

REPORT OF INVESTIGATION

K #: 10-021 Cathy Lewis

Date Opened: Jan. 20, 2010 Date Closed: May 18, 2010

Name of investigators: Karl Ross, Kennedy Rosario
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Allegation(s): On Jan. 6, Miami-Dade Transit (MDT) employee Dunbar Cornelle – a.k.a. Dunbar Corneille – filed a written complaint with the offices of Miami-Dade County Mayor Carlos Alvarez and Miami-Dade County Inspector General Christopher Mazzella seeking protection under the county’s whistleblower ordinance and alleging he was retaliated against by his supervisor, Cathy Lewis, as a result of his “noble and lawful act of cooperating with the police” and federal authorities in connection with one or more inquiries surrounding the county’s transit agency. Mr. Cornelle is a compliance officer for MDT’s Disadvantaged Business Enterprise (DBE) program, which is located within the agency’s Office of Civil Rights and Labor Relations. Ms. Lewis is chief of the civil rights office and is Mr. Cornelle’s ultimate supervisor within the department. Cornelle is also seeking to have Ms. Lewis demoted and stripped of her supervisory duties.

Specifically, Mr. Cornelle alleged that, because of his purported cooperation with authorities, Ms. Lewis “has been targeting me for relentless retaliation by way of negative performance reviews and defamation.” Accompanying his complaint letter, Cornelle provided a copy of a “rough draft” of his 2009 annual evaluation that was marked up by Ms. Lewis and contained her handwritten notations. The letter further alleges Ms. Lewis told his immediate supervisor, Erigene Belony, that she was “going to punish” Cornelle “for bringing police to investigate Transit and its DBE program.” He alleges in his letter Ms. Lewis refused to credit him for time spent with investigators and would either “dock” him for time or record him as missing from work. He claims, moreover, that she referenced this in her remarks on his draft evaluation, and that this contributed to what he considers an unfair and negative evaluation. Lastly, he claims

Ms. Lewis submitted the evaluation “around Christmas time,” presumably out of spite and as further evidence of Lewis’ alleged retaliation against him.

In a follow-up letter to Mayor Alvarez and Inspector General Mazzella on Jan. 15, Mr. Cornelle alleged being the victim of further retaliation, claiming Ms. Lewis used her office “to maliciously deny my reimbursement for expenses incurred while executing a directive from the MDT Director.” To wit, he alleges Ms. Lewis “sat on” his request for reimbursement for parking and mileage resulting from work-related activities at Miami International Airport performed in December 2009. He provided a string of e-mails in connection with this allegation, which he claims support his belief Ms. Lewis “is in a powerful position as MDT Chief of Civil Rights to unleash her waive [sic] of intimidation against me” and that allegedly show he was wrongly denied reimbursement. He also references a previous complaint he filed against Lewis before the Equal Employment Opportunity Commission (EEOC) that resulted in a cash settlement, but without any admission of wrongdoing by Ms. Lewis or Miami-Dade County. Mr. Cornelle further asserted Ms. Lewis is motivated in her alleged retaliation as a result of his filing of the EEOC complaint against her for withholding “rightfully earned back pay.”

Investigation: Between Feb. 18 and May 5, COE conducted a number of interviews of county and law enforcement personnel, including Mr. Belony, a manager within MDT’s civil rights office; Angela Menendez, who is also a manager within MDT’s civil rights office; Jose Fraguera, senior labor management specialist within MDT’s civil rights office; Penelope Townsley, director of the county’s Small Business Department; Det. Wastine Allen of the Miami-Dade County Police Public Corruption Investigations Bureau (PCIB); along with detectives Martin Silber and David Alvarez, also of PCIB. COE also interviewed the principals of the complaint, Mr. Cornelle and Ms. Lewis.

Detailed notes of these interviews are available in a separate file or Memorandum of Investigation. In addition, COE consulted an investigator with the Miami-Dade County OIG, which has been reviewing allegations concerning possible improper outside employment by Mr. Cornelle and Mr. Belony. COE also examined numerous

documents obtained during the course of the investigation, including a copy of the original Employee Performance Evaluation received by Mr. Cornelle on Dec. 22, 2009; internal MDTA e-mails and memos; and records pertaining to the EEOC complaint.

Findings: The primary allegation made by Mr. Cornelle is that Ms. Lewis acted without justification in directing his supervisor, Mr. Belony, to submit a performance evaluation of “satisfactory” as opposed to the “above satisfactory” rating Belony felt he deserved. He claims this caused him to lose merit pay as his increase was less than he would have received had he gotten a better evaluation from Lewis. He further claimed that her handwritten notations concerning his alleged absenteeism are direct references to time lost while meeting with police and law enforcement. His claims are consistent with the statement provided by his immediate supervisor, Belony, who told COE on Feb. 18 that he did believe that Lewis was “unhappy” about Mr. Cornelle’s presumed cooperation with investigators and felt that Lewis sought to give Cornelle a lower evaluation than he deserved. “This year, she wouldn’t let him get above satisfactory,” Belony said. He said that while discussing the evaluation with Lewis, she allegedly remarked that Cornelle “was late, he was with the police.” He said he advised Lewis that her handwritten references to “instances where we have not heard from him” and that “he is missing from his office for long periods” could be explained by meetings with law enforcement. Belony said Lewis refused to accept this and continued to regard him as “absent and unaccounted for.” He believes this may have influenced her final rating.

COE subsequently determined that Mr. Cornelle met with PCIB detectives and other law enforcement agents on no more than eight to 10 occasions beginning on or about February 2009. Several of these meetings lasted half a day or longer and were conducted at PCIB headquarters in Doral. The other meetings with law enforcement agents were of a shorter duration – lasting 20 minutes or less – and did not require Mr. Cornelle to absent himself from his workplace for prolonged periods since they were held at MDT’s main offices at the Overtown Station building.

Mr. Belony stated that, in his opinion, Ms. Lewis took other arbitrary and adverse actions against Mr. Cornelle – including withholding his reimbursement request and submitting an unduly critical evaluation during the Christmas holidays – and that these actions were motivated, at least in part, by her displeasure over Mr. Cornelle’s perceived cooperation with law enforcement agencies, which were looking into programs overseen by MDT’s civil rights office. Earlier this year, police arrested 16 drivers working for DBE contractors in connection with a fraudulent billing scheme for Special Transportation Services (STS), a county program created to provide door-to-door transportation for disabled residents. Mr. Belony also told COE he disagreed with Lewis’ insistence that several bullet points be inserted into Mr. Cornelle’s evaluation requiring him to take various forms of training to “further improve his professional skills,” citing alleged deficiencies in his communications, customer service, stress management and time management. He said the only one of those areas he felt Mr. Cornelle might benefit from was stress management, but attributed Mr. Cornelle’s stress-related problems to his adversarial relationship with Ms. Lewis.

Contrary to Mr. Cornelle’s written complaint, Mr. Belony advised he did not recall a conversation with Ms. Lewis in which she allegedly stated she intended to “punish” Mr. Cornelle for providing assistance to law enforcement. He later recalled having a conversation with Ms. Lewis about Cornelle in which she seemed to be upset with him and wondered aloud if he was instigating law enforcement to look into DBE programs. He said he could not recall any specific reference to punishing Cornelle.

In a subsequent interview on May 5, Belony re-asserted many of the above statements, but in reviewing notes from said interview he sought to qualify his stated belief that the negative remarks on Mr. Cornelle’s draft review could be directly attributed to Ms. Lewis’ disdain for his seemingly enthusiastic involvement with law enforcement. In revising the statements contained in the notes, Belony stated that Lewis’ critical input concerning his performance review “may have been influenced” by Cornelle’s participation with law enforcement “and other incidents involving a reclassification of his position.” Under the latter scenario, it should be noted, Mr. Cornelle would not be protected under the

county's whistleblower protection laws because his petition for reclassification would be considered a personnel issue and not a matter involving criminal activity such as fraud or threats to the health, safety or welfare of the general public.

On Feb. 22, COE interviewed Mr. Cornelle to discuss his retaliation claim. He advised that he has been a county employee for seven years, all of it serving in his present capacity as a DBE compliance officer with MDT's civil rights office. Ms. Lewis has been his supervisor for approximately six of those years, he said. He told COE he believes he has maintained cordial relations with Ms. Lewis despite his filing of an EEOC grievance against her that was settled in late 2008 and resulted in a payment of \$10,000. He said that in early 2009 he was contacted by investigators seeking records for the county's STS program. He said he actively participated in the investigation for the next six to eight months. He said he subsequently collaborated with authorities on a second investigation. (Note: The details of this investigation will not be included in this report since the matter is ongoing.) Mr. Cornelle said that, over the course of 2009, his problems with Ms. Lewis intensified after she became aware of his active participation with law enforcement. He alleged that early on the morning of March 17 of that year he arrived at work and overheard a conversation between Ms. Lewis and Mr. Belony in which Ms. Lewis allegedly stated that she blamed him for going to the police and intended to "punish" him as a result. He said he also heard Mr. Belony tell Lewis that he could no longer "protect" him. He said he confronted Mr. Belony afterwards.

