



**Miami-Dade Commission on Ethics & Public Trust**

**Preliminary Inquiry Report**

**Investigators: Manuel W. Diaz, Breno Penichet**

<b>Case No.:</b> PI 13-021	<b>Case Name:</b> Elias Travel	<b>Date Open:</b>	
<b>Complainant(s):</b> N/A	<b>Subject(s):</b> NM Police Chief Marc Elias	<b>9/17/13</b>	

**Allegation(s):**

On November 11, 2013, The Miami Herald published an article entitled, *North Miami police chief to city \$3K for his trip to Haiti*.

The COE initiated an inquiry to determine if the Chief's actions violated the Miami-Dade Conflict of Interest and Code of Ethics.

**Relevant Ordinances:**

Miami Dade County Conflict of Interest and Code of Ethics Ordinance

Sec 2-11.1

(g) *Exploitation of official position prohibited.*

“No person included in the terms defined in Subsections (b) (1) through (6) and (b) (13) shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or her or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners.”

**Investigation:**

*Interviews*

**Steven Johnson** (Johnson), North Miami (NM) City Manager

Johnson was interviewed via telephone. He advised that he had reviewed all the trips taken by Elias since he was appointed NM Police Chief. In his opinion, all the trips were within the scope of his role as Police Chief.

Johnson advised that he met with Elias to discuss a July 2013 trip to Haiti. During that trip Elias acted as security for NM Mayor Tondreau and met with the National Police staff reference the implementation of Community Policing Services (COPS) as well as, fostering contacts on the issue of child exploitation. Johnson felt that the trip was justified and Elias was acting within his role as Police Chief.

Johnson acknowledged that in reviewing the documentation submitted by Elias, he determined that Elias violated NM's administrative policy on travel in not submitting the required documentation within the required time frame (five working days). Due to the violation of administrative policy, Johnson denied the expenditure and instructed Elias to reimburse the City for the cost of the trip. Johnson advised that along with the denial he issued Elias a strongly worded memorandum admonishing him for not following City policy. (Memorandum in file.)

**Regine Monestime**, Esq. (Monestime) NM City Attorney

Monestime was interviewed via telephone. The scope of the investigation was explained. Monestime advised that she reviews the Planning and Zoning items and other legislative items placed on the Council Agenda's prior to meetings. She does not review Police Department items placed on the Council Agendas.

**Marc Elias** (Elias), NM Police Chief

Elias was interviewed in his office by COE Investigators. He was advised as to the scope of the investigation.

Elias advised that the trip referred to in the Miami Herald article was authorized by Johnson. In his opinion, the trip was within the scope of his role as the Chief of Police.

Elias acknowledged that he failed to follow the City's administrative policy. Elias explained that he neglected to include a written invitation from Haitian officials as supporting the reason for the trip. (Memoranda from Johnson to Elias included in the investigative file.) Elias, after discussing the trip with Johnson, agreed to reimburse the City for the cost of the trip at \$50.00 per pay period.

Elias was advised that the COE obtained copies of memoranda from him to the NM Council requesting Council authorization to spend monies from the Law Enforcement Trust Fund (LETF) and monies from Federal Equitable Sharing Funds (FESF) (See "Documents Reviewed" below.) Elias was told that neither memorandum (February 26, 2013 (Elias) and July 12, 2012 (Johnson)) contained language from the Chief certifying that the use of the funds was within State and or Federal Guidelines. Elias was advised that pursuant to Florida Statute Section §932.7055(5)(b), a certification by the Chief of Police was required to expend LETF funds. Elias was provided with examples of the language utilized by other Miami-Dade law enforcement agencies: Miami-Dade County PD, City of Miami PD and Miami Beach PD.

Elias advised that the Administration Section of department prepares the department's submission to the Council. He said that as far as he knows, they are reviewed by the City Attorney for content and legality prior to going to the Council for consideration. He stated that as the former Assistant Chief and now as the Chief, this is the first issue concerning the language used in requests for LETF or FESF that has been brought to his attention.

Elias contacted Jorge Manresa (Manresa), North Miami Police Administrator, who joined the meeting. Manresa advised that the February 26, 2013 and the July 12, 2012 "Council Approval Memoranda" use the same format that has been used by the Police Department for a number of years and follow the procedure found in NM Administrative Regulation 110-5, Process for Acquiring Goods/Services from the Law Enforcement Trust Fund. (Copy in file.) Manresa was provided with copies of the Miami Beach Police Department and the Miami-Dade County Police Department memoranda, where a certification from the Chief is attached. Manresa advised that he would discuss the use by the other Departments with the City Attorney and once approved change the current language.

