



ALLEN NORTON & BLUE
PROFESSIONAL ASSOCIATION

121 Majorca Avenue, Suite 300 • Coral Gables, Florida 33134
Telephone 305-445-7801 • Facsimile 305-442-1578

February 23, 2017

Via Email: mmortell@ci.stuart.fl.us

Michael J. Mortell, City Attorney
City of Stuart
121 S.W. Flagler Avenue
Stuart, FL 34994

Re: Eula R. Robinson-Clarke – Investigative Report

Dear Mr. Mortell:

Thank you for retaining me to conduct the above-referenced investigation. Attached hereto is a copy of my Investigative Report. If either you or Roz have any questions, please contact me.

Sincerely,

A blue ink handwritten signature of Robert L. Norton, consisting of several loops and a long horizontal stroke that curves upwards at the end.

Robert L. Norton

RLN/crk
Enclosure
cc: Roz Johnson, Human Resources Director (w/enclosure)

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INVESTIGATIVE REPORT

I. INTRODUCTION

On February 3, 2017, the undersigned was retained by the City of Stuart to conduct an investigation concerning comments which may have been made by Commissioner Eula R. Robinson-Clarke. More specifically, the undersigned was directed to investigate: 1) Did Commissioner Clarke violate the City's Personnel Policies;¹ and 2) Were her comments isolated, or were there also other comments demonstrating a pattern of behavior such that she has created a hostile work environment?

As part of the investigation, on February 16 and 17, 2017, undersigned interviewed employees of the City and City Commissioners in the presence of Rosamond "Roz" Johnson, Director of Human Resources.

II. INITIAL ALLEGATION

It was alleged that on January 11, 2017, Officer Fitzgerald, was on duty and inside of Taylor's Grocery in East Stuart when, then-Mayor Clarke, entered the store. Immediately upon seeing Officer Fitzgerald, then-Mayor Clark stated "I didn't know we were serving pig tonight." This comment was directed at Officer Fitzgerald in the presence of other individuals in the store.

The undersigned interviewed Officer Fitzgerald on February 16, 2017. Officer Fitzgerald stated that he has been assigned to the East Stuart area on a full-time basis for approximately the last 2 years. Officer Fitzgerald stated that he initially patrolled East Stuart as part of a task force patrolling the area due in part to a large number of gunshots being reported. Due to continued law enforcement issues in East Stuart, however, Officer Fitzgerald was ultimately assigned there full-time.

According to Officer Fitzgerald, he embraced this assignment and patrolled East Stuart on foot, with a Segway, a bicycle and/or a marked police vehicle. He spent the

¹ The engagement letter also requests that the undersigned indicate whether any other laws may have been violated.

majority of his time patrolling using methods other than his assigned vehicle.

Officer Fitzgerald stated that he spent 2 years building trust with the residents and getting information concerning criminal activity in the community. He further stated that he interacted with the local children, and even purchased cleats, food, transportation, etc., for them out of his pocket. He stated that he had positive interactions with other people in the community, which included getting people's water and electric turned on, getting a donated washer and dryer installed, etc.

Officer Fitzgerald stated that he deals with the people in the streets, including gang members on a daily basis, and that he believes his efforts have resulted in shootings dropping from 23 to 2 in the last year. Officer Fitzgerald's interaction with street gangs in East Stuart resulted in the Florida Gang Intervention Association awarding him the Gang Prevention Officer of the Year in 2016 for his work in the community.

On January 11, 2017, Officer Fitzgerald was inside Taylor's Grocery having a casual conversation with the owner's granddaughter ("Yolanda") at approximately 9:00 – 9:30 p.m. At that time a homeless man came into the store and announced that Mayor Clarke was outside and Yolanda asked him to have her come into the store. Mayor Clarke entered the store, looked at Officer Fitzgerald, and said "I didn't know we were serving pig tonight." Having heard this remark, Yolanda sort of cocked her head and said words to the effect of "What are you talking about we don't serve pork."

