



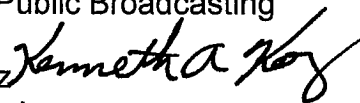
Corporation
for Public
Broadcasting

Office of Inspector General

July 25, 2008

To: Bruce Theriault
Senior Vice President, Radio
Corporation for Public Broadcasting

West Smithers
Senior Vice President & General Counsel
Corporation for Public Broadcasting

From: Kenneth A. Konz 
Inspector General
Corporation for Public Broadcasting

Subject: Report of Special Review of Alleged Violations of CPB Community
Advisory Board Requirements by WYPR-FM Management, Special
Report No. 803

Corporation for Public Broadcasting (CPB) management was contacted in early April of this year by members of the "Bring Back Steiner Movement" (BBSM) and Max Obuszewski to discuss concerns about the firing of Mark Steiner and the adverse impact it was having on the listening community. In response, CPB advised BBSM members:

...CPB has no direct jurisdiction in this matter, as it is a station personnel issue. CPB is statutorily prohibited from dictating the operations of the public television and radio stations that we support. As such, we cannot interfere in internal decision (such as personnel issues) that a station may make.

Further, CPB said in response to the concerns raised about the Community Advisory Board (CAB) that they would refer this matter to the Office of Inspector General (OIG) to consider whether an independent OIG review of these allegations would be undertaken. While we never received an official referral of these matters from CPB, our office was later contacted and provided materials from others in Baltimore regarding these same concerns. This information was tracked internally in the OIG. As described in Attachment A, senior OIG officials reviewed the

allegations and facts provided by the complainants to ascertain whether an OIG review was warranted at this time.

Additionally, we examined the provision of the Public Broadcasting Act (PBA), which created CPB and provided funding for the Community Service Grants awarded by CPB which fund a portion of the costs of operating stations like WYPR across the nation. As previously mentioned, under the Act, CPB is barred from interfering in station program content or station management decisions. The OIG's authority to investigate such matters is likewise limited by CPB's authorizing statute. As a result, we do not have any authority to review, evaluate or make any recommendations with respect to the termination of the Steiner program, the initiation of replacement programming, or with respect to any related WYPR personnel decisions.

Accordingly, after eliminating these issues, the only matters we could consider evaluating are the statutory issues related to the functioning of WYPR's CAB. In this regard, Mr. Obuszewski indicated that:

My interest came about when station management terminated the Mark Steiner Show on February 1, 2008. This major change in programming was done without consultation with the Community Advisory Board. For example, Ralph Moore, a CPB member, read about it in the Sun."

When WYPR management terminated the Mark Steiner Show, this was a major policy decision, as well as a change in programming. According to the CPB requirements, the Community Advisory Board must be consulted about major policy decisions. Members of the CAB only found out about the termination of the show through the media."

In discussing the responsibilities of the CAB, the PBA states that the board shall be permitted to review the programming goals established by the station, the service provided by the station, and the significant policy decisions rendered by the station. The CAB may also advise the governing body of the station with respect to whether the programming and other policies of such station are meeting the specialized educational and cultural needs of the communities served by the station, and may make such recommendations as it considers appropriate to meet such needs. However, the statute does not specifically require station management or the Board of Directors to inform the Community Advisory Board in advance of programming changes or employment decisions to obtain their approval.

In his complaint, Mr. Obuszewski focused on the relationship of the CAB

to the governing Board of Directors. In this regard, he highlighted that the advisory board is intended to provide the public the opportunity to be heard on station programming, community service and the impact of major policy decisions on the community. All stations are encouraged to establish whatever mechanisms will be most effective, under local circumstances, to accomplish this congressional established goal. In discussing the facts related to the CAB's actions in this matter, he indicated:

After the termination of the Steiner Show, the CAB held an open meeting on Feb.20 at which hundreds of listeners came. More than 50 of us testified that it was wrong and foolhardy to terminate the award-winning Mark Steiner Show. On April 15, the CAB called for the re-instatement of The Mark Steiner Show during a WYPR Board of Directors meeting. However, the chair rudely dismissed the recommendation.

