



**Miami-Dade Commission on Ethics & Public Trust**

**Investigative Report**

**Investigator:** Karl Ross

<b>Case:</b> PI 17-037	<b>Case Name:</b> Public records request allegation regarding hiring of assistant city manager.	<b><u>Date Open:</u></b>	<b><u>Date Closed:</u></b>
		<b>CASE</b>	
<b>Complainant(s):</b> Brian Dennis	<b>Subject(s):</b> HR Director Kierra Ward, City Manager Eddie Brown, Assistant City Manager William J. Green.	Oct. 26, 2017	<b>CLOSED</b>
		Date: _____	3/12/18

**Allegation(s):**

The complainant alleged Human Resources Director Kierra Ward, City Manager Eddie Brown or some other Opa-locka City officials intentionally withheld records from a public records request involving the hiring of Assistant City Manager William J. Green.

More specifically, it was alleged that Ms. Ward or some other City official withheld a report of Mr. Green's criminal history when it would have been responsive to a public records request made by a local media outlet in possible violation of the Citizens' Bill of Rights.

The purpose of the request was to obtain information relating to Green's employment history, criminal background and overall suitability for this key administrative post.

**Relevant Ordinances:**

The Miami-Dade County Citizen's Bill of Rights states in applicable part, Subsection (2), that: "No County or municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public."

Miami-Dade County Code, Sec. 2-11.1(g), *Exploitation of official position prohibited*, stating in applicable part that no person ... "shall use or attempt to use his official position to secure special privileges or exemptions for himself or others ..."

Investigation:

*Interviews*

Brian Dennis, columnist

Miami Times

Nov. 9, 2017

Mr. Dennis was contacted, and he advised over the phone that he felt he had been wrongfully denied information relating to Assistant City Manager Green's criminal background check. He said he expressed his frustration in a column he wrote for the Miami Times, and also at a City Commission meeting. He agreed to forward emails and other relevant information to COE for examination. It was suggested that he meet with COE the following week.

After contacting COE by email on Nov. 13 with respect to his public records request, Mr. Dennis advised in a telephone interview on that same date as follows:

- Mr. Dennis advised that after making his initial request for public records in late August, he went to the Opa-locka City Clerk's office in early October to review the response items. At that time, Dennis stated he reviewed the items and did not find the expected Criminal Background Check on ACM Green.
- Mr. Dennis stated that he raised his objections to this missing Background Check to members of the Clerk's office and refused to pay the \$7.70 reproduction cost (but still kept the first page of the employment application). He said that the Clerk's staff indicated they were not responsible for any missing content.
- Mr. Dennis said he raised the issue at the next City Commission meeting on October 11, and his remarks were made approximately 15-20 minutes into the meeting.
- Mr. Dennis said that it was only after he voiced his complaint at the meeting that the Clerk's office provided him all of the requested records, including the FDLE Criminal Background Check on the assistant city manager.
- Mr. Dennis maintains it is his belief that this document was intentionally withheld from his original request in order to shield the Mr. Green and the City from embarrassment.
- Mr. Dennis said he believes either the City's HR Director, Kierra Ward, or its City Manager, Eddie Brown, withheld the document in question.

Mr. Dennis was advised that COE would provide him a copy of the response items it received from the Opa-locka City Clerk's Office and that he should verify whether his request yielded the same items and, if not, which ones were not included in response to his request.

Sherine Bullock, Assistant City Clerk  
Office of the Opa-locka City Clerk  
Jan. 5, 2018

Sworn and tape-recorded statement of Sherine M. Bullock

Pursuant to a COE witness subpoena, Ms. Bullock advised that she has worked as an Assistant City Clerk for the past two years or longer. She said she previously worked in the City Manager's office, the Public Works and Finance departments. She said that her duties include keeping the minutes for City Commission meetings, acting as a secretary for the Mayor and City Commissioners, organizing special events and legislative support. She said that Diane Darden, who serves as the receptionist at the Clerk's Office, normally handles public records requests. She said she occasionally fills in for Ms. Darden during absences.

With respect to the Aug. 23, 2017, records request from Mr. Dennis, she advised that Mr. Dennis oftentimes contacts her directly when he wishes to make a request. She reviewed an email to her from Mr. Dennis sent at 8:38 a.m. on August 23 (Exhibit #1) and affirmed that she received the request from Mr. Dennis and forwarded it to the Human Resources Director, Kierra Ward, and copied City Manager Brown. She said the HR department was the office responsible for providing all records responsive to the request made by Mr. Dennis on that date. "Her department is responsible for compiling the information," she said.

