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October 8, 2008

Mr. Christopher Mazzella
Inspector General
Office of the Inspector General
19 West Flagler Street, Suite 220
Miami, FL 33130

Dear Mr. Mazzella,

The following is response to your draft memorandum delivered to Miami-Dade Fire Rescue (MDFR) on September 24, 2008 titled Miami-Dade Fire Rescue Department's Inability to Control Consecutive Hours Worked by Firefighters in Accordance with Department Policy.

As your 13 month investigation reveals, MDFR had a tremendous opportunity for improvement in the early part of the decade, as it relates to appropriate staff monitoring. The department acknowledges the challenge it was presented with, and has made significant strides over the past couple of years, in fact, all of the issues you specify were either resolved or recognized prior to initiation of this investigation. This response will address each of the items you present in your report: working of consecutive hours, overtime and sick leave usage in detail and discuss what has been implemented as control measures.

In early 2000, Miami-Dade Fire Rescue sought a computerized system for managing staffing. This system would include the ability to, but not be limited to, daily rostering, observing daily staffing of response units, monitoring of overtime, efficient tracking of a mobile workforce and provide remote access for supervisors. It became clear that a turnkey solution did not exist. MDFR employees possess dozens of specialties such as hazardous materials technician; aircraft rescue firefighter, technical rescue technician and paramedic, in addition to multiple sworn rank classifications. Combine that with contractual obligations and observing appropriate laws and codes, this provided a significant challenge. It was determined that an off-the-shelf program could be purchased and then modified to meet our needs, acknowledging that the implementation would be protracted.

Concurrently, MDFR embarked on a mandate to hire and train new personnel to replace a retiring veteran workforce. A significant number of MDFR's employees that held essential certifications who were hired in the 80's began to retire in 2000. This departure created strain on our system to have qualified personnel in the Operations

APPENDIX A

Division of MDFR. Due to budgetary constraints and logistical limitations, it was challenging to hire the quantity of qualified personnel needed. A strategy was implemented to focus on hiring applicants who already possessed necessary state certifications such as paramedic and/or fire fighter. This progressive strategy would significantly decrease the need to hire substantial amounts of overtime and place skilled personnel on the fire truck quickly. In addition to the staffing challenges created from attrition, since 2000, MDFR placed over 20 new frontline response units into service which also required appropriately certified and trained staffing.

Consecutive Hours Worked

Your investigation confirmed that an employee of MDFR worked in breach of a policy that was implemented to limit the number of consecutive hours an employee may work. In fact, this employee breached the policy multiple times which resulted in disciplinary actions and due to this employee's blatant disregard for general policy, he was ultimately demoted.

Your report states "*Based upon the lack of any notations in the station logbooks and MDFR's inability to produce any memoranda requesting exceptions to the policy, it appears that the department failed to comply with its own policy.*" To shed light on your assumptions, when the policy was implemented in September 2006, a mechanism had not been finalized to accurately monitor for compliance. This employee did violate the policy and as already discussed, disciplinary action was taken. What your investigation fails to recognize is that the incidents that took place from March 2007 – May 2007 were not violations of the established policy. As clearly stated on page 2, VI, of the policy, "This policy may be waived...to allow for emergency overtime for up to twelve (12) hours."

The five incidents that you refer to clearly fall within that category and no additional paperwork would be required. The employee worked 24 hours overtime prior to his regular shift, worked his regular shift and before leaving to go home, was asked to immediately fill a sudden vacancy that had occurred to prevent a unit from being placed out of service. This practice occurs daily, an example would be when someone calls out sick. The vacancy is considered an emergency. If the intent of the policy was to have an employee complete a memo and send it to the Fire Chief office each time this occurred, dozens of memoranda regarding hiring employees for 12 hour tours due to sick calls would need to be completed on a daily basis. Obviously, this would not be an efficient administrative policy and was not the intent.

As your report states, MDFR had implemented policy to curtail consecutive hours worked. This policy was challenged under the collective bargaining agreement that exists between Miami-Dade County and IAFF Local 1403. Due to the ruling in binding arbitration, this policy was rescinded. Nevertheless, efficiencies were already being placed into operation to minimize consecutive hours worked while reducing overtime

expenditures. These include electronic staffing transparency, adjustment to specialty training to assure appropriate levels of qualified staff were available and centralization of rostering.

Overtime

The OIG report, as it relates to overtime, essentially presents one question and makes one statement; "...how (could) one individual garner so much overtime" and "We question management's effectiveness in tracking overtime, especially when "anticipated" overtime assignments should be hired/filled based upon those with the least number of overtime hours."

As you are aware, MDFR is bound by federal regulations, state law and collective bargaining agreements relating to staffing requirements on many of our frontline response units. In particular, the Federal Aviation Administration requires employees who are stationed at Miami International Airport and respond to aircraft emergencies possess certification and participate in recurrent training that is significantly greater than required of MDFR personnel who are assigned to non-aviation response positions. The employee that your investigation focused on holds this particular certification and therefore is eligible for additional overtime that the majority of sworn personnel are not. In 2006, the subject employee earned \$6,704 from this certification.

Hazardous Materials Technician certification is another example of a certification with many hours of initial and annual training that, in 2007, only 62 of 353 Lieutenant's maintained. With an obvious concern for public safety, specifically related to industrial accidents and terrorist events, MDFR has the largest fire based Hazardous Materials team in the South Eastern United States. Additionally, labor agreements require certified hazardous materials personnel on these specialized units and therefore only a limited number of personnel are eligible to work in an overtime capacity on these trucks. The subject employee earned \$23,388 from this certification.

