

**MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST
OFFICE OF THE INDEPENDENT ADVOCATE**



REPORT OF INVESTIGATION

K #: K11-078

Date Opened: 6/2/11

Date Closed: 7/15/11

Name of Investigator: Manuel W. Diaz

Allegation:

The COE received information that Miami Beach politicians and senior police officials may have ordered marine patrol officers to remove anchored boaters from a public waterway in violation of Florida State Statutes, during the 2011 Memorial Day weekend. It was further alleged that a Miami Beach resident may have used his political influence with elected officials and the Police Department to remove boaters anchored near his residence.

Applicable Legislation:

(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 herself 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.

Interviews:

Wally Moran – North Channel Sailing, Training Deliveries

Moran was interviewed via telephone. Moran advised that the incident occurred on the Friday, May 27, 2011 or on Saturday, May 28, 2011. He explained that he was teaching a boating class, instructing students how to properly anchor a boat. He chose the Sunset Channel

off of Miami Beach because it is calm and there is little current. He was anchored mid-channel, directly across from Karlton's home. Moran advised that he was anchored for about ten minutes when a Miami Beach Police boat approached his boat. He described the officers as courteous. The officers explained that they had been dispatched to ask him to move 100-150 yards from his current anchor. The officers explained that the owner of the residence directly in front of where his boat was anchored (Karlton), had a history of creating problems when he saw individuals were anchored in front of his residence. Moran did not move his anchorage; he remained another hour until his class was over. Moran advised that the officers left after speaking to him.

Moran further advised that he was aware of Karlton's history. He knows that Karlton has filed numerous complaints with the Police Department concerning boaters anchoring in the channel in front of his residence. Moran advised that he has a number of friends that have been confronted by Karlton, in the past, for anchoring near his residence. Moran advised that Karlton is well known in the boating community for his complaints. He explained that when individuals anchor in the canal in front of his residence, Karlton plays loud rap music to intimidate and aggravate boaters. Moran has heard that Karlton will also shine bright lights on anchored boaters at night and make threatening gestures in an attempt to get boaters to move. Moran explained that he is a retired newspaper writer and publisher and currently is a contributor to several boating publications. Moran advised that the Miami Herald is writing a story concerning the incidents.

Moran does not know Karlton personally, but has heard that Karlton is politically connected and a contributor to political campaigns. Moran learned from the officers that Karlton has historically been connected with a number of Miami Beach politicians, although recently seems to have fallen out of favor with some.

Moran provided several emails sent to Miami Beach city officials, as well as a reference to a YouTube site which he described as an example of Karlton's manner of dealing with boaters.

<http://www.cruisersforum.com/forums/f106/bullying-on-the-waterway-sunset-lake-miami-61665-3.html>

Carlos Noriega – Police Chief, Miami Beach Police Department

Noriega advised that Karlton lives off of the Sunset Islands Waterway. Karlton is a civic activist and recently ran for election to the City Commission.

Noriega explained that several years ago (2005) the City of Miami Beach Commission enacted an Ordinance that established times and locations where boaters could anchor within City waters. In the last two years, the State passed legislation effectively negating the City Ordinance and placing waterways under State jurisdiction. Since the passage of the State legislation, complaints about boaters anchoring the waterways from waterfront residents have increased. He explained that the Police Department does not have the staffing to place permanent patrols around the City's 13 islands.

Noriega advised that Karlton's residence is waterfront property. Karlton has his cellular telephone number. He clarified that he does not remember if he gave him the number or Karlton got it from other sources.

Noriega advised that, in the past, Karlton has called him directly to report boaters anchoring near his residence. According to Noriega, Karlton calls him when he becomes frustrated and cannot get immediate police response from the Police Department's Dispatch Center. When Karlton contacts him, he refers the call to either the Dispatch Center or the Marine Patrol to handle routinely. Noriega advised that he has never been contacted by any City official (Mayor or Commissioner) concerning Karlton's complaints.

