

# MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



## REPORT OF INVESTIGATION

K12-130/C12- 032

Date Opened: August 20, 2012

Date Closed: November 11, 2012

Name of Investigator: Breno Penichet

---

### **Allegation:**

Miami resident Al Crespo (Crespo) filed complaint C12-032 against City of Miami Commissioner Frank Carollo (Carollo), on August 18, 2012. Crespo alleged, that on Monday August 13, 2012, Carollo was pulled over on Tigertail Avenue in Coconut Grove, by Miami Police Officer John Blackerby for a minor traffic infraction. Crespo alleged that within moments of being pulled over, Carollo reached out to someone in the command staff, in order to save him from receiving a traffic ticket. Crespo advised that this became evident when Officer Blackerby was asked to call the chiefs' office.

### **Applicable Legislation:**

Section 2-11.1(g), "Exploitation of Official position prohibited"

### **Investigation:**

COE Investigators reviewed the original complaint along with the attached exhibits. From the information provided, it appeared that on Monday, August 13, 2012 Carollo was traveling on Tigertail Avenue. Traffic was backed up due to the fact that a City of Miami Solid waste truck was delivering new recycling cans (AKA. the big blue cans) ahead of Carollo's vehicle. Carollo decided to pass the truck on the left hand side crossing over the double yellow line, and driving on the wrong side of the street. Carollo was pulled over by a City of Miami Police marked unit and was engaged in conversation by Officer Blackerby. At this point, according to the complaint, Carollo made a phone call to someone in the Police administration, and the officer was requested to contact the Chief's Office. After a few minutes, Carollo was allowed to go without being issued a Citation, only a verbal warning.

**Interview of Manuel Orosa:** City of Miami, Police Chief.  
400 N.W. 2<sup>nd</sup> Avenue, Miami FL  
(305) 579-6540

COE Investigator Breno Penichet along with the Advocate Mike Murawski interviewed City of Miami Police Chief Manuel Orosa (Orosa). Chief Orosa advised that he received a phone call on his cell phone from Carollo telling him (Orosa) that he had been stopped by a Miami Police Officer on Tigertail Avenue. Carollo wanted the Chief to find out what the problem was and hung up. Orosa contacted dispatch and asked what unit was on a traffic stop on Tigertail, he also requested to talk to the Commander of the district. Commander R. Gentry contacted the Chief and was requested by Orosa to contact the officer on the scene and find out what was going on and let him know. Chief Orosa also advised that dispatch had asked him if he wanted to talk to the Officer directly and he had advised to have the officer call his office. Orosa advised that Commander Gentry called and briefed him on the details. Chief Orosa advised that he did not speak to Officer Blackerby or Carollo afterward. Orosa further advised that Carollo never asked for any special treatment or to have the ticket removed, all he wanted was for the Chief to find out the facts of the traffic stop. Orosa mentioned that he thought Carollo may have been in the area participating in a function being sponsored by the Solid waste department, they were distributing the new "Big Blue Cans"

**Interview of R. Gentry:** City of Miami, Police Commander.  
2200 West Flagler Street, Miami FL  
(305) 643-7160

COE Investigator Breno Penichet along with the Advocate Mike Murawski interviewed City of Miami Police Commander Gentry. He advised that he is the area commander for Coconut Grove; his station is located on 22<sup>nd</sup> Avenue and Flagler Street. Gentry received a phone call from Chief Orosa requesting he find out what was the circumstances surrounding the traffic stop on Tigertail Avenue, involving Commissioner Carollo.

Gentry advised he contacted Officer Blackerby and was advised of the situation, Gentry never asked the officer not to issue the citation or not to take proper action, and he (Gentry) only wanted to know the details so he could pass them on to the Chief. After being apprised of the situation, Gentry called the Chief and passed on the information requested, that was his only involvement.

**Interview of John Blackerby:** City of Miami, Police Officer.  
2200 West Flagler Street, Miami FL.  
(305) 643-7160

COE Investigator Breno Penichet along with the Advocate Mike Murawski interviewed City of Miami Police Officer Blackerby. Blackerby advised that he was assisting another unit that was on a traffic stop on Tigertail and Aviation. He advised that he noticed a City truck moving very slow and stopping to drop off garbage cans, at that moment he also noticed a black Lexus go around the truck, crossing the double yellow line and going the wrong way on a one way street. Blackerby advised that he pulled the vehicle over and when he approached the

vehicle recognized Carollo. Blackerby advised that he spoke to Carollo and he complied with his (Blackerby's) request for the pertinent paperwork. He advised that when he started to walk back to his cruiser, he noticed Carollo on the phone and a few minutes later he received a request to call Gentry via his cell phone. After his conversation with Gentry, he approached Carollo and let him go with a warning. Blackerby advised that another officer drove up as his back up and told him the dispatcher was trying to raise him so he could call the chiefs office. He advised that he never called the Chief's office; he only spoke to Gentry. Blackerby advised that he was of the mindset not to write the ticket any way because of the overall circumstances and demeanor of Carollo.

