

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



REPORT OF INVESTIGATION

K #: C10-13/K12-150

Date Opened: March 1, 2012

Date Closed: December 14, 2012

Name of Investigator: Manuel W. Diaz

Allegation:

Franklin Adams (Adams), a Miami-Dade County police officer, filed Complaint C10-13 with the Miami-Dade County Commission on Ethics and Public Trust on March 1, 2010. The respondents named in C10-13 are employees of the Miami-Dade Police Department (MDPD) and two employees of the Miami-Dade County State Attorney's office. In the Complaint, Adams alleged that he was given a Disciplinary Action Report (DAR) for a violation of Departmental Policy. He received the disciplinary action, a five day suspension, in 2009.

Historical:

On September 30, 2004, Adams submitted a memorandum to the MDPD Professional Compliance Bureau (PCB). The subject of the memorandum is Police Misconduct. On October 24, 2004, Adams was interviewed by MDPD Sergeant Roberto Morales (Morales), who was assigned to the PCB. Morales was assigned to investigate the allegations of misconduct made by Adams. Morales submitted a report that alleged that Adams violated MDPD Policies, by initiating an un-assigned investigation into the actions of MDC police officers. Disciplinary action was recommended by MDPD Lieutenant Catherine Rudy, based on the report prepared by Morales.

Former COE Staff General Council, Ardyth Walker (Walker), opined that the Complaint should be categorized as “Whistle Blower.” Walker recommended that the COE stay any action pending the outcome of a grievance filed by Adams against MDPD and civil litigation filed by Adams against MDC. The COE approved her recommendation on March 18, 2010.

Applicable Legislation:

Miami Dade Code of Conduct and Conflict of Interest 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 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.

MDC PD Manual

Chapter 25 Part 1 Criminal Investigations IB. Unauthorized Criminal Investigation

...an employee shall not participate in an unassigned investigation...

Chapter 25 Part 1 Criminal Investigations Section 3

Follow up Investigations:

With supervisory approval...uniform officers may conduct limited follow-up investigations...

Chapter 12 Part 1 Section III Objectives and Rules

Rules;

All employees must acquire and maintain a working knowledge of...the orders, rules, procedures, and policies of the Department.

Code of Miami Dade County

DIVISION 6. - PROTECTION OF EMPLOYEES DISCLOSING SPECIFIED INFORMATION

Sec. 2-56.28.13. - Actions prohibited.

(1) The County shall not dismiss, discipline, or take any other adverse personnel action against an employee for disclosing information pursuant to the provisions of this division.

- (2) The County shall not take any adverse action that affects the rights or interests of an employee in retaliation for the employee's disclosure of information under this division.
- (3) The provisions of this division shall not be applicable when an employee discloses information known by the employee to be false.

Sec. 2-56.28.15. - To whom information disclosed.

Except as set forth in Subsection (b) hereof, the information disclosed under this division must be disclosed to the Office of Inspector General, the County Mayor or such official or officials as the Mayor may designate to receive such information on his behalf.

Investigation:

COE Complaint # C10-13 and Supplemental Documents

The COE Complaint and the supporting documentation submitted by Adams were reviewed. The supporting documents included memorandums and letters from Adams to the PCB questioning the PCB investigation conducted by Morales, the reason for the DAR and the timing of the DAR. The documents also included a transcript of Adams' statement to PCB and copies of the DAR. (Attached as part of the investigative file)

Interviews:

Franklin Adams, Complainant

Adams was interviewed via telephone. Adams advised that, in 2004, he reported several instances of misconduct to the MDPD; first, verbally to a police supervisor and then in a memorandum to the MDPD/PCB. Adams was directed to report to the PCB to give a formal statement. His statement was taken by Morales. Adams advised that the statement was originally was to be taken by Morales and Sergeant Damaris Palmer (Palmer). Adams objected to Palmer's presence, so Palmer was excused from participation in the interview. The statement was taken by Morales.

Adam advised that the interview was stressful and that he requested several times to end the interview. Adams advised that he was directed by Morales not to leave and to continue with the interview.

Referring to C10-13, Adams felt that Morales exploited his position as a Police Sergeant assigned to PCB by requiring him to remain in the interview. He felt that Morales actions were intimidating. Adams continued with the interview because he feared retribution from the Police Department if he ended the interview and left.

Adams advised that he listed Morales and the other members of the MDPD and the two members of the Miami-Dade State Attorney as respondents in C10-13 because they were involved in the issuance of the DAR and the five day suspension that was attached. He considered the DAR and the suspension retribution for reporting police misconduct.

Adams advised that MDPD recently rescinded the DAR, and the five lost to the DAR, returned.

Eric Rodriguez Esq. (Rodriguez) Assistant County Attorney, Miami Dade County Attorney's Office

Rodriguez confirmed that the Adams' grievance against the MDPD had been settled, the lost time restored and the DAR rescinded.

Roberto Morales – Sergeant, MDPD, PCB

Morales was interviewed via telephone. He advised the following concerning the Adams interview. Adams allegations were assigned to him for investigation. He reviewed the allegations in the memorandum submitted by Adams to the PCB. He scheduled an interview. Prior to the beginning of the interview, he inquired from Adams if his appearance was voluntary. Adams responded that his appearance was voluntary. Morales advised that a stenographer was present who recorded the interview. A transcribed record of the interview is available for review.

During the interview, Morales questioned Adams as to the allegations in his memorandum. Adams responded to all the questions. Adams never requested to end the interview. Morales

advised that he never threaten Adams with retribution if he requested an end to the interview.

Adams is covered by FS 112.523 and would have ended the interview at any time. (Copy in file)

Morales advised that the investigation was extensive, due to the number of witnesses that were interviewed. Once the investigation was completed, he submitted a report documenting the interview and the investigation to his superiors. Morales had no further involvement with Adams after his report was submitted. Morales advised that he was aware of a law suite filed by Adams against the MDPD. Adams' law suit may have contributed to the delay in taking MDPD disciplinary action against Adams. Morales noted that any discipline resulting from the investigation has assigned by a Departmental Complaint Review Board, per Sec. 112.532(2) FS.

Supplemental Documents submitted by Adams

The supplemental document supporting C 10-13 provided by Adams was reviewed. The supplemental document package contained a transcript of Statement I.A. 2004-0398 Investigation into the Complaint of Franklin Adams. Statement was taken on October 25, 2004, by Morales.

(Summary)

a. The interview starts with the question by Morales.

“Officer Franklin, are you appearing here today freely and voluntarily, without any promises, without any threats or duress, to make a complaint against certain employees of the Miami-Dade Police Department”. To which Adams responds, “Yes, Sir.”

b. Initially, Adams discusses with Morales a law suit that he has against the PD.

c. Adams then is questioned concerning several instances of misconduct by officers assigned to his district station. Adams advises that he did not report the misconduct to his supervisors.

Adams advises that he reported to PCB in his memorandum.

d. Allegations against a fellow officer are later discussed (falsification of evidence and illegal arrest). Adams advises that he advised supervisors of his observations. Adams acknowledges that he conducted an investigation into the actions of the officer with out permission of the PD. Adams was questioned as to a witness statement that he may have falsified.

e. At no point in the statement does Adams object to Morales' line of questioning, request to end the interview, or request representation.

CONCLUSION:

The instant case is closed and turned over to the Advocate for probable cause determination.