Officer Fitzgerald stated that this comment angered him because of the hard work that he had done in the community, and that a comment of that type from an official could destroy his efforts in the community. Thereafter, he reported the incident to the local PBA representative and the Chief of Police. Consequently, he was directed to come to the Chief's office to meet with Mayor Clarke. According to Officer Fitzgerald, he said to Mayor Clarke, that she needed to have a certain decorum and that the comment she made undermines everything we have been doing. Mayor Clarke then apologized to Officer Fitzgerald, hugged him and said she wanted to ride with him in the community. During the conversation, Officer Fitzgerald told Mayor Clarke that he had called his mother concerning the comment she made. Mayor Clarke subsequently called him back and

asked him to tell his mother that she was not a racist. Following this meeting, Mayor Clarke never requested to ride with Officer Fitzgerald on patrol.

Officer Fitzgerald stated that he had great relationships with people in East Stuart but, following the issue with Mayor Clarke he has been “knocked back.” In fact, he has been told by individuals in East Stuart that he’s “just a white cracker cop.”

The Palm Beach County Police Benevolent Association (“PBA”) issued a press release concerning the comments made by Mayor Clarke. (Attachment 1). On the same day Mayor Clarke responded by writing a letter to the President of the PBA. (Attachment 2).

III. ADDITIONAL ALLEGATIONS

Apparently, as a result of the publicity surrounding the aforementioned scenario, other individuals disclosed comments made by Commissioner Clarke.²

Many of the individuals interviewed stated that it was/is a common practice for Commissioner Clarke to make comments to employees to the effect of “Oh you still work here, they didn’t give you your pink slip.” This type of comment has been made by Commissioner Clarke across the board, to top and middle management as well as blue collar employees. The constant reference to employees receiving pink slips was very concerning to some individuals. Further, one individual reported that Commissioner Clarke said to an employee words to the effect of “When I become Mayor this is going to be my office” referring to the individual’s office. This comment was made in the presence of 6 to 10 other individuals who were with Commissioner Clarke. On another occasion, Commissioner Clarke came into an employee’s office and introduced her niece, stating that the niece would be taking this employee’s job and would do it better than the employee had done it.

Further, according to a number of individuals, Commissioner Clarke regularly

² Commissioner Clarke has stepped down as Mayor, accordingly, she will be referred to hereinafter as Commissioner Clarke with reference to other comments attributed to her.

made comments concerning the Chief of Police (a White male) who is raising a Black child, referring to that scenario as a “social experiment.” This comment, characterizing the relationship where a White husband and wife are raising a Black child and referring to it as a social experiment, has been repeatedly made in front of groups of individuals, including employees of the City. With respect to this same family situation, Commissioner Clarke has stated that they should find a Black woman who could serve as a “grandmother role model” for the child. Commissioner Clarke even offered a list of names of individuals who could serve as role models. On other occasions, again, referring to the same family situation, Commissioner Clarke stated that the couple should get a Black auntie, so that the child would know where he comes from. This statement was made within the last 6 months at the Unity in the Community event in front of multiple individuals.

Another White employee who has been married to a Black man for 24 years attended the Employee Appreciation Picnic with her spouse and children. She then introduced her spouse and children to Commissioner Clarke who specifically referenced the family as being inter-racial and then said to the employee that inter-racial marriages never last “so we’ll see.”

On another occasion, after a council meeting, in the parking lot in front of City Hall Commission Clarke came up to the Chief of Police and made a statement to the effect “How many Black men have your officers shot today?” Shortly thereafter, in a meeting between the Chief of Police, the City Manager and Commissioner Clarke, to discuss the comment Commissioner Clarke made to Officer Fitzgerald, the Chief specifically told Commissioner Clarke that he did not appreciate her comments made with reference to the “social experiment” nor did he appreciate the comment concerning how many Blacks his officers had shot.

IV. CONCLUSION


The undersigned initially notes that, since Commissioner Clarke declined to be

interviewed as part of the investigation,³ he assumes all of these statements attributed to Commissioner Clarke were in fact made by her. It should be noted, that after interviews disclosed the aforementioned comments attributed to Commissioner Clarke, the undersigned authored a letter dated February 21, 2017 to Commissioner Clarke's attorney again offering her another opportunity to be interviewed so that she could respond to the comments. (Attachment 4). That offer was not accepted.

In the engagement letter the undersigned was requested to determine if violations of City Policy or law exists. It is the opinion of the undersigned that Commissioner Clarke did not violate any City Policy because the City Commissioners are specifically exempted from the City's Personnel Policies. It is however the opinion of the undersigned, that had an employee of the City engaged in the same or similar conduct, and made the same or similar remarks, that individual would violate Section 44 HARRASSMENT; Section 44.1 Harassment; and Section 44.3 Professionalism in the Workplace.

Further, the undersigned does not believe Commissioner Clarke violated any labor and/or employment law by her comments. However, arguably, in an employer-employee scenario, if any employer knowingly tolerated such comments in the workplace by employees it could be held responsible under various federal and state laws regulating conduct in the workplace.

Dated: February 22, 2017



Robert L. Norton

³ This is referenced in a letter from her attorney dated February 14, 2017. (Attachment 3).



**PALM BEACH COUNTY
POLICE BENEVOLENT ASSOCIATION, INC.**

2100 N. Florida Mango Road • West Palm Beach, FL 33409-6400 • (561) 689-3745 • (561) 687-0154 Fax
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January 27, 2017

PRESS RELEASE – CITY OF STUART MAYOR DIRECTS DEROGATORY TERM FOR LAW
ENFORCEMENT TOWARDS CITY OF STUART POLICE OFFICER

On January 11, 2017, while on patrol, a City of Stuart police officer was inside a local Stuart business speaking with an employee when City of Stuart Mayor Eula Clarke entered the business and said, "I didn't know we were serving pig tonight." Officers and Deputies throughout Martin and Palm Beach Counties are outraged by Mayor Clarke's derogatory comment towards law enforcement. Officers strongly believe that no City of Stuart employee should be subjected to verbal harassment or demeaning comments by one of the City's elected officials.

During a time when relations between law enforcement and the public are strained throughout the nation, officers are working hard and dedicated to improving these relations throughout the City of Stuart. Comments such as the one by the Mayor do nothing to improve these relations. In fact, they only counteract the great strides made by the men and women of the City of Stuart Police Department throughout the community. Accordingly, officers expect no less than a formal censure of the Mayor by the City Commission in response to her comments.

Requests for more information and questions are directed to:

PBA President John Kazanjian
2100 North Florida Mango Road
West Palm Beach, Florida 33409-6412
(561) 689-3745
(561) 723-6904





City of Stuart

121 S.W. FLAGLER AVENUE • STUART, FLORIDA 34994



January 27, 2017

John Kazanjian, President
Palm Beach County Police Benevolent Association, Inc.
2100 North Florida Mango Road
West Palm Beach, FL 33409-6412

Dear Mr. Kazanjian:

I am in receipt of a copy of your press release of January 27th, discussing derogatory remarks made by me on January 11, 2017. The City of Stuart does have a strong policy against employee harassment. As an elected official I personally and fully support and endorse this policy.

I am so sorry for this entire event. When I first became aware that Officer Fitzgerald had taken offense at my comment, I realized I had seriously offended him. As a result, I immediately reached out to Ofc. Fitzgerald, and expressed how sorry I was for this comment. My choice of words, and my speech, was patently offensive, and I would hope that Ofc. Fitzgerald, and all law enforcement officers will forgive me for this transgression.

All law enforcement officers are very important to me, and to the City of Stuart. We owe them a great debt of gratitude. During the past couple of years, the Stuart Police Department has made great strides in eliminating drugs and gun violence, particularly in East Stuart. They provide excellent service throughout the entire community. They are trusted by me, and by all those I know.

Please trust that I will never repeat this type of comment or speech in my personal or professional life.