Besides not consulting the CAB before terminating the Steiner Show, station management again violated CPB requirements by installing another program to replace the Steiner Show without CAB input . . .

WYPR management should not be able to ignore the Community Advisory Board or the listeners. Through the advocacy of the CAB, listeners and contributors have the right to provide input regarding major policy decisions and changes with programming. The basic issue we are raising is that the people of Baltimore should have input in the operation of Your Public Radio.

Based on the facts provided above, it is obvious that in this instance WYPR's CAB did what was expected in the law. It provided a mechanism to provide feedback about the public's concerns over the programming changes to the station's Board of Directors and management. However, the complainants seem to want more. They seem to believe that the station is required to run these matters through the CAB in advance. In addition, they seem to think that the station has to adhere to the public's desires and CAB's recommendations. But the fulfillment of these desires is not required by the statute. In this regard, the PBA clearly states, ". . . The role of the board [CAB] shall be solely advisory in nature. In no case shall the board have any authority to exercise any control over the management or operation of the station."

The only remaining issue raised by BBSM and Mr. Obuszewski is whether WYPR had falsely certified the existence of an operating CAB in the past, when one had not been established or was not operated. This question is not considered relevant with respect to the current situation, because the CAB is operating. The complainant's own statements show that the CAB existed and appropriately acted

to report and make recommendations to the WYPR Board related to these programming and personnel decisions. It does not make sense with our limited resources to go back and determine when in fact the station established its CAB and whether it had incorrectly certified its compliance to CPB in the past. Historically, based on our audits where we identified non-compliance with operating CABs, CPB has only required the stations to establish operating CABs and provide supporting documentation of their on-going operations. WYPR has a current operating CAB.

Another complainant referred to in a Baltimore press report alleged that WYPR had offered Mr. Steiner "\$50,000 not to speak to the media" and would extend his broadcast for a few months, an offer Mr. Steiner apparently declined. She characterized this offer as a "bribe." As previously explained, CPB has no jurisdiction over personnel policies of stations.

Conclusion and Recommendation

For the reasons discussed above, senior OIG management has concluded that there is not sufficient basis for us to undertake a review of WYPR's CSG grants or operations, at this time. The evidence provided by Mr. Obuszewski and the other complainants demonstrated that the CAB was functioning at the time WYPR took the actions being complained about.

Accordingly, we believe that further review of WYPR's use of funds provided under CPB CSGs and compliance with grant requirements be set aside for a future period, when the station can be scheduled for an audit in the normal course of our audit cycle.

Scope and Methodology

Receipt and tracking of the citizens' complaints related to this project were handled in accordance with the OIG's procedures for handling Hot Line Complaints. Initially, we were contacted by CPB's Governmental Affairs Staff, who advised that they had received complaints from citizens in Baltimore. Further they indicated that after discussions with these individuals and CPB staff, they had concluded that the matter was beyond CPB's authority, but they would refer the complaints to the OIG for possible investigation. Although complainants were told that CPB would make a referral to this Office, no such referral was made.

A few weeks later, our office received email and telephone complaints directly from another individual in Baltimore, who raised similar complaints. As a result of this email, the OIG Counsel logged this complaint into the OIG hot line control system and followed up with CPB staff members to request documentation regarding the complaints. Initially, we received some of the documents they had prepared. Then our office followed a series of stories from the Baltimore press who reported more information on the controversies related to the firing of Mr. Steiner, the CAB meeting, and the CAB's report at the WYPR Board meeting.

Between April and June of this year, OIG senior staff and Counsel gathered additional information on these matters and met to analyze whether there was sufficient basis to initiate an investigation into these matters. The consensus was that any investigation would require us to focus on matters clearly beyond CPB's or the IG's authority under the PBA. Further, we concluded that since the CAB had acted to raise the public's concerns on these matters and make recommendations to the WYPR Board of Directors, further OIG involvement was not justified. In an effort to ensure that we had not overlooked an opportunity to pursue these matters further, we discussed our observations and conclusions with CPB's Office of General Counsel.