Ms. Bullock stated that later that same morning, Ms. Darden advised her that HR had provided the records for Mr. Dennis. She said she reviewed the records including a New Hire Check-List from HR dated Aug. 14, 2017 (Exhibit #2), identifying the records on that list. She said that one of the items included on the list was a background screening or criminal record check on ACM Green. She said she felt the response was complete and prepared an invoice for Mr. Dennis in the amount of \$7.70 (Exhibit #3), and left the response items and invoice with Ms. Darden. She said she called Mr. Dennis to notify him that his records were available.

Ms. Bullock stated that when she returned from lunch, Ms. Darden told her that a receptionist from the HR Department had retrieved the response items to Mr. Dennis' records request, and that the records were later returned and that "something was missing." She said that she then reviewed the return items and noted that the background check was no longer included. She said Ms. Darden told her she did not know why the item had been removed.

Ms. Bullock said she proceeded to inform City Clerk Joanna Flores about the omission, and that Ms. Flores replied that: "HR is not supposed to do that ..."

Ms. Bullock stated that, sometime later, she saw Mr. Dennis at City Hall and told him his records request had been returned. He said Mr. Dennis was unhappy about the City's new policy that everybody be charged staff times and reproduction costs for such requests. She said she mentioned to him that, "anyway, it's not complete" and that he immediately asked, "Where's the background check?" She said she could not recall if he paid for the records.

Ms. Bullock stated she did recall that Mr. Dennis voiced his displeasure about the missing background check at the next City Commission meeting (Oct. 11) and that the City Manager

responded to his complaint, though she could not recall exactly what was said.

Ms. Bullock was advised that the background check was eventually provided to Mr. Dennis, though she indicated she had no knowledge or recollection of this. She said she could not recall anybody from the HR Department or any other City official explaining why the item was initially removed from the public records reproduced for Mr. Dennis.

Sonja Dickens, City Attorney

Miami Gardens, FL

Jan. 9, 2018

Ms. Dickens advised that she would help research Mr. Green's employment history while working at Miami Gardens, including any disciplinary actions and/ or allegations of sexual harassment. She said she did recall one situation in which she obligated Green to re-pay some funds to the City in about 2005 or 2006 but did not elaborate. She said she would obtain a copy of his HR file for review and report back to COE with her findings.

Later that day, Ms. Dickens advised she found no Disciplinary Action Report ("DAR") or other reference to the incident with the missing funds in Mr. Green's personnel file. She said that Green did issue a letter of resignation on April 1, 2005, but could not say whether this was related in any way to the incident with the missing funds. She said she could not recall the exact amount of the missing funds – it could have been "several thousand dollars," she recalled – but said she did issue a formal "demand letter", instructing him to return the funds.

Ms. Dickens said the missing money was cash receipts from an event at a city park.

She said Green eventually did return the outstanding funds prior to his resignation. She said he reported to former City Manager Danny Crew at the time.

On Jan. 22, 2018, Ms. Dickens advised that, after conducting a search at her law office, she could not find a copy of the original demand letter to Mr. Green, nor could she recall the exact nature of the event, except to say she thought it was run through the parks department.

Danny Crew, former city manager

Miami Gardens, FL

Jan. 9, 2018

Mr. Crew was contacted at his home in South Carolina, where he is now retired. He said he recalled Mr. Green, and stated he served as his Assistant City Manager in Miami Gardens shortly after the founding of the City. He said he was the City's second employee after the City Clerk, and that Mr. Green was brought aboard shortly thereafter. He said there was no HR department, and only cursory background checks were run on prospective employees.

Mr. Crew said Green was "very helpful to me" in the establishment of the City, "worked really hard" and did "a yeoman's job" during the tenure of his employment. He said there some issues, however, that led to Green's ultimate resignation back in 2005.

Mr. Crew said he did recall the issue with the funds not being returned from a City event. He said cash collections were supposed to be turned into the City within a short period of time – perhaps 24 or 36 hours – but added that: “I kind of remember that he just held on to it too long ...” With respect to his subsequent resignation, Mr. Crew said he felt it was “a combination” of the fallout from the missing money and also a DUI charge against Green.

