



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Karl Ross

Case PI 15-041	Case Name: Longevity increase issue	<u>Date Open:</u>	<u>Date Closed:</u>
Complainant(s): Cathy Lewis	Subject(s): HR Director Arleene Cuellar, et al.	Oct. 2, 2015	Feb. 3, 2016

Date: 2/4/16

**CASE
CLOSED**

Allegation(s):

Prior to her retirement from County services, now former Miami-Dade Transit Civil Rights and Labor Relations Chief Cathy Lewis advised that a union grievance concerning two transit workers may not have been appropriately handled by Human Resources managers.

Lewis alleged that HR Director Arleene Cuellar and possibly others violated the ethics code as it relates to truth in government and committed possible exploitation of their official positions by recommending the denial of longevity merit increases to two MDT employees.

The employees – Nelson Mendez and Myron Saravia – claimed through a grievance filed by the Transit Workers Union Local 291 that, following a 1-year suspension of the Collective Bargaining Agreement (CBA), they were entitled to a longevity pay increase in April 2015, whereas HR managers advocated a later date for awarding the increases.

Lewis further alleged that HR managers, including Cuellar, adopted this position in spite of Lewis' official finding to the contrary – a position she took based on a precedent involving Water and Sewer employees and in consultation with the County Attorney's Office.

Relevant Ordinances:

Miami-Dade County Citizens' Bill of Rights, which holds in Section (A), Subsection (2), titled *Truth in Government*, that "No county or municipal or 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."

Miami-Dade County Code, Sec. 2-11.1(g), Exploitation of official position prohibited, stating in applicable part that no person ... "shall use or attempt to use his official position to secure special privileges or exemptions for himself or others ..."

Investigation:

Interviews

Bill Candela, assistant county attorney
Miami-Dade County Attorney's Office
Phone: (305) 375-2147
Feb. 3, 2016

Mr. Candela advised he spoke with Delise Miller, chief of Civil Rights and Labor Relations for the Miami-Dade Transit Agency, and was told that no decision had been made with respect to the implementation of longevity bonuses for Nelson Mendez and Myron Saravia.

"They're kind of sitting on it right now," Candela said, noting that the matter is the subject of a union grievance and could eventually go to arbitration. He noted the similarities between the MDT case and a case previously arbitrated involving Miami-Dade WASD employees.

Candela said that given the similarities between the two cases, it was the County Attorney's Office's position that it could not defend a denial of the grievance. "We've told HR and told Transit that the Water and Sewer Department ruling does apply ... Once the arbitrator sees this (ruling) we're going to be a tough position to say he (the WASD arbitrator) got it wrong."

Candela noted that ACA Marlon Moffitt handled the WASD case, and that the arbitrator's last name was Lurie (Mark I Lurie). He said that even though the WASD employees belonged to a different bargaining unit (AFSCME Local 121) he felt it set a valid precedent.

He said it could take six to nine months for the arbitration involving the MDT employees to be resolved.

Ken McKay, executive assistant
Transport Workers Union Local 291 – AFL CIO
Phone: (305) 526-8077
Feb. 1, 2016

A phone message was left for Mr. McKay regarding the grievance filed by MDT workers, Nelson Mendez and Myron Saravia. The message was taken at the union office.

Document/Audio/Video Review:

Copies of e-mails between former MDT Civil Rights and Labor Relations Chief Cathy Lewis and members of the Miami-Dade County Human Resources Department were reviewed, along with copies of correspondences relating to the grievance filed by MDT employees.

A copy of the opinion and award of arbitrator Mark I. Lurie in the matter of Miami-Dade County Water and Sewer Department and the American Federation of State, County, and Municipal Employees Local 121, with respect to Case #32 390 00125 12.

A copy of the ruling by Ms. Lewis with respect to the grievance filed by Messrs. Mendez and Saravia (GR15-38), as memorialized in a letter from Lewis dated Sept. 7, 2015. In her ruling, Ms. Lewis grants the grievance, ordering HR to “initiate the appropriate corrective action.”

Conclusion(s):

After reviewing the available documentation and consulting with the Miami-Dade County Attorney’s Office, it was decided the above-cited Preliminary Inquiry should be closed at this time, considering that the issues are being handled through a formal grievance process.

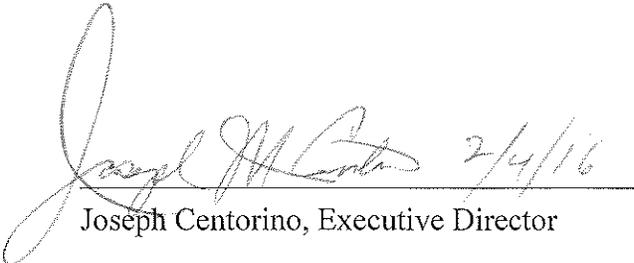
The grievance process is intended to safeguard the rights of the affected parties, and as a result there does not appear to be any need for further action by COE.

Accordingly, the case should be closed.


Karl Ross, COE Investigator

Approved by:


Michael Murawski, Advocate


Joseph Centorino, Executive Director