Noriega voluntarily provided his cellular telephone records for the months of April, May and June 2011. The records were reviewed. The records show that Noriega made or received approximately thirteen hundred (1,300) telephone calls each month. During the three months Noriega received seven (7) calls from Karlton's cellular telephone number. The shortest call was for one (1) minute, the longest call was for eight (8) minutes.

From	To	Date	Time	Duration (min)
Karlton	Noriega	5/5/11	9:30 am	4
Karlton	Noriega	5/5/11	11:46 am	1

Karlton	Noriega	5/5/11	1:10 pm	2
Karlton	Noriega	5/27/11	5:47 pm	2
Karlton	Noriega	6/2/11	4:35 pm	4
Karlton	Noriega	6/13/11	10:05 am	7
Karlton	Noriega	6/17/11	2:22 pm	8

Noriega advised that Karlton has confronted boaters for anchoring near his dockage. In one instance, threats were exchanged and police reports were generated. Since there were no police present at the time of the threats, the parties were advised to contact the State Attorney's Office. Noriega does not know if there was any follow up by either party.

Noriega advised the Department has no authority to remove boaters anchored in City waters. When complaints come in, similar to Karlton's, officers will approach anchored boaters, explain the rational and *ask* boaters to move. This is done to prevent any confrontation. If the boater refuses to move, under state law, nothing else can be done.

Noriega added that Karlton is a City resident and a taxpayer and that the Department has a responsibility to respond and take appropriate action when contacted. According to Noriega, he has advised Karlton to caution his actions and has warned that any violation of the law will lead to his arrest.

Fred Karlton – Resident, 2344 N. Bay Road, Miami Beach, Florida

Karlton was interviewed via telephone. He was advised of the scope of the investigation, specifically that the COE had received allegations that he was getting special treatment from the Police Department.

Karlton explained the following: Over the years he and his neighbors have been subject to a number of incidents from boat operators in the Sunset Channel behind his residence. The incidents have included: trespass on their residence and private docks, damage to and theft of boats and watercraft, residential burglaries, voyeurism, loud noise, damage to docks and other personal property. He and other residents have met with the Police Department, the Mayor, several Commissioners, the City Attorney and the U.S. Coast Guard to see what protections are available to themselves, their families and their property. He is aware that under current state law, boaters are permitted to anchor in the Sunset Channel across from his residence.

Karlton provided the names of several residents in his area who have also complained to the City Administration, and have attended meetings with him. During winter, dockage in Sunset Channel becomes worse. He gave the following example: in 2010 a 26ft boat anchored near his dock and for two months and would continually dump sewage overboard. He called the City but they did nothing.

Karlton acknowledged that he has, in the past, played loud music from his dock during the day and shown spotlights at night to dissuade boaters and voyeurs from anchoring near his dock. He advised that his actions do not break any laws. He acknowledged that he has confronted boaters, but no longer does so on the advice of the police. He now calls the Marine Patrol office or the Department's Dispatch Center, when individuals anchor near his residence and the Police Department will usually respond. He advised that officers usually respond within a couple of hours. He commented sometimes they are so busy that they do not respond.

Karlton stated that he has never received preferential treatment, because of whom he is or who he knows, but added that he expects a response from the Police Department because he is a Miami Beach resident and a taxpayer. He advised that he does not routinely call Noriega when he has a problem. He was out of town for most of the Memorial Day weekend, leaving on Saturday and returning on Sunday evening. He does not recall if he called Noriega or the police generally on the Friday before the weekend, but said he may have.

Karlton advised that he is being targeted and harassed by boaters whom he has reported to police. He provided a WEB site Blog, where contributors have made derogatory comments. He identified one contributor in particular Wally Moran.

