



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Robert Steinback

Case No.: K14-027/C14-020	Case Name: Ott vs. Frances et al	Date Open:	Date Completed:
Complainant(s): Alexander Ott	Subject(s): Saul Frances, Rocio Alba, Grady Steele	March 18, 2014	May 30, 2014

Allegation(s):

Complainant Alexander Ott (Ott), a parking enforcement specialist for the City of Miami Beach, (the City) alleges that subjects Saul Frances (Frances), Rocio Alba (Alba) and Grady Steele (Steele), violated the Citizens Bill of Rights (CBR) by “providing and misleading information” in response to a news reporter’s public records request (PRR); specifically, that the subjects failed to provide the reporter, Ross Palumbo (Palumbo) of WPLG-TV Channel 10, with an accurate number of parking tickets dismissed during a specific time period per the reporter’s request.

Relevant Ordinances:

Miami-Dade County Citizens Bill of Rights:

Sec. A(2): “Truth in Government. *No County or municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.*”

Sec. A(3): “Public Records. *All audits, reports, minutes, documents and other public records of the County and the municipalities and their boards, agencies, departments and authorities shall be open for inspection at reasonable times and places convenient to the public.*”

Investigation:

Interviews

Carlos Estrada (Estrada), Parking Violations Bureau Operations and Information Technology Manager, Miami-Dade County Clerk's Office, on Friday March 21, 2014. By telephone.

Summary of interview

Estrada said the Information Technology Department (ITD) staff was working to gather the information to meet a public records request from Ott, and that it would probably take several more days to complete. [Estrada sent a summary of the numbers by e-mail several days later.]

Estrada explained the various ways voids and dismissals can come through the system. He noted the difference between voids and dismissals. A void is an entry made into the parking enforcement officer's hand-held ticket-writing device, but which is terminated before the completion of the ticket. A dismissal occurs after the ticket is written and issued, following the submission of a form requesting that the ticket be vacated. Having not yet completed his analysis, Estrada said he believed there was some confusion caused by tickets that were written and completed by Miami Beach parking enforcement officers, but which were dismissed before the documentation reached the county. [This was later confirmed; in the analysis below, Estrada identified 30 tickets in this category.]

Estrada pointed out that there are different types of dismissals. A court could dismiss a ticket; a ticket might be dismissed due to a broken meter, if a motorist can prove he has a handicap parking permit that the officer didn't see, etc. But when a dismissal is done by the municipality, a distinction should be made between voids and dismissals (as noted above).

Estrada described the "Autoissue" system as a transition system that collects all the data that comes from handheld (there are manuals and handheld citations). Autoissue data is downloaded and sent to the county. Tickets written manually by police officers (as opposed to parking enforcement officers) must be entered manually, and are treated as a separate agency source.

Estrada said he had spoken personally with Ott, who requested that Estrada forwarded his numbers to Miami Beach. Estrada said he didn't know what numbers Miami Beach had provided to Ott, and so had not yet reconciled the numbers. [He completed his analysis subsequently and sent it to this investigator.] Estrada said Ott came to his office unannounced on Feb. 25, 2014, and does so often. On this occasion, Ott wanted to determine the difference between field voids and office dismissals.

END INTERVIEW

Group meeting with the following five members of the City of Miami Beach **Donald Papy** (Papy) chief deputy city attorney; **Gary Held** (Held) first assistant city attorney; **Kathie Brooks** (Brooks), assistant city manager; **Rocio Alba** (Alba) assistant director of parking; and **Saul Frances** (Frances), director of parking. Invited to the meeting but unable to attend was **Greeten “Grady” Steele** (Steele), senior administrative manager. Meeting took place Wednesday, May 7, 2014, 9 a.m., at Miami Beach City Hall.

Summary of interview

Due to the lack of a functioning recording device present in the room, this investigator is unable to attribute specific comments made in the meeting to specific people, except in certain cases.

The purpose of the meeting was to attempt to explain and reconcile all of the various numbers generated by the original public records request from Ross Palumbo (Palumbo) of WPLG Channel 10, the subsequent PRR from Alex Ott, the county, which serves essentially as the ultimate repository of tickets, the City of Miami Beach and the county Parking Violations Bureau.

To understand what follows, it is necessary to understand a few basic facts about the parking ticket system in Miami-Dade County as explained by the participants in this meeting (and earlier, by Estrada of the Miami-Dade Parking Violations Bureau).

Most Miami-Dade cities have their own parking enforcement officers who write the majority of tickets, although regular police officers can do so as well. But since all tickets must pass through the county court system for adjudication, they are all fed into the county Parking Violations System. Cities do not have access to this system, although they feed into it.

In Miami Beach, the parking enforcement officers (PEOs) use a hand-held device called an AutoIssue or Autocite to write tickets. (Regular police officers generally use ticket pads, so their ticket numbers won't show up in AutoIssue). Every time a parking enforcement officer begins to write a ticket, a record is generated by the AutoIssue device – but the PEO has the ability to nullify the process before the actual ticket is generated. When this happens, it is referred to as a “field void.” The key point here is that, according to the city, an actual citation is never generated if a field void is initiated, even though starting the process will generate a record. [Ott, the complainant, later said that a citation can be field voided even after it is written as long as it is not electronically “saved” in the system. In that case, he said the ticket, though physically produced, should not be given to the citizen.] City officials argued in this meeting that field voids should not be included in any public records request involving parking tickets, because no actual parking ticket is generated when a field void occurs.