Mr. Cornelle advised that he told Belony he did nothing to initiate the first investigation, and that he was only doing his lawful duty to cooperate with authorities. He said he felt that Lewis "may have been concerned about trying to protect Roosevelt Bradley," the agency's former director and with whom he alleged she was close friends. He said that on one or more occasions, Ms. Lewis approached him and questioned him as to why police were continuing to visit MDT's offices. He said he had been instructed by investigators not to share details of their cases with Ms. Lewis since she was considered a possible target. He said he kept his immediate supervisor fully apprised of his actions. He said that later that year, Ms. Lewis accused him of writing an

inflammatory memo about a major MDT consultant and of trying to put that company “in a bad light” so as to arouse the interest of law enforcement. He said the memo was written in the ordinary course of business as part of his compliance review.

As further evidence of Ms. Lewis’ alleged retaliation, Mr. Cornelle said Lewis unfairly denied him administrative time resulting from a Webinar on federal stimulus funds that he attended during his day off. He also cited her alleged refusal to timely submit his request for reimbursement for funds he was entitled to as a result of his outreach efforts at Miami International Airport to inform passengers of scheduling changes. He said that a co-worker, Sonya Sealy, had her reimbursement request processed the same day she submitted it but that his, by contrast, sat on Lewis’ desk for a month or longer. He said the reimbursement request was for approximately \$75 and that he believed Lewis failed to process it because she was angry at him for working with authorities. He said he believes such actions were intended to send him a message and discourage him from further cooperation. He claimed her actions were tantamount to “intimidation” and represented an attempt to “obstruct” the investigations into MDT programs.

On Feb. 26, COE contacted PCIB Det. Wastine Allen, who advised that police had in fact consulted Mr. Cornelle in connection with the STS matter and found his information to be largely “accurate,” if anecdotal. He said investigators met with Cornelle about seven or eight times on that case and as many as three times on another case led by Sgt. David Alvarez. He said one of the meetings lasted the better part of an afternoon and was continued the following day at PCIB offices. He agreed to arrange a meeting so Mr. Cornelle’s retaliation claims against Lewis could be discussed at greater length.

That meeting took place on April 21 and was attended by Det. Allen and PCIB detectives Alvarez, Martin Silber and others. During this meeting Det. Allen advised he met with Cornelle on no more than six occasions and that only two of these meetings took place at PCIB’s offices in Doral. He said the other meetings were brief and took place at the Overtown Station building where MDT’s main offices are located, but that some of the meetings were held on floors not occupied by MDT in order to avoid

detection. In the meeting with COE, Det. Allen raised concerns about the degree of cooperation provided by Mr. Cornelle, saying he felt Cornelle was “playing games” and was trying to “piece meal” the information he provided investigators instead of cooperating fully. “I was very clear to him that if he was going to seek whistleblower protection he needed to cooperate 100 percent with law enforcement,” Allen said, adding that if he had to quantify what percent of cooperation he was getting from Cornelle he would put it at 40 percent. He added that he felt Cornelle had a hidden agenda and was withholding information to use it as a “trump card” that could be played at a later time. Det. Allen said that Cornelle did express concerns of possible retaliation by Lewis and that he addressed the matter with MDT Director Kapoor in order to protect Cornelle. He said he also discussed the matter directly with Ms. Lewis.

COE also spoke to Sgt. Alvarez, who expressed that he spent half a day at PCIB offices with Mr. Cornelle and federal investigators and that he found the meeting to be wholly unproductive. He stated his belief that Cornelle “was not being completely honest” and quantified his degree of cooperation at 5 percent. He expressed frustration with Cornelle and stated that he believes Cornelle deliberately withheld relevant information. He said he did not believe Mr. Cornelle should be afforded whistleblower protections.

