



Memorandum

19 West Flagler Street ♦ Suite 220 ♦ Miami, Florida 33130
Phone: (305) 375-1946 ♦ Fax: (305) 579-2656
visit our website at www.miamidadeig.org

To: Hon. Mayor Carlos Alvarez, Miami-Dade County

From:  Christopher Mazzella, Inspector General

Date: September 12, 2008

Subject: Possible Criminal Misconduct by a Miami-Dade County Transit Employee,
Ref. IG08-52

This matter involves the handling by the Miami-Dade County Transit Department (MDT) of a complaint it received from the public concerning an MDT bus driver (the driver). The driver was alleged to have exposed himself to an eleven year old girl while he was driving his route on August 24, 2008. The OIG's review of this matter discovered a failure—a disturbing failure, in light of the circumstances—by MDT to promptly report the information to a law enforcement agency for investigation.

Our review also reveals that MDT's apparent reticence to report the information may have been partially grounded in a dubious interpretation of the language contained in County Administrative Order (A.O.) 7-7, Employees Having Knowledge of a Crime. (Attached as Exhibit A). A.O. 7-7, enacted in 1964, directs county employees who possess information which may constitute a crime to report such information to the Miami-Dade State Attorney's Office (SAO) or to a sitting grand jury. Senior MDT staff apparently interpreted A.O.7-7 as precluding reporting the information to another law enforcement agency, such as the Miami-Dade Police Department (MDPD). Plain common sense dictates otherwise, and should be even more apparent when the alleged violator is a county employee.¹ Accordingly, by way of this memorandum, the OIG recommends that all county employees be reminded of their duty to promptly report information that may constitute a crime to any appropriate law enforcement agency.

Finally, our review has determined that, given a history of similar complaints against the driver, MDT exercised extremely questionable judgment in allowing him to remain on the job. As more fully described below, MDT was aware of at least three previous incidents, the first one occurring over ten years ago, wherein the driver had exposed himself while on duty and in uniform.

¹ The OIG was first made aware of this matter on September 2, 2008. Because of the immediacy of the OIG's concerns, we did not undertake to canvass any other county and MDT orders, rules and regulations which may also prescribe reporting procedures.

The Information and How It was Processed

On August 24, 2008, MDT received a complaint from a mother alleging that a bus driver exposed himself to her eleven year old daughter. Specifically, the mother alleged that she and her daughter were waiting for a bus on MDT northbound bus route 87 on NW 87 Avenue, near the Mall of the Americas, when she spotted a Metrobus (southbound Route 87) parked across the street. The mother directed her daughter to cross the street and ask the driver for a bus schedule. The mother reported that after a few minutes she called for her daughter to return as the northbound bus was approaching. Upon returning to her mother, the girl stated that she could see the driver's private parts because his fly was wide open and he wasn't wearing any underwear.

On August 25, 2008, following the receipt of the complaint, MDT relieved the driver pending administrative action. On August 26, 2008, the driver submitted his resignation effective August 28, 2008, citing "personal" reasons.

As part of this review, OIG Special agents interviewed William Velez, MDT's Chief of Bus Operations. During the course of his interview, Mr. Velez related the following:

- On August 25, 2008, he reported the incident to his supervisor, who directed him to wait before reporting the incident to the police.
- On September 2, 2008, he again approached his supervisor, who declined to discuss the incident further, but gave him a copy of Administrative Order No 7-7, pursuant to which Mr. Velez contacted the SAO. The SAO suggested that Mr. Velez contact the OIG.
- On September 2, 2008, Mr. Velez contacted the OIG, which immediately advised him to report the incident to MDPD.
- On September 2, 2008, Mr. Velez reported the incident to MDPD, which generated a report characterizing the matter as a "suspicious incident," but refused to accept any documentation from Mr. Velez.²

The Driver's Prior History

As a further part of this review, the OIG examined the driver's personnel file, which revealed the following incidents:

² It may also have been inferred that Mr. Velez had a responsibility to produce the complainant. The OIG observes that neither a county employee, or any other citizen, should bear the responsibility of marshaling witnesses and evidence before a complaint can be investigated.

- On January 16, 1998, the driver was observed urinating near the front door of his bus by a community resident. He admitted his misconduct but was not disciplined.³
- On August 23, 2007, an anonymous complainant alleged that she saw the driver masturbating while seated on his bus. The allegation could not be corroborated, but the driver was disciplined for unrelated misconduct. The incident was investigated by the MDPD because the complaint was filed directly with the police department.
- On March 11, 2008, a teen female passenger alleged that the driver exposed himself and masturbated in front of her while operating his bus. The passenger subsequently made a positive identification of the driver from a photo array. However, the allegation could not be corroborated, and the driver was not disciplined. The complaint was filed directly with MDT. There is no record indicating whether the information was subsequently reported to the SAO or any other law enforcement agency.

At all times during the above-described incidents, the driver was on duty and wearing his MDT uniform.

OIG Recommendations

The OIG's review has uncovered a pattern of serious—and probably criminal—acts of misconduct committed by the driver that demand a thorough MDPD investigation. The OIG recommends that MDPD be directed to collect from the MDT, in the event it has not already done so, all documents, evidence, and other relevant information necessary to complete the investigation. The OIG also recommends that, as part of that investigation, the MDPD determine why the driver was allowed to remain in employment despite that pattern of misconduct.

It is also strongly recommended that A.O. 7-7 be revised. This particular A.O. is 44 years old. And, while the basic premise—that criminal activity must be reported—remains the same, we believe the A.O. is due for an update. For example, reference to reporting the information to a grand jury may be considered an outdated practice, instead other authorities, such as MDPD and the Florida Department of Law Enforcement, should be referenced. Chain of command reporting requirements—i.e., to one's immediate supervisor, division chief, etc.—and reporting time frames should also be articulated in the revised A.O. Management should also consider requiring employee affirmation that they have been advised of the new policy.

³ The driver resigned from MDT in July 1998 for unrelated reasons, but was rehired in May 2004.

OIG Requested Follow-Up

Pursuant to Section 2-1076(c)(2) of the Code of Miami-Dade County, the OIG requests that we be provided with a report within 30 days, on or before Monday, October 13, 2008, regarding our specific recommendation, as well as any other measures taken to increase employee awareness of reporting obligations.

cc: Hon. Bruno A. Barreiro, Chair, Board of County Commissioners, Miami-Dade County
Hon. Dennis C. Moss, Chair, Health & Public Safety Committee
Mr. Robert A. Cuevas, Jr., County Attorney
Mr. Harpal Kapoor, Director, Miami-Dade Transit
Clerk of the Board (copy filed)