<http://www.cruisersforum.com/forums/f129/bullying-on-the-waterway-sunset-lake-miami-60229-2.html>

Public Records Request

A request was made to the Miami Beach Police Department for:

1. Copies of any Police Reports made by Karlton or others with reference to threats, burglaries, suspicious persons, damage to property, personal disputes etc. at 2344 N. Bay Road, Miami Beach, Florida. The Department provided the below listed reports:

- a. September 18, 2009 - theft of jet ski. Victim Karlton
- b. December 6, 2009 - theft of jet ski. Victim Karlton
- c. March 22, 2010 - theft of jet ski. Victim Karlton
- d. May 6, 2010 - theft of jet ski. Victim Karlton
- e. March 27, 2011 -stalking/intimidation. Karlton harassing boaters.

2. A list of calls for service to the address, with notes taken by the police dispatcher and copies of reports generated by the calls. A review of calls for service at 2344 N. Bay Road, between July 6, 2009 and March 3, 2011 indicates that there were twenty seven (27) calls for service. The calls included: report of stolen vessel or car, accident, suspicious person, information with report, information no report and disturbance.

3. A list of calls, referencing the similar information for the residence (within the area) one block North and one block South of, but not including, the Karlton residence. A review of the calls for service between September 1, 2009 and June 12, 2011, indicate that there were sixty (60) calls for various incidents including, traffic, theft burglary, alarms and theft.

Summary of the Investigation:

1. The COE received information that Miami Beach politicians and senior police officers may have ordered marine patrol officers to remove anchored boaters from a public waterway in violation of Florida State Statutes. The information further alleges that a Miami Beach resident may have used his political influence with elected officials and the Police Department to receive preferential service.

2. The Miami Beach Police Chief was contacted. He advised that he is aware of a series of

confrontations that have occurred in the past, where Karlton has involved himself in confrontations with boaters anchored in public waters located across from his resident.

3. The Police Chief advised that some of the confrontations have been direct, with threats exchanged. He also advised that officers have cautioned the resident to limit his interaction with boaters and advised him that his actions could lead to arrest.

4. To prevent confrontation, the Chief explained that officers will explain the situation and ask boaters to move their anchoring locations from in front of the residence. He explained that if the boater refuses to move, the officers cannot force them to do so.

5. The Chief advised that he knows Karlton and that Karlton has his cellular telephone number. The Chief noted that he has given his cellular telephone number to hundreds of residents during his tenure with the Department.

6. The Chief advised that Karlton has called him to complain of boaters anchoring near his residence. When Karlton calls, he refers the complaint to the Dispatch Center or Marine Patrol for normal assignment.

7. The Chief denied that he has ever given any call from Karlton preferential treatment. All calls were handled routinely.

8. Moran (the complainant) was contacted. He advised that he was anchored in public waters, mid-channel, off of Karlton's residence. He was approached by a police boat and was asked to move by officers. The officers explained the situation with Karlton. He did not leave but stayed until his class was over. He advised the COE that he knew of Karlton's reputation and his conflicts with boaters.

9. Karlton was interviewed and acknowledged that over the years he has had aggressively approached boaters (playing loud music and shining search lights) anchored in the public waterway.

10. He advised that he has been the victim of several crimes from boaters anchored in the waterway.

11. He advised that he has been targeted by individual boaters and boater groups, through

blogs, for retaliation.

12. He advised that when he calls the police he contacts the Marine Patrol office directly or leaves messages on their answering machine. According to Karlton, sometimes they show sometimes they do not. Karlton advised that he has contacted a number of individuals in government to inform them of his problems with boaters to include: the Mayor, City Attorney, Commissioners, the Police Chief and the U.S. Coast Guard. Karlton is aware that the Police Department, by state law, cannot remove boaters who are anchored in public waters in the canal across from his residence.

Conclusion:

There does not appear to be sufficient evidence that Chief Noriega exploited his official position by giving Karlton preferential treatment. There is no evidence that the police ordered the boaters, who had a right to be where they were, to move. The Chief seems to be dealing with a possibly volatile situation, mostly caused by Karlton, in a reasonable manner. Chief Noriega should take care however to avoid the appearance that a politically connected, wealthy resident is being given special treatment that an ordinary citizen would not receive.