“I can’t remember if I told him (to resign) or not. I just think he knew it was coming, and did it on his own ... I think it was a combination with the DUI, and I told him we couldn’t deal with it. I think we were all shocked by the DUI ...” He said he simply lost trust in Green.

Even so, he said he wouldn’t advise against hiring Mr. Green in the future, but would give a qualified endorsement and make any potential employer aware of the DUI charges.

COE visited Opa-locka City Hall on Jan. 24, 2018, at about 12:30 p.m., and was advised that the name of the receptionist in HR who retrieved the documents prepared in response to Mr. Dennis’ public records request was Yslande Agenor, phone: (305) 953-2815. Ms. Agenor was on break at approximately 12:45 p.m., and could not be approached at that time.

Yslande Agenor, assistant/ receptionist

Human Resources Department

Jan. 30, 2018

Ms. Agenor provided a voluntary sworn statement on the above date in the City Hall office of City Attorney Vincent T. Brown, who was present along with Investigator Ross.

Ms. Agenor stated she has been working for the City since October 2016 as an assistant/ receptionist in the Human Resources Department. She said she reports to HR Director Ward, and has one other co-worker, Anyelina Cuevas-Palma, an HR Administrator. She said her duties also include answering phones, answering questions about employee benefits, handling invoices, filing records, and preparing public records requests. She advised that she did assist with the preparation of the records request made by Mr. Dennis on Aug. 23, 2017.

Ms. Agenor advised that she was asked to make a copy of Assistant City Manager Green’s personnel file, and that she copied the records, including the criminal background check. She said she then delivered the record to the Clerk’s office to provide to the requestor. She said that she grew concerned or “iffy” about whether it was appropriate to include ACM Green’s background check because she noticed a DUI and other arrests on his report.

Ms. Agenor stated that her supervisor, Ms. Ward, was out on personal leave at that time, and

she discussed the matter with her co-worker, Ms. Cuevas-Palma. She said she then did some research through Google about whether a background check should be included with as part of a public records request and concluded, based on the Websites she reviewed, that it should not be included. She said she did not include the report from his physical either. She said that, as a result of this research, she retrieved the response items from the Clerk's office and removed the criminal background check. She said she did not consult ACM Green, Ms. Ward, City Attorney Brown, and City Manager Brown, City Clerk Flores or any other senior official.

"I thought I should have taken that out," Agenor said, in reference to the background check. "But I learned differently recently. ... It was just an error on my part."

Ms. Agenor said that Ward was out due to a death in the family, but that when she discussed it with her after her return the following week, Ward told her it should have been included. "Again, there was an error on my part because I wasn't thinking about who else to ask."

Kierra Ward, Human Resources Director  
City of Opa-locka, FL  
Feb. 12, 2018

Ms. Ward appeared for a voluntary interview in the office of City Attorney Brown, and stated that she has worked for the City for the past nine years. She said she began in the Police Department as a property specialist before transferring to the City Manager's Office, and later the Human Resources Department, where she became director in 2015. Regarding her education, she said she has a degree in human resources management from Florida State University, and went on to earn an MBA from Florida State University in 2013.

With respect to the Aug. 23, 2017, public records request from Mr. Dennis, Ms. Ward advised that she delegated the mater to Ms. Agenor, saying that Agenor was "familiar with fulfilling those requests." She said that it had been the City's previous practice to withhold the results of criminal background checks along with the results of drug screenings and other personal information, such as home address and Social Security numbers. "It's always been our practice to not include the background screenings," she said. "It was my impression that they were exempt." She said it was her office's practice, but not a matter of policy.

Ms. Ward also advised that, in the past, all public records requests were handled by the Clerk's office in tandem with the City Attorney, but that the City's handling of requests for personnel files had been changed and that the HR Director was made the responsible official.

Ms. Ward advised that some time on the morning of August 23, she learned of the death of her grandmother. "I was frantic and left the office," she said, adding that she didn't have much recollection that day about anything work-related. She said she didn't recall advising Agenor

as to whether the criminal background check should be included. "After that I was gone for a week, so I do not recall answering any questions." She stated she had a training session the following Monday and Tuesday and did not return to the office until Wednesday.

Ms. Ward said she did later, upon her return, have a conversation with Agenor about whether Green's background check was included and Agenor told her it was not. She said that once Mr. Dennis had accused her of improperly withholding the background screening at the City Commission meeting, she wrote a memo seeking clarification from the City Attorney. She provided COE with a copy of the memo dated Oct. 12, 2017. It was added to the file.

