

OFFICE OF THE INDEPENDENT ADVOCATE

REPORT OF INVESTIGATION AND CLOSE-OUT MEMORANDUM

K08-003

April 3, 2008

.....  
**Allegation:**

On Jan. 24, 2008, **James Wright**, the former police chief of the City of Opa-locka, was interviewed by investigators from the Miami-Dade County Commission on Ethics and Public Trust's Office of the Independent Advocate. Wright had voluntarily contacted the Office of the Independent Advocate (OIA) to provide evidence of, what he believed to be, a violation of the County's Conflict of Interest and Code of Ethics ordinance by Opa-locka City **Commissioner Gail Miller**.

**Background:**

Wright advised that on or about Sept. 24, 2007, he received an angry telephone message from Commissioner Miller. Wright explained that Commissioner Miller's daughter, **Tamika Miller-Wiggins** (Tamika), was employed at the Opa-locka Police Department (OLPD) as a crime analyst. Wright believes that the phone message he received from Commissioner Miller concerned a "counseling session" Tamika received from her supervisor resulting from what he considered poor job performance. The phone message in question is transcribed below.

*"James. This is Commissioner Miller. I'm fed up. I must take this now in my hands. I don't know what's going on over there in that department. Now I'm fittin' to go over everybody's heads. Because when it comes to my baby, ain't nobody going to step on her toes. Nobody. And that punk-ass deputy chief you got there, he gonna wish you never hired him when I get through with y'all..."*

Wright stated that he knows Commissioner Miller very well and is positive that it is her voice on the phone. Wright believes the phone call from Commissioner Miller is a direct result of the disciplinary action against her daughter, Tamika.

Investigators obtained the billing records of Commissioner Gail Miller's city-issued cellular phone. Those records indicate that on Sept. 24, 2007, beginning at 5:07 p.m., Commissioner Miller received a call from Tamika. That call lasted approximately two (2) minutes. That call was followed by a series of four (4) calls between Commissioner Miller and Tamika. The last call in the series is an approximately nine (9) minute call between the commissioner and her daughter. Immediately after this last conversation, the records show that Commissioner Miller called Wright's cellular phone two (2) times. It is around the time of these two calls to former Chief Wright that it is believed Commissioner Miller left the phone message.

COE investigators also interviewed former OLPD Deputy Chief **Jeff Torain**. Torain said he was able to identify the voice on the cellular phone message as that of Commissioner Miller. COE personnel compared the recorded voice of Commissioner Miller during a city commission meeting with the cellular phone message and concluded the message on Wright's phone is indistinguishable from Commissioner Miller's voice as it sounded during the commission meeting.

Torain explained that Wright helped get Commissioner Miller appointed to the Opa-locka City Commission to replace former Commissioner Terence Pinder, a political ally of Wright's. (Pinder was removed from office after he was arrested and charged with, among other things, misusing his city credit card for personal expenses.)

Torain stated that Wright's objective was to have City Manager Jannie Beverly removed so that he could be appointed manager. He said Wright was counting on

Miller's support, but was upset when she refused to support a resolution calling for Beverly's dismissal. Torain said Wright's relationship with Commissioner Miller deteriorated further when Miller refused to contact the Governor's office on Wright's behalf and request he be appointed to the Miami-Dade County School Board after the death of Robert Ingram. Torain specifically recalled a comment Wright made about Commissioner Miller after she refused to lobby state officials on his behalf. "She's done," Wright allegedly fumed. "She's finished."

Torain stated he would have given Tamika a "satisfactory" rating in upcoming performance evaluation. She received an "above satisfactory" rating in her prior evaluation earlier that year. He said he felt Wright was unfair in his treatment of Tamika, and that his mounting criticisms about her performance were politically motivated. Torain said he felt Tamika should have been given additional training in order to upgrade her abilities. Torain advised that he wrote the Sept. 25, 2007, memo recommending Tamika be terminated as a crime analyst (attached as Exhibit A) upon Wright's direct order even though he (Torain) did not agree with the action.

### **The Law:**

According to its charter, the city of Opa-locka is a "commission-manager" form of government. Thus, all powers of the city shall be vested in an elective council, hereinafter referred to as "the commission," which shall enact local legislation, adopt budgets, determine policies, and appoint the city manager, who shall execute the laws and administer the government of the city.