On April 1, COE interviewed Jose Fraguera, a senior labor management specialist with MDT’s civil rights office. Mr. Fraguera said he has worked for the county since 1975 with MDT and, prior to that, with the Aviation Department. He said he sits two cubicles over from Cornelle and regards him as “very friendly.” He said he has never known Mr. Cornelle to be loud or disruptive. He said he does not keep track of Cornelle’s comings and goings but generally has observed that he arrives to work some time before 9 a.m. and leaves at or about 5 p.m. He said he did attend a meeting in early January with Ms. Lewis and others to discuss her dissatisfaction with Cornelle’s job performance. He said he did not recall any specific references to Cornelle’s letter to Mayor Alvarez and the OIG alleging retaliation by Ms. Lewis. He said the discussion mainly surrounded Lewis’ concerns about Cornelle’s job performance. He said those concerns were echoed by Mr. Belony, who advised that he was “frustrated” with the accuracy and timeliness of

Cornelle's work and added that he some times had to re-do his reports. He said he did not recall any references to Cornelle's involvement with authorities. He said he was told that Cornelle had a history of filing grievances. Mr. Fraguela said he advised Ms. Lewis that she could impose progressive discipline as specified in the county's Administrative Order 7-3, but was not aware of any follow-up actions in this regard. He said he also recalled that Lewis was seeking to transfer Cornelle to another agency.

On April 1, COE interviewed Angela Menendez, manager of MDT's discipline unit, who advised that she has a close relationship with Lewis and regards her as "a mentor." She said that Lewis can be "very strict" when it comes to discipline. She said she may have attended a meeting in early January to discuss Mr. Cornelle's situation, but said she does not have any specific recollection of what was said. She did say that Cornelle generally arrives to work at between 8 a.m. and 8:30 a.m. and is gone by the time she leaves at about 5:30 p.m. She described him as normally "very quite" but said that she did observe an animated exchange or "disagreement" between Cornelle and Lewis some time on or about April of 2009 that seemed to revolve around DBE issues. She said she was aware of "ongoing" controversy between the two co-workers. Menendez further stated that Lewis may have told her about Cornelle's letter to the mayor and OIG but that she had never seen it nor was she aware of specific charges. She said she was not aware of any disciplinary actions against Cornelle regarding tardiness or alleged absenteeism, but said she would check her files. She subsequently responded to COE that she had found a DAR in her files that was prepared while she was on leave.

Ms. Menedez subsequently provided a copy of the DAR, which was issued on May 19, 2008, and consisted of a "written reprimand" to Cornelle for habitual tardiness. The DAR was signed by both Cornelle and Belony, and cited repeated instances of tardiness in late April and early May. The DAR went on to state that: "Mr. Corneille has been previously counseled regarding his adherence to his work schedule. However, he has failed to demonstrate sustained improvement in this work area." (Note: This DAR was issued during the evaluation period for Mr. Cornelle's most recent evaluation. It should further be noted that neither Cornelle nor Belony advised COE of said DAR.)

On April 1, COE contacted Penelope Townsley, director of the county's Small Business Department, who advised that in response to a directive from the County Manager's Office she had been working with Ms. Lewis to consolidate DBE programs at MDT and the county's Aviation Department under her department. She said that the proposal to consolidate the DBE functions has been in the works for about two years and should be finalized, she hopes, by the end of the year. She said that during her conversations with Ms. Lewis no specific reference had been made to Mr. Cornelle, and that she was unaware of his complaint seeking whistleblower protection. She said that under the proposed terms of the merger, all DBE personnel from MDT and aviation would be transferred to her department and that no employees had been singled out. She said this would include two from transit and as many as four from aviation.

On May 3, COE interviewed Ms. Lewis in order to allow her to respond to the allegations highlighted in the Jan. 6 complaint letter. She advised she has served as chief of the MDT civil rights office since 2003, arriving about six months after Mr. Cornelle began his tenure at MDT. She said she previously worked for MDT as a trainer and in labor relations and had extensive experience with difficult personnel issues, such as drug testing and terminating problem employees. She said that problems with Cornelle can be traced back to his failed attempts to seek reclassification for his present position. She said an independent board reviewed his petition for reclassification and back pay relating to an outreach program, and the board denied his request.

Ms. Lewis said that Cornelle had, nonetheless, received outstanding or above-satisfactory performance ratings during his annual reviews until last year's satisfactory rating. She noted that the period for the most recent evaluation covers March 2008 to March 2009. She further noted that the DAR for tardiness occurred during this period in May 2008, and that, in her opinion, "he continues to have an erratic schedule" despite attempts to modify his work schedule to accommodate him. Ms. Lewis said she feels that Mr. Cornelle's direct supervisor, Mr. Belony, seems to be "covering" for him and

voiced further skepticism, adding “there’s always an explanation” on those occasions when she inquires about Mr. Cornelle’s whereabouts.

Ms. Lewis further advised COE that Mr. Cornelle and Mr. Belony have a relationship that extends beyond the workplace, noting Belony acted as legal counsel for Cornelle during his divorce proceedings. She supplied evidence documenting this relationship, including legal motions signed by Belony on behalf of Mr. Cornelle in Broward Family Court (Case No. 07-02071) regarding the divorce petition filed by his now ex-wife, Marie Jude Jean-Louis. She further advised that she had learned about a criminal or civil matter in which Belony represented Cornelle and that it involved a failed real estate venture. She noted that she had been contacted by an investigator with OIG regarding this matter and that it seemed to be rather serious. She also advised that Belony did not have permission for outside employment during this period, and supplied a copy of a court docket for Miami-Dade Court (Case No. F-08-012199) that showed a notice of appearance for Belony on April 25, 2008. She also supplied a copy of an internal payroll record showing that Belony took eight hours of sick leave on that same date, indicating that he had misrepresented the reason for his absence.

Ms. Lewis was asked to review the draft evaluation supplied as an exhibit by Mr. Cornelle and confirmed that she had made the handwritten notations in question. She advised that Cornelle must have gotten the draft evaluation from Belony. She was asked to explain her comments, which she did, disputing that any references to Mr. Cornelle’s alleged absenteeism were related to his involvement with police and law enforcement. She said that she could recall at least “half a dozen” instances prior to the end of the evaluation period in which Cornelle had gone missing for prolonged periods. She said she had not documented these instances, but suggested they may have been related to his activities as a real estate agent. Lewis denied having been told by Mr. Belony that the absences in question were related to Mr. Cornelle’s meetings with investigators. “That’s a lie,” Lewis stated, with respect to this assertion. “That’s the first time I’ve heard that.” She noted that she has been required to discipline Belony on unrelated matters. (Belony had also advised COE of the same.)

Ms. Lewis went on to note that Mr. Cornelle's final performance evaluation makes no reference to any such absences in the "Work Habits" section, but instead focuses on his issues with tardiness and leave slips. She noted Cornelle received above-satisfactory marks for "Quantity of Work" and "Quality of Work," but that he received only average marks for "Work Habits" and "Interpersonal Skills." She said she felt Cornelle deserved only an average rating for this latter category because of repeated problems with the tone and content of regulatory memos, internal e-mails to herself and other county staff, and his interaction with an outside auditor. Lewis said that Cornelle had behaved rudely in dealing with an outside auditor seeking documents relating to the DBE program, and that "he was so rude that we got a [negative] finding on it." She said she believed that if Mr. Cornelle had simply supplied the information requested such a finding could have been avoided. She also cited the seemingly heavy-handed, accusatory tone in some of Cornelle's correspondences to MDT contractors, including PB Americas.

Ms. Lewis said that one company official, Gus Martinez, told her that he was put-off by one of Mr. Cornelle's memos because the memo made it seem like "he's going to arrest all of us." COE examined one such memo dated Oct. 27, 2009, to Assistant Transit Director Alberto Hernandez concerning alleged noncompliance by PB Americas with DBE reporting requirements. The memo accused PB Americas of failing to cooperate with DBE officers and submitting "inaccurate and incomplete" reports. The memo concludes by saying that the county could initiate legal action to impose sanctions and even suspend payments. (Lewis said she had not been consulted prior to Cornelle's issuance of the strongly worded memo.) In a written response to related e-mails, PB Americas representative Martinez stated in an e-mail to MDT staff that he was "surprised and shocked" by the allegations and stated he felt compelled to respond to "the innuendos" about the accuracy of the company's DBE compliance reports.

Ms. Lewis said that she had verbally cautioned Cornelle about such accusatory language, and requested that he communicate in a more professional manner. She said she did not put anything to this effect in writing for fear that this might trigger "an e-mail

war” between herself and Cornelle. She noted that another county employee, Office of Fair Employment Practices Director Lucia Davis-Raiford, had reported similar problems in dealing with Cornelle, indicating that she found him abrasive and unduly adversarial. Lewis provided a copy of an e-mail from Davis-Raiford dated July 2, 2008, addressed to Mr. Cornelle and stating: “Please know that I have no intention of engaging in emailed ‘tit-for-tat’ exchanges. I would be happy, however, to share with you some strategies for success in the workplace, should you be interested. It is clear that you are struggling. Give me a call.”

This alleged pattern of unprofessional conduct was further noted in a March 17, 2008, e-mail from Lewis to MDT Director Kapoor in which she addressed Mr. Cornelle’s tardiness. She advised Kapoor that following a meeting to discuss this, Cornelle allegedly became “loud and unprofessional. He repeatedly advised that he did not work for me. I responded that he works for the Office of Civil Rights and Labor Relations, and I am the Division Chief. He also advised that he would be filing an EEOC complaint.” Lewis went on to advise Kapoor that: “I ended the meeting by directing him to be professional and that I considered the incident an informal counseling. However, please note that any further incidents will result in progressive action.”

Given the above concerns, Ms. Lewis said she felt justified in insisting that Cornelle be given a rating of “satisfactory” and not the higher rating Belony proposed. She went on to note this did not in any way affect the amount of his merit increase because a 5 percent increase is allotted for any rating of satisfactory or higher. Thus, had he been graded as above satisfactory this would not have resulted in increased pay, she said. She went on to describe the matter as a “non-issue” and that Cornelle suffered “no financial impact” as a result. Ms. Lewis further denied carrying out any “reprisals or intimidation” as a result of Cornelle’s active participation with law enforcement, saying that she herself has frequently been enlisted to serve in this capacity. She said she had discussed the matter of Cornelle’s involvement in ongoing cases with MDT Director Kapoor, who further advised her to take a “hands off” position.

With respect to the timing of the evaluation, Lewis stated that it was not her intent to punish Mr. Cornelle by submitting the evaluation over the Christmas holidays. She advised that she did not work on Christmas Day and said that she did not sign and date the evaluation on Dec. 25, 2009, as the copy of the evaluation provided to COE seemed to indicate. "That's not my handwriting," she said. Lewis stated somebody else must have signed and dated the document. After reviewing her files, she contacted COE and stated that somebody had allegedly forged her signature and agreed to produce the document for inspection. COE investigators visited her office on May 17, and reviewed a copy of the original document to compare it with the copy provided by Mr. Cornelle. The matter remains under review and will be handled separately.

Lastly, concerning the allegation she improperly withheld Mr. Cornelle's request for reimbursement, Ms. Lewis stated that she only held up Cornelle's request for mileage reimbursement in the amount of \$36.57. She noted that other employees participating in the outreach effort only sought compensation for parking, which could be paid out of the office's petty cash fund. She said that reimbursement for mileage, however, required the production of a county check. She stated that her assistant had recently left, and that her assistant normally handled such requests. She said that she was not herself familiar with the process for obtaining such a check and that because of this, it took her longer than usual to process Mr. Cornelle's request. She provided records showing that, in fact, Cornelle had been paid \$22.50 for parking on Dec. 8, 2009, which was six days after the date on the receipt for parking submitted by Mr. Cornelle. A second such request for \$22.50 was processed on Dec. 23, 2008, for a parking and toll receipts dated Dec. 11, 2008, and Dec. 14, 2008. A request for reimbursement for mileage in the amount of \$36.57 was submitted to the county's finance department on or about Jan. 14, 2010, and led to the production of a check for that amount on Jan. 26, 2010.

Ms. Lewis stated that she believes Mr. Cornelle is an able compliance officer, noting he has often successfully detected violations by county vendors and DBE firms. She said that is why he has received a history of positive evaluations, despite ongoing grievances concerning his salary and job status. She said that, nonetheless, she felt there was

ample justification for awarding him a “satisfactory” rating this past year, citing his documented issue with tardiness and problematic communication with staff and outside parties such as contractors and auditors. She maintains that none of this is related to his claim that she objects to his involvement with police and law enforcement. She supplied additional records showing Mr. Cornelle’s unsuccessful attempts to seek reclassification and back pay including a memo dated Nov. 29, 2007, in which he writes to Assistant County Manager Ysela Llort that he has been “virtually begging my chain of command at the Office of Civil Rights and Labor Relations, particularly Cathy Lewis.” He goes on to write in this memo that he has been subject to “retaliation” from Lewis “in the form of threats, humiliation, belittling in the presence of other employees and contractors ... For the past three years, I have been afraid to seek outside help for fear of more retaliation and possible loss of job, which I need to support my family.”

Conclusion: The above findings reveal that Mr. Cornelle has a long-standing history of filing grievances against his boss, Ms. Lewis. The accusations of retaliation seen in his Jan. 6 and Jan. 15 whistleblower complaint letters are similar in tone and content to those raised in previous grievances, such as the one cited above and others obtained by COE during the course of the investigation. It does not appear that Mr. Cornelle is the least bit timid when raising allegations of wrongdoing and retaliation against Ms. Lewis and that he has been doing just that for several years. With respect to the particulars of his recent whistleblower complaint, the investigation did not yield sufficient evidence to support his allegations against Ms. Lewis. It is the opinion of COE investigators that Lewis provided sufficient evidence to document her position that Mr. Cornelle was not entitled to an above-satisfactory evaluation and that she acted within the scope of her supervisory position in directing Mr. Belony to lower his rating.

In his first meeting with investigators Mr. Belony neglected to note Mr. Cornelle had received a DAR for tardiness during the evaluation period. Internal e-mails and other records provided to COE support Ms. Lewis’ contention Cornelle needs to improve his communication and interpersonal skills in order to serve more effectively as a DBE compliance officer. This could be seen most clearly in the July 2, 2008, e-mail he

received from FEP Director Davis-Raiford saying that, in her opinion, Mr. Cornelle seemed to be “struggling.” Even Cornelle’s direct supervisor and main ally, Mr. Belony, told COE that Cornelle has been so obsessed with his attempts to exact revenge upon Ms. Lewis that his own work has been suffering. He cited that he recently had to re-submit important biannual reports to federal regulators because Cornelle was careless and supplied faulty information. If anything, it appears that Mr. Cornelle is seeking to retaliate against Ms. Lewis because she has not supported his repeated attempts to have his position reclassified at a higher rate of pay.

It should also be noted that the relationship between Mr. Belony and Mr. Cornelle has been rightly called into question and that it appears that both individuals have been engaging in unauthorized outside employment. While Mr. Belony was initially firm in his support of Mr. Cornelle and his contention that Ms. Lewis was retaliating against him because of his presumed cooperation with law enforcement, it is significant that Mr. Belony later qualified his position in support of Mr. Cornelle. Mr. Belony now maintains that while it is possible Lewis objected to Cornelle’s involvement with law enforcement, he can not say for sure whether this influenced her actions with respect to his most recent evaluation. He further stated Ms. Lewis could also be upset with Cornelle as a result of his past grievances concerning his failed reclassification petitions. The latter scenario, as it was previously noted, would not entitle Mr. Cornelle to whistleblower protection, as provided by the county’s employee protection ordinance.

Lastly, it should be noted that no significant financial impact can be assessed to Mr. Cornelle’s allegations, even if true. As noted by Ms. Lewis, Mr. Cornelle received the same 5 percent pay increase with a “satisfactory” evaluation that he would have received with the proposed higher evaluation of “above satisfactory.” Mr. Belony advised that following his latest evaluation, Mr. Cornelle’s hourly salary was increased from \$27.14 to \$28.44 – roughly 5 percent. It is also the opinion of COE that the alleged withholding of recent reimbursements is without merit and does not rise to the level of whistleblower protection. Ms. Lewis did submit reimbursements for parking for Mr. Cornelle in a timely manner, internal records show. And the delay of approximately one

month in submitting his mileage request in the rather *de minimus* amount of \$36.57 can be explained by the departure of her assistant.

COE's investigation did establish that Mr. Cornelle met on multiple occasions with Miami-Dade police detectives and other law enforcement personnel who were looking into possible criminal misconduct at MDT and in particular its DBE vendors. Those interviewed expressed disappointment about the degree of assistance provided by Mr. Cornelle, and one Miami-Dade detective even suggested Cornelle was using his involvement as a "trump card" in order to further an unknown personal agenda. A March 24, 2005, memo by County Manager George Burgess concerning whistleblower activity makes it clear whistleblower complaints should be made in good faith, adding that: "Whistleblowing is not a means for furthering personal vendettas ..."

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