**Interview of Keith Carswell:** City of Miami, Solid Waste Director  
1290 N.W. 20<sup>th</sup> Street, Miami FL  
(305) 960-2804

COE Investigator contacted Keith Carswell (Carswell), City of Miami Director of Solid Waste. Carswell advised that to his knowledge there was no City sponsored functioned concerning the delivering of the blue cans; the crew was simply going about their business of dropping off the new cans to the individual residents.

**Interview of Johnny Martinez:** City of Miami, City Manager.  
3500 Pan American Drive, Miami FL  
(305) 416-1025

Johnny Martinez (Martinez) was interviewed at his office, by Investigators Rosario and Penichet. Martinez was made aware of the complaint, he advised that to his knowledge that issue was cleared up. He advised that Robert Fenton (Fenton) was the project manager for the Marlin stadium and the parking structures. Martinez advised that Fenton was the one coordinating where the trees and palms were going to be move to. Martinez advised that all the trees and palms were to stay within district 3, and that they would be placed primarily in parks. Martinez advised that he would have Fenton come to his office and meet with us.

**Interview of Robert Fenton:** City of Miami, Senior Project Manager, Capital Improvement Program.

444 S.W. 2<sup>nd</sup> Ave, Miami FL  
(305) 416-1002

Fenton was interviewed in the City Manager's office by Investigators Rosario and Penichet. Fenton advised that originally the trees where only to be placed in parks in District 3. Fenton advised that a resolution was passed in January 2010, awarding the bid to relocate the trees and palms from the Orange Bowl site to different locations in District 3 to Tip Top Enterprises. He further stated that part of the ordinance mandated that the City Manager's office produce in collaboration with Commissioner Carollo, a tree allocation plan.

Fenton advised that in another commission meeting it was decided that the trees did not only have to be placed in parks but they could be placed were needed. Fenton advised that he drove around with Commissioner Carollo and he picked out the sites where the trees would be

planted. He advised he was there to make sure the area chosen was okay for the trees to be placed there. Fenton advised he did not know why Carollo picked the addresses he picked. Fenton only made sure that the area was suitable for the trees to be planted. Fenton provided a copy of a memo dated March 02, 2011 sent to Crespo with an attachment of resolution R-10-0009.

**Interview of Juan Pascual:** City of Miami, Director for the Department of Parks and Recreation  
444 S.W. 2<sup>nd</sup> Ave., Miami FL  
(305) 416-1313

Juan Pascual (Pascual) was interviewed via telephone by Investigator B. Penichet. Pascual was made aware of the complaint. He advised that to his knowledge the issue of where to place the trees in District 3 was decided by the City Commission after discussion over several meetings in the year 2010. Pascual advised that Fenton was the project manager for the Marlins stadium and the parking structures. He advised that Fenton was the one coordinating where the trees and palms were going to be move to.

Pascual advised that all the trees and palms were to stay within District 3 and that they would be placed primarily in parks. Pascual advised that he remembers Ted Baker (Baker) was the landscape architect for the parks department, and he was the one that came up with the locations. He advised that District 3 had the least number of parks and if the City wanted to keep the same canopy area then trees would have to be placed in other areas within the district. Pascual advised that he believes this is what took place in those commission meetings where the locations of the trees was discussed.

**Review of Transcript**  
**Miami City Commission Meeting**  
**January 14, 2010.**

Investigator Penichet reviewed the transcripts of commission meetings in the early part on 2010 and found an agenda Item CA.3 to Resolution 09-01442. There was also a discussion under R-10-009 (City Commission Meeting Minutes 1/14/2010). It was noted that during the discussion it was decided that the manager would work with Commissioner Carollo, and come up with a new distribution plan for the trees in District 3, in order to place them in other public areas, such as medians and swales. (Transcript attached)

**Conclusion:**

All information was turned over to the advocate for final disposition, case pending further action of the COE.