Sincerely,



EULA R. CLARKE

Cc: All Members of the Stuart Police Department
Mayor and City Commissioners
City Manager
City Attorney



F. SHIELDS McMANUS, P.A.
Attorney at Law

73 SW Flagler Avenue, Stuart
Phone (772) 285-2774

P.O. Box 1920
Stuart, Florida 34995-1920

F.ShieldsMac@gmail.com

February 14, 2017, by hand delivery

Paul J. Nicoletti, City Manager,
121 SW Flagler Ave.
Stuart, Florida

RECEIVED

FEB 14 2017

CITY OF STUART-CITY MGR.

Dear Mr. Nicoletti,

I have the honor of representing Commissioner Eula R. Robinson-Clarke.

On her behalf, I am advising you that she has decided not to participate in the investigation by Robert Norton on behalf of the City Commission.

We have no information to question the neutrality of Mr. Norton. Nevertheless, this investigation of what Commissioner Robinson-Clarke allegedly said in the past is without precedent and will have no legal effect. It has no useful purpose worth the expenditure of \$10,000. Rather it is a political vehicle to justify a previous rush to judgment. Therefore, the Commissioner will not lend credence to this political activity by participating in it.

As for what she has said in the presence of a policeman and other unintended slights to some persons, she has apologized. She assures all law enforcement officers in Stuart that she appreciates their service. She has never intentionally shown any disrespect to them. The Commissioner has been a community activist in Stuart for many years with a goal of bringing harmony among its citizens. She



Letter to Paul J. Nicoletti.
February 14, 2017
Page 2

regrets that a momentary mistake has caused so much disharmony. She intends to continue to serve as a Stuart Commissioner dedicated to promoting the highest quality of life for all.

Sincerely yours,

A handwritten signature in cursive script that reads "F. Shields McManus". The signature is written in black ink and is positioned above the printed name.

F. Shields McManus

cc: Hon. Eula R. Robinson-Clarke



ALLEN NORTON & BLUE
PROFESSIONAL ASSOCIATION

121 Majorca Avenue, Suite 300 • Coral Gables, Florida 33134
Telephone 305-445-7801 • Facsimile 305-442-1578

February 21, 2017

**Via Email: F.ShieldsMac@gmail.com
and U.S. Mail**

F. Shields McManus, P.A.
P.O. Box 1920
Stuart, Florida 34995

Re: Eula R. Robinson-Clarke - Investigation

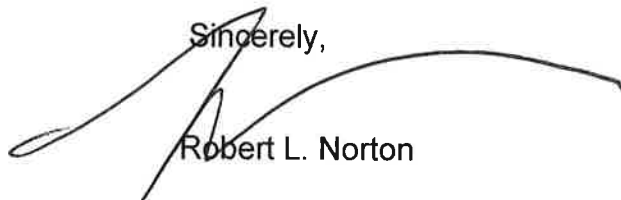
Dear Mr. McManus:

As you may be aware, on February 16 and 17, 2017, I conducted interviews of several individuals as part of an investigation directed by the Stuart City Council. Initially, Commissioner Eula R. Robinson-Clarke was scheduled to be included in these interviews. However, in accordance with your letter of February 14, 2017, Commissioner Robinson-Clarke declined to be interviewed.

In the interest of fairness, I am advising you that my investigation has disclosed comments attributed to your client that can be characterized as inappropriate and uttered with a questionable motive. At this time, I am again offering your client an opportunity to be interviewed as part of my investigation so that she will have an opportunity to respond to the aforementioned comments. Should Commissioner Robinson-Clarke decline to be interviewed, I obviously will have no alternative but to prepare my investigative report without the benefit of having heard from your client.

Please advise me no later than 12:00 p.m. on February 22, 2017, if your client would like the opportunity to be interviewed. If I do not hear from you in the affirmative by that time, I will assume your client continues to decline to be interviewed.

Sincerely,



Robert L. Norton

RLN/crk

cc: Michael J. Mortell, City Attorney

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