

REPORT OF INVESTIGATION

K #: 07-035

Date Opened: May 3, 2007

Name of Investigator(s): Sylvia Batista, Manuel W. Diaz
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Allegation:

The COE received anonymous information alleging that Kevin Burns, Mayor of the City of North Miami, Florida, was transported to Miami International Airport (MIA) in a marked, North Miami Police vehicle. While being transported, the Mayor requested that the officer use the vehicle's emergency equipment (lights and siren) because he was late for his flight. In addition to the Mayor, his partner and their child were transported in the Police vehicle.

An investigation was initiated to determine if the Mayor violated the **Miami-Dade County Code of Ethics and Conflict of Interest Ordinance Sec. 2-11.1**

To wit:

(g) *Exploitation of official position prohibited.* No person included in the terms defined in Subsections (b)(1) through(6) shall use or attempt to use his official position to secure special privileges or exemptions for himself 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:

Interview Officer Barry Komi, North Miami Police Department, April 2, 2007.

Officer Komi is assigned as the Community Relations Officer for the Department. He recalls taking the Mayor's party to the airport. He does not remember who in the Police Department contacted him and instructed him to provide the ride. It could have been either his Lieutenant (Cervanes) or his Sergeant (Cassis). He recalls that he was instructed to go to Mayor Burn's house in Keystone Point and take him to the airport. The Mayor was going on a City related trip, he does not remember where. The Mayor mentioned that he was late and wanted Officer Komi to use the vehicle's emergency equipment (blue lights and siren) because he was running late for his flight. Officer Komi advised him that he could not, it was against policy. Officer Komi advised Investigators that he contacted his office, but he does not recall who he spoke with. Komi did not utilize the emergency lights or siren. Officer Komi took the three passengers to MIA, where he dropped them off.

Officer Komi advised that in the past he was detailed to transport former Mayor Celestine while he was in office to two events representing the City of North Miami. The first was the ASPA conference in downtown Miami and the second was the Marlins award event, also in downtown Miami. On both occasions Komi provided the transportation and stayed with the Mayor throughout the event for security reasons.

Interview Chief Gwendolyn Boyd, North Miami Police Department.

Chief Boyd advised investigators that she heard about Officer Komi transporting the Mayor to MIA after it had occurred. She was out of town at the time. The Chief was

advised by Assistant Chief Brown. She reported it to City Manager Patterson. She advised investigators that the Police Department has an administrative policy restricting the transportation of non-city employees in police vehicles. The Chief advised that the use of emergency equipment in this situation would be inappropriate. She advised that the transportation of non-city personnel in police cars is considered a liability issue.

Interview with City Manager Clarence Patterson, City Manager North Miami.

Mr. Patterson was interviewed on April 17, 2007. Mr. Patterson was advised as to the focus of the Investigation, that being to determine if Mayor Burns had exploited his position by having the Police Department provide transportation to MIA for himself, his partner and their child. Manager Patterson advised that he heard that the Mayor and his family had been transported to the airport, but only after it occurred. He advised that he did not authorize the transporting of the three individuals to or from the airport.

Interview Assistant Chief Douglas Brown, North Miami Police Department.

Assistant Chief Brown was interviewed on April 18, 2007. He advised that he recalled the incident, but did not keep any notes. He does not recall if he was contacted by the Mayor or the City Manager's Office requesting a ride to the airport. He does recall that he approved the transporting of the three to the airport. He does recall that he was contacted by Police Major Stephen Johnson when the Mayor requested the transporting Officer (Komi) use the emergency equipment (lights and siren), because the Mayor was late for his flight. He denied the request. Assistant Brown advised that the Police Department would not have authorized the Mayor's transportation if it did not come from a higher authority, either the Chief or the City Managers Office.

Assistant Chief Brown advised Investigators that the policy for the use of City vehicles is included in Administrative Regulation 1-56.

Interview Major Stephen Johnson, North Miami Police Department

Major Johnson directs the Community Policing Division of the Police Department.

