



Miami-Dade Commission on Ethics & Public Trust

Report of Inquiry

Investigator: Breno Penichet

Case: PI16-20	Case Name: Possible abuse of time	<u>Date Opened:</u>	CASE CLOSED
Complainant(s): Henri Tolbert	Subject(s): Airport Division Chief Paul Smith	May 16, 2016	

Date: 12/29/16

Allegation(s):

On May 16th 2016 the COE received information concerning a possible abuse of time by several high ranking members of Miami Dade County Fire Rescue (MDFR). According to the information received, a Battalion Chief was allowed to take off for a period of twelve Months prior to his retirement. It was also alleged that another Chief worked in his place while being paid for over time.

The COE initiated an inquiry to determine the validity of the information.

Relevant Law:

Miami-Dade County Conflict of Interest and Code of Ethics Ordinance Sec. 2-11.1(g)
Prohibition on exploitation of official position.

Investigation:

Mr. Henry Tolbert (Tolbert) advised that he works for MDFR and wanted to notify the COE of what appears to be a possible violation of Miami Dade ethics rules, as well as policies and procedures violations, with-in the Miami Dade Fire Rescue Department, Aviation Division.

It would appear that actions taken by Airport Division Chief Paul Smith (Smith), as well as Airport Administrative Chief Yves P. Mardice (Mardice), are contrary to MDC policy, which resulted in allowing Mardice to earn more pay.

According to Tolbert, Airport Battalion Chief Bruce Sheppard (Sheppard) decided for unknown reasons, to stop coming to work in January of 2015. For the next 12 months he used a combination of time, to stay home and remain on the MDFR payroll. He called out sick when necessary and used vacation time along with other holiday time over the 12 months, in order to avoid having to report to work.

Tolbert feels that, even though Sheppard circumvented policy and procedure, he was granted other time off such as battalion days, and vacation time, and was never required to report to work for the next year. Smith could have denied Sheppard's time off requests, which were counter to policy and procedure, at any time during this year long period, but did not.

In the interim Mardice would work the overtime created by Sheppard's absence. Smith, who was in charge, did not take any action to alleviate the situation, by filling this position vacancy.

Tolbert feels this situation created a roster vacancy that resulted in Miami Dade County, as well as the Miami Dade Aviation Department, paying twice for one roster position for over a year. Tolbert also advised that while Mardice was working overtime, Smith was restricting the Rank and File (Lower ranks) from working overtime.

Review of Files:

In light of the facts presented COE Investigator Penichet checked the files pertaining to the persons involved.

The MDFR has policies and procedures to prevent the abuse of leave time, and there is a method of checks and balances. The persons responsible to manage the personnel rostering are the ones who must be aware of any fraud. It seems apparent from the records reviewed that all the parties involved had clean records, and on the surface appear to be responsible persons.

The records show that Sheppard had ample accrued time to be able to miss multiple shifts, It also appears that he was absent with the full knowledge of his superiors.

This Investigator did not find any policy or documentation preventing Sheppard from taking the time off prior to his retirement.

**Flora Seff,
Senior Legal Liaison
Miami-Dade Fire Rescue**

COE Investigator Penichet spoke to Ms. Flora Seff (Seff), MDFR/ Legal Unit, regarding the above information. Seff advised she would review the file and determine the validity of the allegation. Seff also advised she will alert the staff in case this information is verified. Seff was provided with all the information that was received.

COE Advocate was contacted by Seff and was advised, that a review of all the information was conducted and no pattern of abuse was noted.

**Chief Paul Smith,
Airport Division
Miami-Dade Fire Rescue**

COE Investigator Penichet spoke to Chief Paul Smith (Smith), MDFR/ Airport Division, regarding the above information. Smith advised he took over the unit in June 2015, by that time Battalion Chief James Sheppard (Sheppard) had been granted six months under the Family Medical Leave Act (FMLA) due to illness. According to Smith when Sheppard came back to full duty he requested and obtained most of his Battalion days, along with sick time, and vacation time, covered the rest of the time off.

Smith advised that, due to the fact that he could only use Airport certified Chiefs to cover, only certain chiefs were eligible to cover Sheppard's shifts. Chief Yves Mardice is the Airport Division's Administrative Chief. His schedule is on the day shift Monday through Friday, so he (Mardice) was able to cover the shifts, and he also placed his name on the OT roster as per CBA.

Smith advised that all this information is documented and he would be able to provide copies if needed. Smith advised he is aware of the complaints and is trying to get more Chiefs Airport Certified so this situation does not occur again.

Conclusion:

This inquiry did not reveal any evidence of exploitation due to the fact that it appears this complaint involves personnel policies of an administrative nature, and the time was authorized due to a shortage caused by an authorized absence. For this reason, it is determined that no other action is required, and the matter is closed.

This Case will be referred to the Miami-Dade County Inspector General (OIG) for further review, reference the use of time and pay matters.

Case closed.

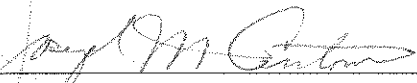


Breno Penichet, COE Investigador

Approved by:



Michael Murawski, Advocate



Joseph Centorino, Executive Director

12/29/16

Date: