



STATE OF NEW YORK
OFFICE OF THE STATE INSPECTOR GENERAL
Final Report
March 30, 2011

SUMMARY OF FINDINGS/RECOMMENDATIONS

The New York State Inspector General found that Carmen Acosta, Brooklyn Regional Director of the New York State Division of Human Rights, installed a secreted recording device in a subordinate's desk to "monitor" remarks made about her. Because New York State law prohibits the secretive recording of conversations unless at least one person is privy to the recording, this matter was referred to a prosecutorial agency for review.

ALLEGATION

In April 2010, the Inspector General received a complaint from New York State Division of Human Rights ("DHR") Deputy Commissioner for Regional Affairs Jyll Townes that she had received two written statements from DHR employee Carmen Acosta regarding a recording device found hidden in a fellow employee's desk: In the first letter, Acosta claimed knowledge of the person responsible for the installation of the secreted recording device, but refused to reveal the identity of the individual in order to "protect" the person; in a second letter dated the next day, Acosta admitted, after consulting with her attorney, she was the individual who had placed the recording device in a subordinate's desk. DHR forwarded both statements to the Inspector General.

SUMMARY OF INVESTIGATION

Background

The New York State Division of Human Rights enforces New York's Human Rights Law, which prohibits discrimination based on a number of protected classes. Carmen Acosta, an attorney, joined DHR in 1993 as a Human Rights Specialist in the Office of Sexual Harassment Issues. During her tenure at DHR, Acosta was promoted several times and, in 2008, she was appointed to her most recent position, Director of the Brooklyn Regional Office. As Regional Director, one of Acosta's subordinates was Administrative Program Aide Doris Gonzalez.

Acosta Secrets a Recording Device in Desk of Subordinate

On Monday, April 26, 2010, Gonzalez discovered a tape recorder affixed with Velcro in the bottom right hand drawer of her desk, hidden from view. At the time Gonzalez discovered the device, an indicator light on the device was illuminated, but she was unsure whether it was actively recording. Gonzalez informed her husband and several co-workers of her discovery. She then, in front of her colleagues, including Acosta, took photographs of the device with her personal camera and cell phone. Gonzalez removed the device from her desk, and Acosta took the device, assuring Gonzalez she would investigate the matter to determine who was responsible for installing it in Gonzalez's desk.

On April 28, 2010, pursuant to a request from DHR Deputy Commissioner Jyll Townes as to the status of the investigation, Acosta submitted the following written statement to Townes:

On April 26 at approx (sic) 2pm Doris Gonzalez, APA [Administrative Program Aide], showed me a device that she said she found in her desk. I took the device and told her I'd investigate.

Earlier this year I found a similar device in my office. I found out who did it. It was not a state employee. I did not report the incident because I felt I had resolved the matter.

When I saw the device Doris showed me I took it because I believed the same person was involved. I confirmed that it was the same person. The device has been destroyed.

I did not report the incident at the time because I knew I would put an end to it. It will not happen again.

You asked if I was protecting someone. I am. I will not reveal the name of this person. I have nothing further to say.

However I do apologize for my actions. I used extremely poor judgment when I took this matter into my own hands for personal reasons.

/s/ Carmen Acosta

The next day, on April 29, 2010, Acosta – on her own accord – submitted an additional written statement to Townes:

On advice of counsel I am revising my statements of 4/26 and 4/28.

I admit to placing the recording device in Doris' desk. No one else was involved. I did it to monitor the talk in the front desk area.

On 4/19 I changed the set up of the front desk reception area which included relocating Doris to a space next to the KBS [Key Board Specialist] and APA. I suspected Doris had issues with the move as now she was no longer isolated but in full view of coworkers and Cynthia. I also believe she was upset about my admonishing her on her husband's presence in the office when I met with her and Cynthia on April 20th. I told her that she is responsible for his actions and that under no circumstances is he to touch, access or give advice about Division computers. After this meeting I heard her continually talking to staff and believed she was undermining my authority. In the past she has shown reluctance in following my directives.

I will also admit that I displayed extremely poor judgment in handling this matter. The recording device has been destroyed. It will not happen again.

I am ashamed.

I apologize to the Division for my actions.

/s/ Carmen Acosta

This matter was immediately referred to the Inspector General for investigation. The Inspector General interviewed Gonzalez and other DHR employees who witnessed the removal of the recording device from Gonzalez's desk. Gonzalez and the other employees declared that they were unaware of the presence of the device and not privy to any recording. The Inspector General also obtained copies of the photographs taken by Gonzalez and determined that the recording device was in fact voice-activated, which starts recording automatically and illuminates a light on the device to so indicate. The Inspector General notes that an examination of the device was foreclosed by Acosta's admitted destruction of it. Accordingly, the Inspector General has referred this matter to a prosecutorial agency for review. On or about May 25, 2010, Acosta applied for retirement, which became effective June 18, 2010, thereby precluding disciplinary action by DHR.

FINDINGS AND RECOMMENDATIONS

The New York State Inspector General found that Carmen Acosta, Brooklyn Regional Director of the New York State Division of Human Rights, installed a secreted recording device in a subordinate's desk to "monitor" remarks made about her. Because New York State law prohibits the secretive recording of conversations unless at least one person is privy to the recording, this matter was referred to a prosecutorial agency for review. Acosta has since retired from DHR effective June 18, 2010, thereby precluding disciplinary action by the agency.