Section 33 of the city's charter entitled "Chief of Police," states that the chief of police shall be director of [the] Department of Police and he shall be responsible for the

enforcement of law and order in the city under the direction of the city manager and perform such other duties as may be imposed upon him by law, the ordinances of the city, and the direction of the city manager consistent with this charter.

Section 11 entitled: *Commission not to interfere in appointments or removals*

*states:*

Neither the commission nor any of its members shall direct or request the appointment of any person to, or his removal from, office by the city manager or by any of his subordinates, **or in any manner take part in the appointment or removal of officers and employees in the administrative service of the city. Except for the purpose of inquiry, the commission and its members shall deal with the administrative service solely through the city manager** and neither the commission nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately. Any commissioner violating the provisions of this section, or voting for a resolution or ordinance in violation of this section, shall be guilty of a misdemeanor and upon conviction thereof shall cease to be a commissioner (emphasis added).

#### **CONCLUSION:**

The Independent Advocate for the Miami-Dade County Commission on Ethics and Public Trust has the discretion to file or decide not to file an ethics complaint based upon the results of any given self-initiated investigation or inquiry. No one can direct the Advocate to file a complaint if he or she decides not to. Any member of the public, the State Attorney or the Inspector General may file a complaint with the Ethics Commission. The decision not to file complaints in this case is made with the hope that these two individuals will not perpetuate what appears, in this writer's opinion, to be a personal vendetta and petty gamesmanship. Surely the people of Opa-locka deserve more from their officials than to have them needlessly expend time, effort and resources in pursuing personal agendas rather than the public interest.

Former OLPD Chief Wright did not file a formal complaint against Commissioner Miller, nor has Miller filed any complaint against Wright. Based upon the facts

uncovered by the COE inquiry the Advocate declines to file a complaint against either former Chief Wright or Commissioner Miller.

The Advocate recognizes that political opponents and other individuals often use or attempt to use the Ethics Commission and the complaint filing process to further their own individual agendas while at the same time seeking to discredit their opponents.

Although Commissioner Miller publicly denied making the call in a Miami Herald article, there seems to be little doubt the cellular phone message left on Wright's phone was left there by Miller herself. Calls to Wright originated from her city-issued cell phone at the time of her daughter's "counseling session," and several people have identified her voice. Moreover, she clearly had a motive for making such a call.

The COE has no jurisdiction over charter violations even if her actions amounted to a charter violation. It is conceivable her actions could support a charge of exploitation of official position insofar as she was using or attempting to use her official position as a city commissioner to intervene on behalf of a city employee, in this case her daughter Tamika. However, it seems equally as evident that former Chief Wright has come to the Ethics Commission with "unclean hands." The actions by Wright in retaliating against Tamika because of his contentious relationship with Commissioner Miller could also be viewed as an exploitation of his official position.

In essence, Chief Wright shook the beehive then came running to the Ethics Commission to complain about the fact that he got stung. Investigation has confirmed that on or about Dec. 21, 2007, when Wright wrote to COE Executive Director Robert Meyers to complain about Miller's phone message, he was facing multiple grievances filed against him by police department employees – including Tamika Miller-Wiggins – alleging various sorts of professional misconduct.

Wright alleged in his letter to Meyers that Commissioner Miller's phone message left him with "feelings of fear and intimidation." However, Wright received the phone message in September 2007. There is no indication that Wright notified any authorities at the time of the phone call, if in fact he did feel concern for his personal or professional security. He later told COE investigators that, in fact, he felt no such concerns.

Wright told investigators the only person with whom he shared the phone call was his former deputy chief, Torain, and that he told Torain, with reference to the message: "It's a keeper." Torain confirmed Wright played the message for him, and said Wright indicated he intended to save the message in case it could be used to his political advantage some time in the future. Torain described Wright's behavior as "manipulative" and driven by political ambition rather than public interest.

It seems plausible that Wright wrote to COE and others last December as a pre-emptive strike in his ongoing battle with Opa-locka city officials to save his job. Both the city manager and acting city attorney told COE investigators that Wright was fired in early 2008 as a result of the myriad complaints against him.

The Advocate has the discretion to refuse to expend public resources on matters that, in his or her view, do not serve the public good. Accordingly, no complaints will issue from this office concerning the alleged transgressions of former Chief Wright or Commissioner Miller.