With respect to the hiring of Assistant City Manager Green, Ms. Ward advised that she was directed to hire him by City Manager Brown without any formal selection process. She stated that the position had been advertised under the previous manager, and that the previous manager, Yvette Harrell, had reviewed a number of applications and resumes.

Ward said that she was not aware of any such open, competitive process preceding the hiring of ACM Green, noting that since the ACM serves at the Manager's pleasure, it was within the Manager's powers to hire his or her candidate without any formal process. She said she was not aware of any other candidates being interviewed for the job besides Green.

Ms. Ward said that when the results of the background check were returned – three days after Green's start date – she recalled discussing the matter of Green's criminal priors with City Manager Brown. She said Brown contacted Green and asked him about the arrests, and, after speaking to Green, was satisfied that any past misconduct should not impede his employment. She said Brown remarked that the arrest on Grant Theft charges occurred a long time ago.

Ms. Ward said she did not initiate a further review of the Grand Theft case and was not aware that ACM Green had been accused and reportedly confessed to defrauding an employer in Daytona Beach by issuing bogus refunds, nor had she looked into the DIU arrest and was not aware the case involved a pedestrian who was injured as a result of the accident.

Ms. Ward stated that her office did not contact the City of Miami Gardens – Green's previous employer for a comparable position – and was not aware of the incident involving his alleged mishandling of municipal cash receipts. She said the Manager did not ask her office to review Green's employment or criminal history – only to facilitate the hiring process.

Asked whether ACM Green disclosed his prior arrests on his employment application, Ward advised it was the City's policy – adopted through a formal resolution – not to inquire about criminal history so as not to discourage applicants with criminal records.

**Document/Audio/Video Review:**

COE public records request Oct. 31, 2017

In response to a public records request, COE obtained and reviewed the following:

- A copy of a memo dated March 6, 2017, describing the job requirements for filling the Assistant City Manager's position and soliciting resumes ... The salary was listed as \$100,000 –DOQ (depending on qualifications), and was "Open Until Filled."
- Approximately 160 resumes and/ or applications from for the ACM position, including that of William J. Green. Many of the applications were from out-of-state candidates. Some of the respondents noted that the position had been posted on Craigslist.

Mr. Green's 2005 arrest for DUI on Miami Beach

On Jan. 17, 2018, COE received 34 pages of public records from CMB Police Det. Ricardo Arias of the Miami-Dade State Attorney's Public Corruption Task Force relating to the March 30, 2005, arrest of the subject, William J. Green, for Driving Under the Influence.

According to the Arrest Affidavit, the incident took place at 10:48 p.m., along the 1300 block of Collins Avenue, after a black Mercedes Benz sedan that Green was driving swerved to the right and struck a bicyclist. The victim was carried on the hood of the car for 25 to 30 feet before being "launched" onto the pavement about 28 to 25 feet away. The victim, a tourist, was hospitalized and two other parked vehicles were damaged.

According to the report, Green refused to take a sobriety test and was notified that he was under investigation for DUI. He claimed he was not drinking because he was taking antibiotics and told the arresting officer that he was not impaired. Police found a Styrofoam cup in the subject's car with a yellow liquid that was believed to be of an alcoholic substance. The report stated Green told police, "I can't drink that; I'm taking antibiotics. I'm not fucked up." The arresting officer concluded in his report that Green was "impaired by alcohol."

Review of Oct. 11, 2017, City Commission meeting video

On Jan. 8, 2018, COE listened to the Oct. 11, 2017, Opa-locka City Commission meeting. During the Citizen's Forum portion of this meeting, complainant Brian Dennis, at eight minutes after the start of the meeting, expressed concerns about the alleged mishandling of his records request. He said, "I'm quite sure documents were missing from that file ... This could only come from two places – Human Resources or the City Manager's office. ..." He further referenced sexual harassment lawsuits in the City of Miami Gardens filed against the subject ... He further called into questions HR Director Ward's relationship with Dante Starks.

Former City Comm. Dorothy Johnson echoed the remarks of Mr. Dennis, whom she followed



in the Citizen's Forum and asked for personnel decisions to be carefully scrutinized.