If no field void occurs, the AutoIssue machine generates a ticket, which is placed on the vehicle. All the AutoIssue records (completed tickets and field voids) are downloaded to the city's AutoIssue data bank. Then, usually a day or so later, that data is uploaded to the county's Parking Violations System. From there, the ticket begins to make its way through the court system.

If a motorist feels he has been unjustly cited, the motorist has several options. If he can catch

the parking enforcement officer and convince him not to write the ticket before he finishes writing it, a field void would be generated – which creates a system record, but no actual ticket. After the ticket is generated, the motorist might go to the city. If the city officials agree, the city can initiate a form requesting dismissal of the ticket. This form has a space for “reason.” This form is then sent to the county, which typically follows the request and dismisses the ticket. This process is called an “office void,” or “administrative dismissal.”

Although the window is narrow, it is possible for the motorist to file a persuasive argument for dismissal of the ticket before the city has uploaded its AutoIssue data base to the county database. In that case, the city will have a record of a dismissal, but the county won’t – because the ticket never reached the county before being dismissed. The county will record these tickets as field voids (because it never received the data regarding the actual ticket) although in reality, it is an administrative dismissal.

These two situations generated the records that the City of Miami Beach used to fulfill Palumbo’s PRR. The city has dismissed the tickets (whether they were subsequently sent to the county or not), and keeps a record of having done so.

The motorist has another way to pursue dismissal of a ticket: He can go directly to the county parking bureau. In this instance, the county takes the dismissal request form and forwards it back to the city. There, a decision is made, and if the city agrees with the motorist’s argument, a notation is sent back to the county to go ahead and dismiss the ticket.

When a ticket is dismissed in this fashion, Papy said that the City of Miami Beach does NOT keep a record of it – even though the decision to dismiss the ticket is made by city officials, because the ticket is technically dismissed by the county. Because, as Papy states, the city keeps no record of this action, tickets dismissed in this fashion would not be produced in response to the reporter’s public records request. Papy argued that the city cannot produce records it does not have.

Estrada, in an e-mail sent to Ott on Feb. 25, 2014, describes the 1,119 dismissals (the county’s accounting of Miami Beach dismissal requests sent to the city plus those sent to the county for the specified time period) as “those citations that are dismissed based on dismissal requests made by authorized personnel from the City of Miami Beach.” Thus, while the City of Miami Beach refers to the 291 dismissal sent directly to the county as “county dismissals,” the county refers to them as “city dismissals.”

Papy argued that it should not be considered the city’s responsibility to explain to a public records requester that there are more dismissals that don’t show up in the figures the city provides.

Alexander Ott, parking enforcement specialist-2. May 20, 2014, about 11 a.m., in COE office. Note: Ott also is Chief Steward for Communications Workers of America local 3178.

Ott came into the COE office to review what I had learned about the parking ticket complaint he had raised. He described his position as a PES-2 (Parking Enforcement Specialist – 2).

Ott did not seem to have much interest in the specific numbers, but in the overall conclusion.

He said “I could not get a straight answer... everybody was giving me a different answer about how many tickets are canceled... Alba said, ‘I don’t know, I can’t speak to that.’”

Ott explained what a “field void” is: He said that a physical ticket may be produced by the AutoIssue device, but the record of the ticket must be “saved,” or else “voided.” [This differs slightly from what city officials said; they said a field void does not generate an actual ticket.] Ott said the ticket can still be field voided even after it is written. He said the last step is that the PEO can put an entry under ‘comment,’ and then the information is stored. He said that if you print the ticket, you still have to save it.

He clarified further that it is not as if the tickets that are voided never actually exist, they often do. But he said that “if you voided the ticket, you shouldn’t have given the ticket.”

Ott voiced a complaint in the interview that did not arise in any other fashion earlier in the investigation: that county tickets are deleted after 60 days. He was very displeased by this, as it makes it virtually impossible for him to verify his various suspicions regarding how parking tickets are handled.

Ott said he believed the city might be systematically canceling tickets issued to a valet company, but did not seem overly interested in pursuing that allegation.

END INTERVIEW

Document/Audio/Video Review:

Copies of e-mails related to Palumbo’s and Ott’s PRRs:

- Between Estrada and Frances;
- Between Estrada and Ott;
- Between Ott and Jose del Risco (del Risco);
- Between and among Steele and del Risco, Frances, Alba, Esther Rodriguez (Rodriguez) and Lillian Beauchamp (Beauchamp), office associate IV

Copies of the original PRRs from Palumbo and Ott.

Received from the City of Miami Beach:

- A sheet containing “definition of terms;”
- A transcript of Palumbo’s original PRR from June 25, 2013, and its amendment from Palumbo the following day, June 26;
- An accounting attempting to reconcile city and county records for the time period in question.

Analysis

Ott alleges that the city gave a misleading response to a public records request (PRR) filed last year by WPLG-Channel 10 reporter s Palumbo. Palumbo was researching whether Miami Beach parking tickets were being dismissed as “favors” to municipal employees of Miami Beach or other jurisdictions.

Palumbo asked to see copies of all the tickets the city had dismissed between Jan. 1 and June 25, 2013. The following day, Palumbo clarified his request saying that he wanted to see the original documentation of *all* the tickets dismissed during that time period. He also asked for total numbers of tickets dismissed, but not individual documentation for each ticket, for the years 2011 and 2012.

The wording of Palumbo’s request is material. Here is the exact wording of his request and its amendment:

- June 25, 2013: “All the tickets that have been dismissed or rescinded at [sic] a ‘courtesy’ to other municipal employees for 2013 year-to-date. I need the actual documents for those. For 2012 and 2011 we would just need the total number of parking tickets dismissed under those same parameters.”
- June 26, 2013: “Just to clarify, we are looking for all the parking ticket’s [sic] that were dismissed. We just want the total number of dismissals for 2011 and 2012. For 2013 year-to-date, we would like copies of the actual dismissal forms.”

The city produced 767 records in response to Palumbo’s request. Ott, suspecting that this number was inaccurate, subsequently filed his own PRRs – with the city and also with the County Parking Violations Bureau. He also filed this complaint with the COE.

Ott requested parking ticket data from the county as a cross-check of the city’s figures. It requires a considerable amount of effort to reconcile the county’s figures and the city’s, but that reconciliation follows below. In summary, however, the question of whether the city

properly responded to the reporter's PRR depends on how one evaluates the reporter's specific request. If the request is read as a request solely for documents in hand, then the city appears to have complied with the PRR by supplying 767 records. But if the request is read to mean a full and proper accounting of the city's ticket dismissals, then the proper number of tickets that should have been reported is 1,058. In other words, in the first case, the request would be for *documents*. In the second case, the request would be for the *record of all dismissal events*.

In practice, the difference is this: There are two principal routes by which a motorist can request that a traffic ticket received in Miami Beach be dismissed: By making a request of the city, or by making a request of the county. The city's administration and legal counsel have stated that the city maintains documentation ONLY of those requests made directly to the city. It does NOT maintain documentation of requests made through the county, even though the county forwards all such requests back to the city, and city administrators make the decision whether or not to grant the dismissal. In fact, the county considers these dismissals – in this case, 291 – as “city dismissals.” But the City of Miami Beach classifies them as “county dismissals,” even though it is the city, not the county, which decides if the dismissal request is to be granted.

No rationale was given by city officials as to why no record of ticket dismissals was kept by the city for dismissal requests received by the county. In fact, during this investigator's meeting with city officials on this matter, they stated that henceforth, the city *would* keep documentation of all ticket dismissals regardless of source.

Analysis background and numerical breakdown

Here are the actual numbers that apply to the scenarios detailed above. (Another discrepancy is addressed: Ott asked for records covering January 1 through June 30, 2013, while Palumbo asked for records covering January 1, through June 25, 2013.)

CHART A

Dismissals per County (from Estrada):	2,934
(Minus) MB field voids:	<u>2,076</u>
MB ticket dismissals per county records:	858

CHART B

MB dismissals for Jan 1 to June 30 that will show in City records:	858
(Minus) Tickets dismissed by City before reaching the County:	<u>-30</u>

MB dismissals for Jan 1 to June 30 that will show in County records:	828
(Plus) MB dismissals initiated through County Jan 1-June 30:	<u>+291</u>

The number of Miami Beach ticket dismissals for the period Jan 1 to June 30, 2013 that show in county records:	1,119
--	-------

(Plus) Tickets dismissed by City before reaching the County:	<u>+30</u>
--	------------

Most representative number of tickets approved for dismissal by the City between Jan. 1 and June 30, 2013 (Ott’s range):	1,149
---	--------------

(Minus) Difference in date ranges requested by Ott and Palumbo (i.e., tickets dismissed outside of Palumbo’s range):	<u>-91</u>
---	-------------------

Most representative number of tickets approved for dismissal by the city between Jan. 1 and June 25, 2013 (Palumbo’s range):	1,058
---	--------------

CHART C

MB dismissals for Jan 1 to June 30 (Ott’s PRR range) that show in City records:	858
---	-----

(Minus) MB dismissals initiated through City between June 26-June 30 that show in City records	<u>-91</u>
--	------------

Dismissals by City between Jan 1-June 25 (Palumbo’s PRR range):	767
---	-----

Estrada informed Ott that the county system (the Parking Violations System), showed 2,934 voids for the time period Ott was researching (Jan. 1 through June 30, 2013). But this number included 2,106 field voids – the process of that generates a record but not an actual ticket. The remainder, 858, matches the city’s number of what are classified as “office voids” or dismissals (828 plus 30 dismissals of tickets that never reached the county, and thus show on county records as “field voids,” even though they were not.)

Conclusion(s):

Report turned over to Deputy General Counsel and Advocate to make probable cause recommendation.