, which involved a prohibition against allowing his actions as a resident of the City to create any nexus to his status as a deputy sheriff with PBSO.

Submitted by:


Mark E. Bannon, Investigator
PB County Commission on Ethics


Date

Reviewed by:


(Initials)


Date

PALM BEACH COUNTY COMMISSION ON ETHICS

**MEMORANDUM OF NO LEGAL SUFFICIENCY AND
RECOMMENDATION OF DISMISSAL**

To: Palm Beach County Commission on Ethics
From: Alan S. Johnson, Executive Director
Re: C12-010 – Edward Mitchell, City Administrator, City of West Palm Beach

- **Recommendation**

Regarding the Complaint against Respondent, Edward Mitchell, City of West Palm Beach Administrator, the Executive Director has found **NO LEGAL SUFFICIENCY** in complaint number C12-010 and recommends **DISMISSAL** pursuant to Art. V, §2-260(b) and Rule of Procedure 4.2.

Legal sufficiency exists where there is an allegation containing the elements of a violation of an ordinance within the jurisdiction of the Ethics Commission, purportedly committed by an individual within the authority of the Ethics Commission, based substantially on the personal knowledge of the Complainant, relating to an alleged violation occurring after the effective date of the code, and filed with the Ethics Commission within two years of the alleged violation.

- **Background**

This matter came to the attention of the Commission on Ethics (COE) staff through a sworn complaint submitted by William McCray, who lists his address as 3228 Gun Club Road, West Palm Beach, FL 33406. It should be noted that this address is the Headquarters of the Palm Beach County Sheriff's Office (PBSO). Complainant is currently employed as a law enforcement deputy sheriff with PBSO and was formerly a West Palm Beach Police Officer. The Complaint form itself was dated September 5, 2012 and was properly notarized. As a separate attachment, and prior to hand delivering his sworn complaint form to COE staff on September 5, 2012, Complainant had submitted a letter to COE staff dated August 31, 2012. This letter was signed by the Complainant, and is attached to this Complaint Form, as it describes the facts and circumstances that form the basis of this sworn complaint.

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Pursuant to COE Rule of Procedure 4.1.3, a limited inquiry was conducted. COE Investigator Mark Bannon obtained documentation from the Palm Beach County Sheriff's Office (PBSO) as well as statements from Internal Affairs Investigators and the City Attorney. The Attorney's concerns were based upon prior instances of Complainant allegedly appearing at employment discrimination and other City matters in uniform or armed. Other than generally referring this matter to PBSO at the request of the City Attorney, Respondent had no further contact or input into the PBSO review of this matter.

- **Analysis**

As a City of West Palm Beach City Manager, Respondent is subject to the provisions of the Palm Beach County Code of Ethics (the Code), as of June 1, 2011, when the Village came under the jurisdiction of the COE.

The following sections of the Palm Beach County Code of Ethics are relevant to this inquiry.

Section 2-443(a), *Misuse of public office or employment* prohibits Respondent, a public employee, from using his official position or office, in a manner which he knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public for specified individuals and entities, including the Respondent himself.

There is no evidence or allegation that the actions of Respondent would result in a financial benefit to anyone.

Section 2-443(b) *Corrupt misuse of official position* states as follows:

An official or employee shall not use his or her official position or office, or any property or resource which may be within his or her trust, to corruptly secure or attempt to secure a special privilege, benefit, or exemption for himself, herself, or others. For the purposes of this subsection, "*corruptly*" means *done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of an official or employee which is inconsistent with the proper performance of his or her public duties.* (Emphasis added)

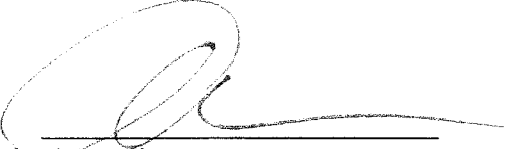
There was no evidence presented by Complainant or found during this inquiry to indicate Respondent acted corruptly. The fact that he used official letterhead to notify PBSO of Complainant's actions does not alter the fact that he was acting in his official capacity in response to staff concerns that the Complainant was present in a PBSO uniform for the purpose of intimidating City personnel at a court hearing involving employment discrimination matters. Respondent referred this information to PBSO without demanding official action or otherwise attempting to influence the internal process at PBSO. These actions were not inconsistent with the proper performance of Respondent's public duties. Whatever action PBSO was to take or not take in this matter was entirely dependent on its own internal policies and procedures.

- **Conclusion**

Based on the fact that the allegations provided in the Complaint, even if true, do not allege a violation of any provision of the Palm Beach County Code of Ethics, and the COE Inquiry did not find any evidence of such a violation, there is **NO LEGAL SUFFICIENCY** to open a formal investigation into this matter.

It is the recommendation of staff that this **COMPLAINT** be **DISMISSED** based upon a finding of **NO LEGAL SUFFICIENCY**.

BY:


Alan S. Johnson, Executive Director
Florida bar #223352
Commission on Ethics

10/05/2012
Date NUNC PRO TUNC
09/25/2012

Ladies and gentlemen on 10/10/12 (over two months ago) I made a complaint on Mr. Mark Bannon who libeled me in an incompetent investigation, after I made a complaint on Ed Mitchell for the city West Palm Beach. I have yet to have a response from you as to the disposition of my complaint on Mr. Mark Bannon. It is inconceivable to me that no official action has been taken against Mr. Bannon. At the very least I will need a retraction letter for the misstatements made against me by Mr. Bannon. I am still weighing my legal options to this grossly incompetent, libelous, report against me. The disposition of my complaint will help me make a decision as to how I procede. This depends upon your response to this incompetent report generated on me. Thank you for your consideration on this matter. Sincerely,

William McCray
Phone#561-215-5589
E-Mail willmac865@yahoo.com