#### Arrest/ Booking Report for 1996 Grand Theft Case

On Jan. 30, 2018, COE received a copy of ACM Green's arrest/ booking report from the Volusia County Clerk of the Court pertaining to his October 16, 1996, arrest.

The report states that ACM Green was an employee at the Eckerd Drugs, located at 329 N. Martin Luther King Boulevard, in Daytona Beach, and that Green "on nine different occasions, fraudulently completed refund slips and pocketed cash totaling \$551.91."

The report goes on to state that Green was confronted by the store's Loss Prevention representative and "admitted to her that he did take the money." The report goes on to state that Green allegedly "took merchandise from the store shelves, scanned them at the register and filled out the refund slips." He was charged with Grand Theft, the report states.

A copy of said report was added to the investigative file.

#### Disposition of DUI related cases

On Feb. 1, 2018, SAO paralegal Tanjia Alexander advised COE that the Miami Beach DUI case against Green (No. 508958X) from 2005 was dismissed, as was a Reckless Driving case filed against Green on the same date, March 30, 2005 (No. 0692DVH).

#### Kierra Ward's request for leave of absence

On Feb. 1, 2018, COE received a copy of a Request for Leave or Approved Absence for HR Director Kierra Ward for the dates from Aug. 22, 2017, through Aug. 25, 2017, pertaining to the death of a grandparent, according to the document time-stamped Sept. 1, 2017.

#### Kierra Ward memo to City Manager Ed Brown on Oct. 12, 2017

Ms. Ward provided a copy of a memo dated Oct. 12, 2017, in which she provided a review of her office's handling of ACM Green's background screening, and sought guidance as to whether said report was a public record and could be released in response to a records request. She said it had been her department's practice not to release criminal background checks, noting "it has always been my understanding that the information was exempt."

Ms. Ward goes on to note that she felt that Ms. Agenor "had not been truthful" with respect to whether ACM Green's background screening had been removed from the response items turned over to the City Clerk's Office. She said she counseled Ms. Agenor about her apparent lack of candor "from a supervisory perspective," but further advised in the memo:

"There was never a directive by me or given to retrieve the information from the Clerk's office." She added that, "in fact, it was subsequent to the release of the request that I learned that this had occurred." The memo continued: "If there has been an error in the way the Human Resources Department is responding to Public Records Requests I am requesting that the City Attorney provide clarification on the matter."

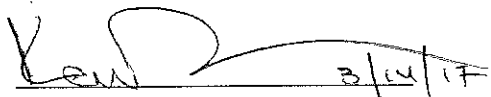
The memo concluded by her stating that: "My commitment to ethical practice remains. Please provide direction as to how to proceed with this matter. If a copy of the background report needs to be provided as a supplement, I am more than willing to release the information."

**Conclusion(s):**

Based on the above-stated findings, it would appear that the City of Opa-locka has addressed the issues raised by the complainant, Mr. Dennis, following the City's improper handling of his August 23, 2017, public records request for the file of ACM Green.

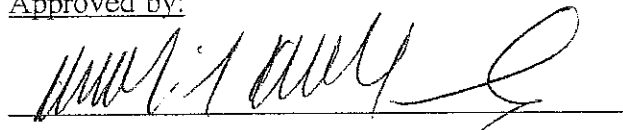
Ms. Ward's Oct. 12, 2017, memo discusses the reasons for the City's initial withholding of the background screening, namely that Ward and her staff were under the impression such reports were "exempt" from public disclosure. Ward indicated it was not until after seeking guidance from the City Attorney's office did she realize that this was contrary to public records law. She stated in her interview that her department has since amended its practice.

The City, it would appear, moved to rectify the potential violation of the County's ethics code by providing Mr. Dennis with a copy of the background screening in question.

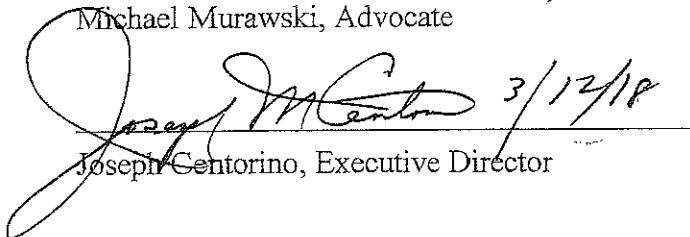
 3/14/17

Karl Ross, COE Investigator

Approved by:



Michael Murawski, Advocate

 3/12/18

Joseph Centorino, Executive Director