

Memorandum

MIAMI-DADE
COUNTY

Date: March 10, 2009

To: File

From: 4/22/09  Milton Hall, Sergeant
Internal Affairs Section

Subject: Investigative Allegation from the Florida Department of Law Enforcement
P.C. 2009-0006

On Wednesday, November 5, 2008, the Miami-Dade Police Department (MDPD) received information from Special Agents Paul Marcus and Kelly Rawson of the Florida Department of Law Enforcement (FDLE) regarding an allegation of improper procedure by MDPD Chief Leonard Burgess. The allegation was a component of a prior investigation conducted by FDLE in which MDPD Major Carmen Pichardo was the complainant. (See Official Record #2.)

During the course of FDLE's investigation, Special Agents Marcus and Rawson discovered that on Friday, May 18, 2007, Chief Burgess played a golf game with Major Pichardo, Lieutenant Israel McKee, and Sergeant Rafael Rodriguez. According to Major Pichardo's sworn statement taken by Special Agents Marcus and Rawson on Wednesday, November 5, 2008, this golf game occurred at approximately 1:00 p.m. (See Official Record #5.)

On May 16, 2003, Chief Burgess was promoted to a Division Chief which is classified as an exempt position. According to the Miami-Dade County Leave Manual, employees in an exempt/job basis status are not eligible for overtime compensation. Employees in exempt/job basis classification are required to work schedules necessary to accomplish their responsibilities. (See Official Record #3.)

According to the United States Department of Labor, a job basis employee is described as an employee who regularly receives a predetermined amount of compensation each pay period on a weekly or less frequent basis. The predetermined amount cannot be reduced because of variations in the quality or quantity of the employee's work. An exempt employee must receive the full salary for any week in which the employee performs any work, regardless of the number of days or hours worked. (See Official Record #4.)

Based on the aforementioned information and supporting official documents, no further action is required by the PCB.

OFFICIAL RECORDS

1. Preliminary Case Report.
2. Florida Department of Law Enforcement Investigative Summary.
3. Miami-Dade County Leave Manual.

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4. United States Department of Labor, "Fair Labor Standards Act".
5. Sworn statement of Major Carmen Pichardo taken by FDLE Special Agents Paul Marcus and Kelley Rawson.

"I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss. 112.532 and 112.533, Florida Statutes."



Milton Hall, Sergeant
Professional Compliance Bureau
Internal Affairs Section

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