After the COE meeting with Elias, Manresa contacted the COE to advise that Elias directed all future LETF/FESF memoranda to the Council contain a certification statement from the Chief.

**Documents reviewed.**

City of North Miami Administrative Regulations

Administration Regulation 1-12 Dated 5/3/00 (Copy in file)

*Establishment of Policy For Travel ON City Business*

**Procedures:**

3. Within five (5) days after the return, the employee/official shall complete and sign the Travel Expenses Report Form in duplicate and forward it to the Budget Administrator....

Administrative Regulation 110-5, Process for Acquiring Goods/Services from the Law Enforcement Trust Fund. (Copy in file) *There is no mention of Chief's certification for the use of LETF/FESF.*

Title XLVII Criminal Procedure and Corrections, FSS 932.7055 (5)(b)

“These funds may be expended upon request by the sheriff to the board of the county commissioners or by the chief of police of the governing body or municipality, *accompanied by a written certification that the request complies with the provision of this subsection,...*” (emphasis added).

*Miami Herald* article

*North Miami police chief to pay \$3K for his trip to Haiti*

The article summarizes Elias trips to Haiti. The article says that he went to Haiti seven times since April 2012, charging each trip to the City's LETF fund. The article continues with the disclosure that Johnson refused to approve one of the trips after he determined that Elias failed to follow the City's administrative procedure in reporting the trip. (Copy of article in file.)

## **NM Public Records**

A public records request was made to NM for all documents supporting the Elias trips made to Haiti. (Summarized below and copies in the file.)

Authorization for Expenditure from LETF and Federal Equitable Sharing Funds. Dated: February 26, 2013

The memorandum from Elias to the City Council requesting the City Council authorize \$115,000 for law enforcement activities.

Under 2, the following is found.

“LETF fund for Community Projects and events to promote positive police image, crime prevention, etc. and for other law enforcement purposes. Approximate cost: \$40,000.”

Authorization for Expenditure from LETF and Federal Equitable Sharing Funds. Dated: July 12, 2011

The memorandum from the former police Chief Johnson to the Honorable City Council requests the City Council authorize \$60,000 for law enforcement activities.

Under 2, the following is found.

“Funds for Community Projects and events necessary to promote positive police image, crime prevention and other law enforcement purposes. Approximate costs \$40,000.”

## **Summary of Trips taken by Elias (Documentation in file.)**

### Trip 1

Purpose of trip: Police Community Concept Project

Travel Request: 4/12/12

Dates of travel: 4/18/12-4/21/12

Traveler Police: Chief Marc Elias

Approvals: Budget Director - date not provided  
City Manager 4/12/12

Travel Expense Report: 4/30/12

Approval: Budget Director 6/7/12  
City Manager - date not provided

Funding Source : LETF CA 7/12/11 #2

Trip 2

Purpose of trip: Chief Elias attending Disaster Preparedness Training – City of Delmas, Haiti: Sister City to North Miami, Florida

Travel Request: 5/14/12  
Dates of travel: 6/3/12-6/9/12  
Traveler: Police Chief Marc Elias  
Approvals: Budget Director 5/12/12  
City Manager 5/12/12  
Travel Expense Report: 6/13/12  
Approval: Budget Director 7/19/12  
City Manager 5/12/12

Funding Source : LETF CA 7/12/11 #2

Trip 3

Purpose of trip: Serving a nine day deployment to Haiti per Department of State –Bureau of International Narcotics and Law Enforcement (INL) MOU with the North Miami Police Department

Travel Request: 6/14/12  
Dates of travel: 6/20/12-6/28/12  
Traveler: Police Chief Marc Elias  
Approvals: Budget Director 6/18/12  
City Manager 6/18/12  
Travel Expense Report: 7/9/12  
Approval: Budget Director: 7/19/12  
City Manager: date not provided

Funding source: Bureau of International Narcotics and Law enforcement Affairs (INL) will reimburse the City under Section V(B) (1) (a-f) of the MOU. (Copy attached to Travel Request.)