Investigators explained the scope of the investigation to Major Johnson. He explained the following. Toward the end of last year he was contacted by Officer Barry Komi who advised that he was transporting Mayor Burns, his partner and child to Miami International Airport. Officer Komi advised the Major that Mayor Burns wanted him to use the vehicle's emergency equipment, because he was late for his flight. Officer Komi advised the Mayor that it was against policy. Major Johnson concurred with Officer Komi's decision. Major Johnson advised investigators that he contacted his supervisor Chief Brown to inform him.

Major Johnson was asked if he directed or in any way authorized Officer Komi to take the Mayor to the airport. Major Johnson advised Investigators that he did not recall authorizing Officer Komi to take the Mayor to the airport. The Major advised that normally any such direction would have come to him from one of three sources, the City Manager, the Chief of Police or one of the Department's two Assistant Chiefs of Police. He did not recall receiving any direction from his superiors to provide the Mayor with transportation to the airport.

Shortly after speaking to Investigators, Major Johnson re-contacted Investigators and advised that he had discussed the Mayor's trip with Sergeant Chris Cassis, Officer Komi's supervisor. She told the Major that she in fact authorized the Mayor's

transportation to the airport. Despite his conversation with the Sergeant, the Major did not recall his instruction to the Sergeant.

Interview Sergeant Chris Cassis, North Miami Police Department.

Investigators contacted Sergeant Cassis. She confirmed the substance of her conversation with Major Johnson. She advised Investigators that toward the end of last year (2006), Major Johnson instructed her to have Officer Komi meet the Mayor at his house and transport him to the airport. She did not recall the specific dates of the conversation with Major Johnson.

Investigators obtained a copy of the Administrative Regulation 1-56

Section 8. *Passengers.* The employee utilizing a take home vehicle shall not transport any person not employed by the City of North Miami. The only exceptions to this provision are an actual emergency or other authorized official action (e.g. a sworn police officer transporting prisoners or victims).

Interview Kevin Burns, Mayor City of North Miami.

Mayor Burns was interviewed on May 16, 2007, in the COE offices. Present were his Attorney Amy Huber, Shubin and Bass 46 SW 1st Street Miami, Florida 305-381-6060, representing Mayor Burns and COE Investigators Batista and Diaz. The interview was recorded, below follows a summary of the interview.

The scope of the investigation was explained to Mayor Burns and his attorney. The Mayor confirmed that he and his partner and child had received a ride to the airport from a North Miami Police Officer in a marked police vehicle. The Mayor volunteered the following:

The Mayor was not sure if the above occurred in 2006 or 2005. He was scheduled to attend the Conference of Mayor's meeting in Washington D.C. The same date that he was scheduled to fly to Washington D. C., he attended a City Meeting. After the meeting he mentioned to City Manager Patterson that that he was running late for his flight. The City Manager offered to arrange for his transportation to MIA. The Mayor advised that he did not know the method of transportation the City Manager was going to arrange. The Mayor returned home. He was met by a police officer whom he assumed was sent by the City Manager. The officer provided transportation for the Mayor, his partner and their child to MI A The Mayor advised investigators that he never asked the officer to use the marked police vehicle's emergency equipment. He recalled the officer calling some one during the trip to the airport, but he did not overhear the conversation. The Mayor advised that he did not contact anyone within the police department to arrange for the transportation.

According to Mayor Burns he is aware that the City Police Department has a policy restricting the transportation of non-city employees in police cars. The Mayor commented that the police department has transported other elected officials to and from official City functions. He noted, but hesitated to name, the name of the female council member. He also advised that the previous Mayor had been transported to and from official events by the police department. The Mayor said that he is aware that police department upper staff routinely transports their families in police vehicles. He advised that the vehicles, while not marked, are equipped with emergency lights and sirens. The Mayor advised investigators that he arrived at the airport late and was

forced to take a later flight. The Mayor advised that when he and his party returned to Miami after the conference, he hired a cab to return him to his residence.

After the interview ended the Mayor commented that he believed that compliant came from the Police Department and possibly from the Chief. According to the Mayor, the Police Chief has an ongoing pay dispute with the City Manager and the City. In his opinion the Police Chief has made unrealistic pay demands. The Mayor has taken the position of the Manager and the City that the Police Chief is not entitled to the compensation she requested. According to the Mayor, the Chief has filed action against the City. Ms. Huber commented that this was an election year, and there were a number of letters and rumors circulating through the city against the Mayor. (Non-recorded)

Conclusion:

1. Mayor Kevin Burns, his partner and their adopted child received a ride to Miami International Airport from the North Miami Police Department.
2. Neither his partner nor his child is a City employee.
3. The Mayor was scheduled to attend the Conference of Mayors in Washington D.C.
4. The Mayor's partner and their child attended as guests of the Mayor.
5. On the day the three were to fly to attend the Conference, the Mayor attended a City meeting.
6. The Mayor commented to the City Manager that he was running late for the flight to Washington D.C.
7. According to the Mayor the City Manager offered to provide the Mayor transportation to the airport.

8. The City Manger advised investigators that he was informed by the Police Chief, after the Mayor had been taken to the Airport. The Manager advised that he never authorized the transportation of the Mayor and his family in a police vehicle.

9. According to his supervisor Office Komi, has a Take Home Vehicle. The vehicle is marked and is equipped with emergency lights and sirens.

The City of North Miami Administrative Regulation, adopted through an employee agreement Article 46 **Take Home Vehicle Program**, prohibits the transportation of individuals not employed by the City of North Miami in Take Home Police Vehicles.

10. Pursuant to the City of North Miami Charter and Code the City Manager is the Chief Administrator for the City of North Miami.

11. The Chief of Police was out of town on the day the incident occurred and did not authorize the transport of the Mayor and his family.

12. Assistant Chief Brown recalls that he allowed the transportation of the three to the airport in a police vehicle, but only because he believed it had been authorized through the chain of command. He does not recall who contacted him, authorizing the transport. He does recall Officer Komi contacting him to discuss the use of the emergency equipment. He recalls denying the request. Chief Brown advised investigators the Police Department would only permit the transporting of the Mayor and his party, if the authorization was given by the City Manager or the Police Chief.

13. Major Johnson, Chief Brown's subordinate does not recall directing anyone to transport the Mayor's party to the airport in a police vehicle. He does recall the conversation with Officer Komi and Assistant Chief Brown concerning the use of the emergency equipment. He recalls that the use of the equipment was denied by Chief Brown.

14. Sergeant Cassis recalls the incident. She advised that Major Johnson directed her to have Officer Komi transport the Mayor's party to the Airport. She recalls the conversation with Komi concerning the use of the emergency equipment.

15. The Mayor assumed that the City manager had arranged for the police vehicle to transport him to the airport. It was not out of the ordinary to have a police vehicle transport City officials on City related matters. The Mayor denied that he requested Officer Komi to use the emergency equipment.

Conclusion: Murawski

Clearly, the Mayor, his partner and their child were, in fact transported to MIA by a City of North Miami marked patrol car which is the take home vehicle for Officer Komi.

Unless Komi had received proper authorization to transport two non-City employees in a marked police car, it would appear that Officer Komi violated Administrative order Section 8. However, the evidence indicates that Komi was acting under the direction of his superiors. It remains somewhat unclear as to whose direction Komi's supervisors were acting under.

It is quite clear that some conversation took place in the police car regarding the use of the emergency equipment (lights and sirens). Komi recalls seeking authorization for the

use and Assistant Chief Brown, Major Johnson and Sergeant Cassis all recall the discussion about the use of the emergency equipment. There seems to be little reason to doubt Officer Komi's testimony in this regard.

It is equally clear that some individuals are either confused about the facts or deliberately obfuscating them. Ultimate authorization to transport the Mayor and his party obviously came from somewhere. Most likely it was not from the Chief of Police as she was out of town at the time. That leaves Mr. Patterson, who denies giving the authorization. No other witness seems able to recall or pinpoint where the authorization came from.

In light of the extensive contradictory statements by several witnesses and in light of the City's precedent of transporting City officials on City related matters, the filing of a complaint against Mayor Burns does not seem warranted, however, both he and City officials should codify and adhere to a policy of when and how police vehicles are to be used to transport City officials and, at the very least, maintain a log book which indicates who authorized the use of the vehicle and under what conditions. Considering that the use of police vehicles to transport City officials seems to be a fairly infrequent occurrence, this simple check and balance system ought to be unduly burdensome and it can easily diffuse any future allegations of wrongful use.