



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Karl Ross

Case: PI 18-08	Case Name:	<u>Date Open:</u>	<u>Date Closed:</u>
Complainant(s): Councilman Werner E. Dreher	Subject(s): Village Clerk Yenise Jacobi, Mayor Claudia Cubillos	Feb. 12, 2018	

**CASE
CLOSED**

Allegation(s):

In a Feb. 12, 2018, email, Councilman Dreher alleged that he had been ^{Date: 5/21/18} improperly denied information concerning the Village's fingerprinting requirements as outlined in a letter from the Florida Department of Law Enforcement (hereinafter, "FDLE").

Councilman Dreher contends that the letter provided to him – dated Sept. 21, 2016 – is not the letter he had requested based on a remark made by Mayor Claudia Cubillos in a Nov. 10, 2017, email suggesting that she had just received the letter from FDLE regarding fingerprinting.

In his Feb. 12 email to COE Executive Director Joseph Centorino, Councilman Dreher states: "The attached 2016 letter states no finger print requirement contradicting to what the mayor's finger print instructions [sic]."

Relevant Ordinances:

The Miami-Dade County Citizens' Bill of Rights states in applicable parts as follows:

In subsection (A) (2), titled *Truth in Government*, the ordinance states 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."

In subsection (A) (3), titled *Public Records*, the ordinance states that: "All audits, reports,

minutes, documents and other public records of the County and the municipalities and their boards, agencies, departments and authorities shall be open for inspection at reasonable times and places convenient to the public.”

Investigation:

Interviews

Yenise Jacobi, Village Clerk
Village of El Portal, FL
March 1, 2018

Ms. Jacobi advised that she turned over the letter from FDLE to Councilman Dreher soon after she had received it from Mayor Cubillos. She stated that, prior to that time, the letter was not in her possession and she had no knowledge of any other letter Dreher might be referring to. She noted that the FDLE letter dated Sept. 21, 2016, was never copied to her.

Ms. Jacobi said that, whereas Mayor Cubillos and now police Chief Ronnie Hufnagle, a sergeant at the time the letter was issued, received copies of the FDLE letter, no copy of said letter was ever submitted to her as the custodian of records for the Village.

An email chain relating to this matter shows that Mayor Cubillos sent a copy of the letter to Clerk Jacobi at 1:40 p.m. on Feb. 12, 2018, and that 10 minutes later she sent an email with a copy of the letter attached to it to Dreher in response to his public records requests. “If I have the record, trust me. I would provide the record. That’s my job,” she said.

On March 6, COE sent an email to Mayor Cubillos requesting explanation/ clarification as it pertains to the FDLE letter and references to the Village’s fingerprinting policy.

Claudia Cubillos, Mayor
Village of El Portal, FL
March 9, 2018

Mayor Cubillos advised that she inadvertently sent the wrong letter to the Clerk. She said she sent a letter from FDLE received in September 2016, when she meant to send a letter dated Sept. 26, 2017. She said she would provide the Clerk with the 2017 letter, and ask that she forward it to Councilman Dreher.

The mayor stated that, because of the need for her to oversee the disaster response to Hurricane Irma, she was unable to tend to normal administrative duties. She said that she did not get around to opening mail until early November, about the time she wrote the November 10 email regarding the fingerprinting requirement that she copied to her colleagues.

Mayor Cubillos said that she had a recent conversation with her acting police chief about the need to fingerprint elected officials and that she assumed this was one of the areas of deficiency identified in the letter from FDLE. She said that FDLE had been conducting a compliance audit of the Village's police department prior to the hurricane. She stated that any confusion or failure to timely provide the requested letter was unintentional.

March 30, 2018

On the above-date Mayor Cubillos was interviewed over the telephone by Investigator Ross and COE Executive Director Joseph Centorino with respect to the FDLE letter.

Mayor Cubillos stated that she asked Chief Hufnagle for a copy of the enclosure referenced in the Sept. 26, 2017 letter from FDLE, and that Hufnagle supplied her with the email from FDLE's auditor, Jacqueline McGriff, dated Sept. 20, 2017. The email in question outlines the eight areas of non-compliance cited as a result of the FDLE audit of the Village's police department. This included the second highlighted area of non-compliance concerning the Villages fingerprinting policy as it relates to "security awareness training."