MDFR has the greatest number of frontline advanced life support transport units in the state of Florida. State law and MDFR contractual obligations require personnel on these units be State certified paramedics. The employee that your investigation focused on falls into this category which again increased the opportunity for overtime work with the subject employee earning \$124,782 from this certification in 2006.

In an attempt to decrease the substantial amount of monies paid due to lack of appropriate certified personnel to meet various laws and comply with the requirements of the collective bargaining agreement, MDFR has given preference to applicants for hire who are already state paramedic certified and commenced an on duty paramedic training program.

For point of clarification, MDFR, as stated in your report, had multiple revisions of its overtime policy, 1-M-29, over the past three years. This was necessary, in part, due to

the dynamic nature and progressive implementation of the computerized personnel tracking system, TeleStaff. In addition, your report states "Again, as part of our request for information from management concerning overtime in the present case, we requested documentation evidencing quarterly reconciliations. We did not receive anything to this effect." Your office was informed via conversation nearly a year ago on October 25, 2007, with investigative staff and MDFR personnel, this process was modified from the outdated policy that they were using to evaluate this case and it is now completed using an automated system, as reflected in current policy, beginning on page 11 of 1-M-29 (5/29/08 version) and continues for two pages including graphs and examples, therefore, no prior reports were available. Although the case in question occurred prior to this policy being published, the improved system had been in place for a number of years.

In the synopsis of the OIG report, there is an assertion that "MDFR must review and address the staffing issues that created the need for such an excessive amount of overtime in the first place, and attempt to find a solution to this problem through negotiation with IAFF Local 1403. The OIG should be aware that overtime hiring at MDFR has been an ongoing concern that is monitored daily, and that the FY 2007-08 total overtime salary expenditures in the Fire District were actually less than the previous fiscal year. The \$14.9 million in overtime salaries in the Fire District during FY 2007-08 was less than each of the previous four fiscal years, and was the lowest since FY 2002-03, which was \$14.4 million, while at the same time adding new service and personnel. MDFR has reduced total overtime salaries in the Fire District during the last five years while increasing the number of rescues and engines in service by 6 and 11 respectively, and absorbing more than 17% in Cost of Living Adjustments for all employees, plus additional merit raises for eligible personnel and increased assignment pay for all certified emergency medical technicians and paramedics.

To summarize qualified staffing requirements, the employee in question holds numerous certifications and training, enabling him to work in varying positions within the department. As the certification pool of employees may be limited in certain instances, this employee, according to the current and past Collective Bargaining Agreements, positioned himself appropriately to take advantage of such opportunities to fill operational needs as they became available.

Finally, as it relates to one individual obtaining more overtime hours than another, there is a factor that your report did not take into account, that is the contractual obligations the department has to meet with voluntary overtime. The choice of whether or not to accept a particular assignment for overtime when requested is essentially, except for declared disasters, a voluntary decision. When a firefighter is called to work an overtime shift, she/he is "offered" the opportunity to work, which they have the right to decline.

Sick Leave Usage

The draft OIG report states that there was an "Abuse of Sick Leave Policy" being that the subject of this investigation earned in overtime in excess of \$90,000 and \$167,000 in 2005 and 2006 respectively. The system in place has limitations for offering a supervisor the ability to accurately review past sick leave usage. Up until recently, field supervisors were restricted to documenting all payroll activities on paper, which did not allow for efficient review of sick leave usage in prior pay periods. MDFR is currently implementing an electronic payroll system that will accurately allow supervisors to monitor sick leave usage. A retrospective review indicates that additional disciplinary action may have been warranted during the time in question, unfortunately, the primary supervisors of that time have since retired and no historical review is available. The current system, allows management to review sick time used by an individual as it occurs which allows for greater oversight and adherence to policy. As your report clearly states, regarding sick time usage for this employee, a steady decline in sick time usage is apparent and as of pay period ending 9/21/2008, this employee has only used 24-hours of sick time this year. A limiting factor for management's ability to enforce schedule control is a practice that occurred prior to this administration. Policy implementation for modified work environment has been challenging considering past practice and necessitates negotiation.

Since the inception of the current Administration, there have been 60 policy or procedures either implemented or revised. The crux of your investigation happens to focus on the *only* policy that has been challenged and rescinded through the arbitration procedure afforded to sworn personnel governed by Collective Bargaining Agreement. MDFR Administration has made a concerted effort to address administrative deficiencies within the department, however, the department must proceed with caution as unilateral changes in policy can and will be challenged through the arbitration process. As such, this Administration has seized the opportunity to address this and other efficiency measures through the Collective Bargaining process as we are currently negotiating the Collective Bargaining Agreement between Miami Dade County and IAFF Local 1403.

Suspensions and Overtime

The OIG, in the draft report, generalizes that someone should be restricted from working overtime around the time they receive discipline. To eliminate an employee's opportunity to work overtime as suggested would be in violation of contractual agreements.

Conclusion

Since the OIG's yearlong investigation focused on one employee who has been progressively disciplined for his violations of the policies in question, and the opportunities MDFR had to address "excessive" overtime and consecutive hours

worked were addressed prior to the OIG commencing its investigation, we are confident that MDFR has made significant strides in providing greater accountability, comprehensive transparency in scheduling, tracking overtime usage and policy improvement. MDFR considers the work done by the OIG and specifically this investigation to be beneficial for the County and our organization. We appreciate the OIG conducting this investigation and hope it, as well, is able to recognize the improvements that have been made over a short period of time.

Sincerely,



Herminio Lorenzo, Director
Miami-Dade Fire Rescue