Trip 4

Purpose of trip: Invitation from the President to take part in Swearing-In Ceremony for the new Chief of Police and meeting with various entities of Police Administrator and Secretary of Justice

Travel Request: 12/11/12  
Dates of travel: 11/25/12-12/04/12  
Traveler Police: Chief Marc Elias  
Approvals: Budget Director 11/16/12  
City Manager – date not provided  
Travel Expense Report: 12/7/12  
Approval: Budget Director 12/11/12  
City Manager – date not provided  
Funding source: Police Training Fund

Trip 5

Purpose of trip: Invitation from the President to take part in Swearing-In Ceremony for the new Chief of Police and meeting with various entities of Police Administrator and Secretary of Justice

Travel Request: 12/11/12  
Dates of travel: 12/13/12-12/17/12  
Traveler: Police Chief Marc Elias  
Approvals: Budget Director 12/11/12  
City Manager 12/11/12  
Travel Expense Report: None Provided  
Approval: Budget Director – no date provided  
City Manager - no date provided  
Funding source: LETF CA 7/10/12 #2

Trip 6

Purpose of trip: Invitation from Haiti's Chief of Police to celebrate the 18<sup>th</sup> Anniversary of Haitian Police Department, participation in seminars regarding crime and child exploitation and recognition of services by North Miami Police

Travel Request: 5/23/13  
Dates of travel: 6/12/13-6/17/13  
Traveler: Police Chief Marc Elias  
Approvals: Budget Director 6/5/13  
City Manager 5/23/13  
Travel: Expense Report: 6/18/13  
Approval: Budget Director 7/3/13  
City Manager – no date provided  
Funding source: LETF Appropriation 2/26/13 #2

Trip 7

Purpose of trip: Security for Mayor Lucie Tondreau and meeting with National Police staff reference the implementation of Community Policing Services (COPS) as well as updating relationship on child exploitation.

Travel: Request: 7/23/13  
Dates of travel: 7/26/13-7/31/13  
Traveler: Police Chief Marc Elias  
Approvals: Budget Director 7/23/13  
City Manager 7/23/13  
Travel Expense Report: 8/6/13  
Funding source: LETF Appropriation 2/26/13 #2

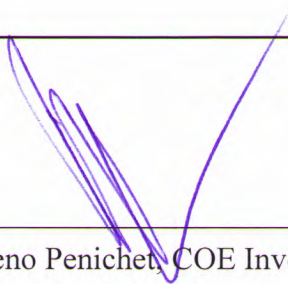
Note: Trip was reevaluated and disapproved by the City Manager. Elias failed to submit documentation within time specified in NM administrative policies



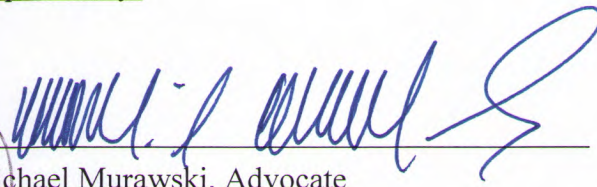
**Conclusion:**

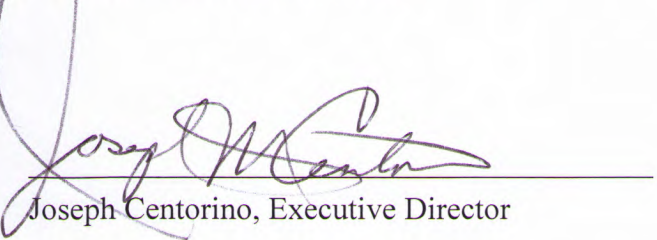
The evidence is insufficient to sustain an ethics violation against Chief Elias for *Exploitation of Official Position* due to the City Manager's having approved them as properly within the scope of the Chief's public position. However, this report should be forwarded to the Florida Department of Law Enforcement as the entity that reviews LETF expenditures. It is of concern that the North Miami Police Department failed to follow the dictates of Florida Statute §932.7055 (5)(b).

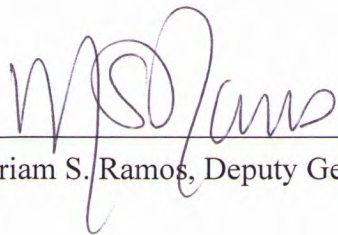
  
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Manuel W. Diaz, COE Investigator

  
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Breno Penichet, COE Investigator

Approved by:

  
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Michael Murawski, Advocate

  
\_\_\_\_\_  
Joseph Centorino, Executive Director

  
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Miriam S. Ramos, Deputy General Counsel

Date Closed: 2/3/14