



CHIEF FINANCIAL OFFICER  
**JEFF ATWATER**  
STATE OF FLORIDA

## DIVISION OF INVESTIGATIVE AND FORENSIC SERVICES

*OIG Report of Investigation Number 15089 IA*

It is alleged that former Division of Insurance Fraud Lieutenant Deborah de la Paz-Boxer violated Administrative Policy and Procedure (AP&P) 5-26, Standards and Procedures of Discipline; Florida Administrative Code Chapter 60L-36, Conduct of Employees; and AP&P 8-02, Confidential Informants and Sources, by failing to properly hold her employees accountable by not requiring the correct paperwork related to the use of a confidential informant.

*Teresa Michael*

Teresa Michael, Inspector General  
Office of Inspector General  
Department of Financial Services

September 8, 2016



## INVESTIGATIVE PREDICATE

On October 19, 2015, while investigating Florida Department of Financial Services (DFS) Office of Inspector General (OIG) case 14108 IA, the OIG became aware of possible misconduct on the part of former<sup>1</sup> Division of Insurance Fraud (DIF) Lieutenant Deborah de la Paz-Boxer. On October 19, 2015, OIG Director of Investigations Mike Shoaf assigned this complaint to OIG Investigator Andrew Blimes for investigation.

## ALLEGATIONS

It is alleged that former Lieutenant de la Paz-Boxer violated Administrative Policy and Procedure (AP&P) 5-26, Standards and Procedures of Discipline (Exhibit 1); Florida Administrative Code (FAC) Chapter 60L-36, Conduct of Employees (Exhibit 5); and AP&P 8-02, Confidential Informants and Sources (Exhibit 2), by failing to properly hold her subordinate employees accountable by not requiring the correct documentation concerning the confidential informant (CI).

It is also alleged that former Lieutenant de la Paz-Boxer violated AP&P 5-26, Standards and Procedures of Discipline; FAC Chapter 60L-36, Conduct of Employees; and AP&P 8-02, Confidential Informants and Sources, by knowing that former DIF Detective John Swope arrested people using information developed from a CI, without documenting the information in the CI file as required by policy.

## EXECUTIVE SUMMARY

At the time the complaint was made, de la Paz-Boxer was also a subject in related OIG case 14034 IA, which was being reviewed for possible criminal prosecution by the State Attorney's Offices in Palm Beach and Broward Counties. Therefore, this investigation was placed on hold pending the conclusion of any related criminal investigations. On May 20, 2016, this investigation was placed back into active status after no criminal charges were filed. From May 20, 2016, to August 11, 2016, OIG staff conducted interviews and reviewed pertinent documentation/records as it relates to the allegations. As a result of the investigation, OIG staff determined that de la Paz-Boxer violated AP&P 5-26, FAC Chapter 60L-36, and AP&P 8-02 in that she failed to ensure that her employees completed the required paperwork concerning the use of a CI (Exhibit 3). It was also determined that de la Paz-Boxer violated AP&P 5-26, FAC Chapter 60L-36, and AP&P 8-02 in that she knew Swope arrested people using information developed from a CI, without documenting the information in the CI file.

## COMPLAINANT INTERVIEW

The allegations were discovered during the subject interview of former DIF Detective John Swope in OIG case 14108 IA (Exhibit 3).

## DOCUMENTATION/RECORDS ANALYSIS

**Exhibit #1:** AP&P 5-26, Standards and Procedures of Discipline

<sup>1</sup> De la Paz-Boxer resigned from DFS effective March 1, 2016.

This exhibit contains the Department's standards for job performance. Section IX.A POOR PERFORMANCE states, "Employees are expected to be effective in their work; for example...to provide the level of effort necessary to get the job done; to demonstrate willingness and ability to make decisions and exercise sound judgment; to produce work that consistently meets or exceeds expectations." Section IX.B NEGLIGENCE states, "Employees shall exercise due care and reasonable diligence in the performance of job duties." Section IX.C INEFFICIENCY OR INABILITY TO PERFORM ASSIGNED DUTIES states, "Employees shall, at a minimum, be able to perform duties in a competent and adequate manner."

**Exhibit #2: AP&P 8-02, Confidential Informants and Sources**

This exhibit contains the Department's policy concerning the use and documentation of confidential informants. The policy states, "A thorough debriefing of the confidential informant shall be completed immediately after any activity. The debriefing shall be summarized on the Confidential Informant Activity Record...within forty-eight (48) hours of the activity."

**Exhibit #3: OIG Report of Investigation Number 14108 IA**

This exhibit contains the Report of Investigation following allegations made against Swope by the Internal Revenue Service-Criminal Investigations Section and the Office of the United States Attorney's Southern District. In part, it was alleged that Swope failed to properly document the use of a confidential informant, making it impossible for the Office of the United States Attorney's Southern District to prosecute the informant for up to \$500 million of suspected fraud the informant was allegedly involved in while being utilized by Swope. The report also references three DIF cases (12-1577, 13-333, and 14-460) in which information obtained from the CI led to multiple arrests despite the CI's activities not being properly documented.

**Exhibit #4: Letter from James Casey Dated August 4, 2016**

This exhibit contains a letter written on behalf of de la Paz-Boxer by her attorney, James Casey. Casey stated that the primary points de la Paz-Boxer wants known are:

- Swope is a disgruntled former employee with a history of performance issues.
- de la Paz-Boxer routinely sent reports back unapproved for him to correct errors.
- If de la Paz-Boxer had been made aware that he was not properly documenting an informant, she would have instructed him to do so immediately.
- Many of the cooperators working with the Task Force were doing so at the direction and provisions of various plea agreements entered into with the appropriate prosecutorial entity and not on direction given by de la Paz-Boxer.

**Exhibit #5: Rule 60L-36, FAC**

Section 60L-36.005(3)(a)(2), FAC, of this exhibit states, "Employees are expected to be effective, for example... to provide the level of effort necessary to get the job done; to demonstrate willingness and ability to make decisions and exercise sound judgment; to produce work that consistently meets or exceeds expectations." Section 60L-36.005(3)(b), FAC, states, "Employees shall exercise due care and reasonable diligence in the performance of job duties." Section 60L-36.005(3)(c) states, "Employees shall, at a minimum, be able to perform duties in a competent and adequate manner."

**Exhibit #6: Performance Evaluations for de la Paz-Boxer**

This exhibit contains all of de la Paz-Boxer's performance evaluations on record with the Bureau of Personnel Management that were completed from fiscal year 2012-13 through the end of her employment with DFS. One performance measure from the evaluations dated October 1, 2011, through September 30, 2012, and October 1, 2012, through June 30, 2013, states, "Administrative duties completed within established timeframes and consistent with Division's policies and procedures (vehicle logs, reports, etc)." In both evaluations, de la Paz-Boxer received a score of four, indicating that she completed her administrative duties consistent with policy 97-99% of the time.

**Exhibit #7: Training Records**

This exhibit shows that in September 2009 and June 2010, de la Paz-Boxer completed two hours of training related to the use of confidential informants.

**WITNESS INTERVIEW**

**On June 15, 2016, a sworn recorded interview of former Division of Insurance Fraud, Bureau of Workers' Compensation Fraud Chief John Dygon was conducted via telephone from the Office of Inspector General in Tallahassee, FL. The following represents actual and paraphrased statements made by Dygon:**

Dygon retired from the Division of Insurance Fraud on May 31, 2016. Prior to that, he was the Bureau Chief from October 2014 through his retirement. As Bureau Chief, his responsibilities included overseeing the DIF Workers' Compensation squads throughout the state. