

# MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



## REPORT OF INVESTIGATION

#K12-171

#C12-045

Date Opened: 11/08/12

Date Closed: 11/21/12

Investigators: Sylvia Batista

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The COE received an ethics complaint against City of Opa-Locka Police Officer Daniel Kelly (“Kelly”) filed by City of Opa-Locka Deputy Chief of Police Antonio Sanchez (“Sanchez”). The complaint originated from an internal affairs investigation conducted by the City of Opa-Locka Police Department’s Professional Compliance Bureau. The complaint alleges that Kelly, who owns and operates a security company named Kelly Protection Services, LLC. (“Kelly Protection”), does not have the required authorization for outside employment from his supervisor, and has not filed financial disclosures with the Clerk of Opa-Locka as required.

The COE’s issue relates to a possible violation of the Conflict of Interest and Code of Ethics Ordinance Section 2-11.1(k)(2) *Prohibition on outside employment*.

**City of Opa-Locka Police Department Professional Compliance Bureau  
Investigation:**

Attached to the complaint as Exhibit 1 is a recent print-out of the Florida Department of State Division of Corporation record of Kelly Protection. The record reveals that Kelly Protection was formed on 03/16/12 and lists Kelly as its Registered Agent, CEO and Manager. Attached as Exhibit 2 is a print-outs of the State of Florida Division of Licensing which reflects that Kelly holds a Manager Security Agency license which is due to expire in 2014.

Exhibit 3 to the complaint is an e-mail from Joanna Flores, Interim City Clerk of the City of Opa-Locka, advising that she did not locate an authorization for outside employment or financial disclosures filed by Kelly.

**10/22/12 Memorandum from Lieutenant Alexander Hernandez, City of Opa-Locka Professional Compliance Bureau –**

At the conclusion of an internal affairs investigation on Kelly, Lieutenant Alexander Hernandez (“Hernandez”) wrote a memorandum to Sanchez recommending that the instant matter be referred to the COE. Hernandez concluded that Kelly failed to comply with the filing requirements as set forth in Section 2-11.1(k) *Prohibition on outside employment*. Hernandez explained that City records reflect that Kelly did not obtain permission to engage in outside employment and did not comply with the disclosure requirements.

**11/22/12-Officer Daniel Kelly, City of Opa-Locka Professional Compliance Bureau**

Kelly was asked about the allegations made in the ethics complaint filed against him. Kelly informed that he is presently suspended with pay, but originally he was suspended without pay because he would not resign his post. Kelly explained that Sanchez threatened to have him arrested if he did not resign his post. When Kelly refused to resign, Sanchez suspended him

without pay. Kelly said that he is on suspension pending the end of the investigation being conducted by Sanchez to get rid of him. Kelly advised that he is being represented by a PBA attorney named Axelrad. In a memorandum, Axelrad told the City Attorney that the proper way to get rid of a police officer is to do an investigation. Axelrod also advised that an officer cannot be told that, in order to avoid arrest, he must resign.

Kelly said that he is presently suspended on paid status with the police department. Kelly said that he received a letter from Axelrad stating that he had talked with the City Manager and was put back on paid status. When he was not getting paid it became necessary for him to find another way of making money, so he started the security business in order to make a living.

Kelly said that Sanchez even went as far as getting him arrested for impersonating a police officer. On or around 09/21/12, upon returning to Miami from Jamaica, Kelly was asked by a customs agent at the airport what he did for a living. Kelly said he told the customs agent that he was a police officer. The customs agent called the Opa Locka police department and spoke with Corporal Larry Holburrrough, who confirmed that he is an Opa Locka police officer on suspension. When Sanchez became aware of this, he immediately drove to MIA and told the customs agent to arrest Kelly. The agent said he would not arrest Kelly, but would write him a notice to appear for misrepresenting the badge. Sanchez insisted that Kelly be arrested. Kelly said that when the agent would not do it, Sanchez asked to see his supervisor. Sanchez spoke to the agent's supervisor and was able to convince him to arrest Kelly for impersonating a police office. The SAO has the case and has not dropped it yet because Sanchez is pulling all of his stunts. Kelly advised that he frequently travels to Jamaica to visit his girlfriend who lives there. He is originally from Jamaica.

Kelly said that Sanchez has been reviewing his leave records regarding his use of annual leave. Kelly said that he always notifies his immediate supervisor when he is going to Jamaica, which is every other month, but he is not sure if he relays the message to Sanchez.

Kelly said that Sanchez's actions against him are retaliatory. Kelly said he has noticed an Opa-Locka police vehicle frequently driving by his house. Sanchez opened an internal affairs investigation and filed this complaint against him—he wants him out.

Kelly was asked about the reason why Sanchez wants him terminated. Kelly explained that Sanchez found out that his brother was placed in deportation status and Kelly did not tell him. Sanchez accused him of harboring a fugitive, but his brother does not live with him. Kelly said that he told Sanchez that if he wants to know about his brother, he should ask his mom. Kelly explained that his brother came to the US with a green card, but whatever crime he committed in 1995 or 1996, put him in deportation status. Kelly explained that he knew his brother had gone to immigration court, but he never knew the final resolution.

Kelly said that he told Chief Cason about his outside employment and she said she had no problem with it and asked him to send her a letter. However, his attorney told him to file the request for outside employment form with the Clerk, which he did. Kelly agreed to provide a copy of his request for outside employment and of the memorandum from his attorney to Sanchez.

**Conclusion:**

Due to fact that Kelly formed Kelly Protection on March 16, 2012, he is not required to file an outside employment statement until July 1, 2013. Additionally, failure to obtain outside employment authorization is not enforceable by the COE. The instant case has been turned over to the Advocate for probable cause recommendation.