Mayor Cubillos explained that, because the Village Manager's office is co-located with the police department and the administrative and police offices are not segregated, all Village employees and elected officials must undergo fingerprinting. The Mayor further stated that she met with another FDLE employee, Isis Crespo, to discuss this situation, and that Crespo affirmed to her that all employees and elected officials needed to get fingerprinted.

The Mayor said that a number of staff and elected officials were initially reluctant to comply, but have since agreed to be fingerprinted, with the exception of Councilman Dreher. She said that, as a result, Dreher must be escorted by a police officer every time he visits the Manager's office. She said this is known as a "hip-to-hip" escort in law enforcement parlance.

The Mayor said that she has lately become concerned about Councilman Dreher's behavior around her, and that she no longer feels comfortable in his presence. She reported an incident that took place on or about March 24 at an event she was hosting at town hall relating to recycling. She said Dreher was present, as was the Village's Chief of Police, Ronnie Hufnagle, as a witness. She said she observed him "taking a picture out of a frame" and saw that it was his official City portrait. She said he was angry and snapped at her, saying: "This is all your doing. You picked this picture. This is not the picture I wanted." She said he went on to state that he no longer trusted her, and that "the level of trust is not there."

Mayor Cubillos said that Councilman Dreher called her the following day, Sunday March 25 ... and that he was still upset. "Clearly this is personal," she said. She said she raised her concerns with the Village's new attorney, Norman Powell. She said she next saw Dreher at his town hall event the following Tuesday and said that "he was trying to be very polite."

Isis Crespo, CJIS Manager
Florida Department of Law Enforcement
Information Delivery & Training
CJIS Southern Service Area

In response to an inquiry from COE about the meeting with Mayor Cubillos and the reason Village elected officials are required to be fingerprinted, Crespo stated by email:

“Yes, Mayor Cubillos is correct and the Mayor and I did meet in January to discuss these requirements. Any personnel that have unescorted access to the physically secure locations where Criminal Justice Information is processed, must be backgrounded by having a minimum of a state/national fingerprint based record check. Because the police department is co-located with the Village’s administrative offices, and all personnel have access to both areas, they are all subject to the background (fingerprint) check.”

Document/Audio/Video Review:

COE reviewed the email chain beginning with Mayor Cubillos’ Nov. 20, 2017, email regarding the letter from FDLE and the need for elected officials to get fingerprinted, and including subsequent public records requests made to the Clerk by Councilman Dreher.

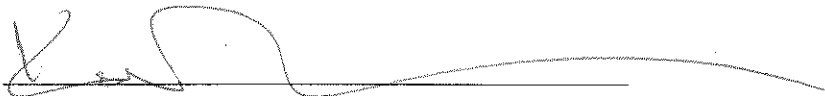
COE reviewed the Sept. 21, 2016, correspondence to Mayor Cubillos from FDLE regarding unspecified areas of non-compliance by the Village’s police department.

COE reviewed the Sept. 26, 2017, correspondence to Mayor Cubillos from FDLE regarding unspecified areas of non-compliance by the Village’s police department.

On March 13, 2018, COE received an email from Clerk Jacobi containing a sent item reflecting that Councilman Dreher received as an attachment the Sept. 26, 2017, letter from FDLE, and that Councilman Dreher was further provided with an explanation that Mayor Cubillos “stated that she sent prior the wrong one and this is the correct one.”

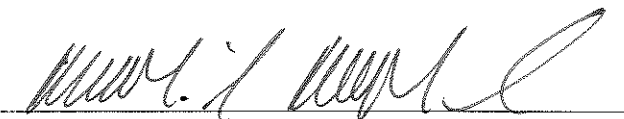
Conclusion(s):

After discussion with the Ethics Advocate, it was determined that this preliminary inquiry suggests there was no intentional effort to withhold information from Councilman Dreher by either the Mayor or Village Clerk, and, accordingly, this matter is closed with no further action.

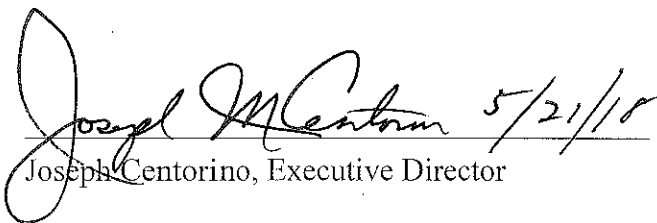


Karl Ross, COE Investigator

Approved by:



Michael Murawski, Advocate



Joseph Centorino, Executive Director