



Legislation Details (With Text)

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Report to Mayor and City Council

Tuesday, November 01, 2016

Consent

SUBJECT:

REVIEW THE RECALL OF COURTESY BADGES GIVEN TO CARSON ELECTED OFFICIALS(CITY COUNCIL)

I. SUMMARY

At the October 4, 2016 meeting, Western Medical, the City's contract medical provider, disclosed that former Mayor Jim Dear had "flashed" his Los Angeles County Sheriff's (LASD) elected official's courtesy badge to obtain federally protected medical information concerning Carson city employees. Since this disclosure, staff has received numerous inquiries concerning the alleged incident.

Staff has prepared this report in response to these inquiries and it provides an update on the city's action to date. A courtesy badge is a badge that closely resembles the badges and shields that Los Angeles County deputies wear in their official capacity as sworn law enforcement officers, with the same six-point star design. Instead of identifying the person as a deputy sheriff the badge has the elected official's title such as "Mayor" or reads "City Official Los Angeles County".

Prior to 2012 the LASD issued courtesy badges to all local elected officials, even those with no law enforcement duties. Local elected officials were to use these courtesy badges in the case of emergency situations, such as after an earthquake or major disaster.

Unfortunately, there have been numerous cases of the misuse of courtesy badges.

The sheriff's department records indicate that the only elected officials in the City of Carson that have not returned their badges are former mayors Jim Dear and Pete Fajardo, the former Council member that was sentenced to 15 months in federal prison for agreeing to accept more than \$100,000 in bribes in exchange for votes while he was a member of the City Council.

II. RECOMMENDATION

Staff has forwarded all information on the alleged incident to the Los Angeles county Sheriff for their investigation and follow-up.

III. ALTERNATIVES

TAKE another action the City Council deems appropriate.

IV. BACKGROUND

ALLEGED MISUSE OF COURTESY BADGE

Mr. Jeffrey Bearman, the manager of Western Medical Group, reported to the City Council that in late 2013, [then] Mayor Jim Dear used his position as Mayor to obtain confidential personnel medical information by allegedly "flashing" his courtesy badge to a female worker at Western Medical and demanding a drug screening test be performed for the woman who accompanied him to the medical center. Western Medical has been the City's contract medical provider for pre-employment physicals, drug testing and workplace injuries for a number of years.

The alleged extraordinary abuse of power and position resulted in a series of issues including what appears to be a violation of Penal Code 538d prohibiting non-police officers from "flashing" a law enforcement badge where a reasonable person would conclude that the person has the authority of a law enforcement officer. Violations of this penal code section are misdemeanors and the person can be fined and subject to imprisonment of up to six months in jail.

According the Mr. Bearman, Mr. Dear's alleged behavior resulted in compelling the female worker to conduct the requested medical test and note that the results were to be emailed to a specified employee at the City of Carson. City officials learned that the person specified by Mr. Dear was not one of the people authorized by the City's Human Resource Department to receive confidential medical information.

Mr. Dear's behavior could be viewed by a reasonable person as a violation of the penal

code. The incident created other issues relating to the violation of federal privacy laws protection restricted medical information. The late night incident caused Western Medical to change their notification procedures and they started sending all City employee's medical records to the attention of Mr. Jim Dear, Mayor of Carson, instead of to the City's Human Resources Director.

HISTORY OF THE RECALL OF COURTESY BADGES

Statewide law enforcement agencies have issued courtesy badges to elected officials for several decades. In 2007, after numerous cases of the misuse of courtesy badges were reported to the State, then Attorney General Jerry Brown opined that courtesy badges issued to elected officials with no law enforcement duties violated the penal code.

LASD waited until 2012 to issue a recall of the 200 plus badges the department had issued to local elected officials, after the FBI reported the misuse of courtesy badges in the City of Cudahy. In a case where the FBI arrested the Mayor and two Council members on bribery charges, the FBI found photos that involved the misuse of courtesy badges in a nightclub. The LASD recall included Carson's elected officials.

City management had assumed that our elected officials had complied with the recall and had returned all of their courtesy badges in 2012. LASD records show that to date former mayors Dear and Fajardo are the only elected officials from the City of Carson that did not return their badges.

SECOND REQUEST TO RETURN BADGE

In order to avoid additional incidents with Mr. Dear, on Thursday, October 20, 2016, he was sent a letter from the City Manager requesting that he return his LASD issued badge. Mr. Dear was given until 6:00 p.m. Monday, October 24, 2016, to turn in his courtesy badge. Mr. Dear did not return his badge to either the City Clerk or the Captain of the Sheriff's Station by the requested time. The letter was mailed via US Post and emailed to two of Mr. Dear's email addresses. A bounce-back message was not received therefore we presume that Mr. Dear received the letter. Based upon the facts known, the Los Angeles County Sheriff's Department has launched an investigation.

V. FISCAL IMPACT

None at this time.

VI. EXHIBITS

1. Letter to Jim Dear dated, October 20, 2016. (pgs. 4-5)

Prepared by: Kenneth C. Farfsing, City Manager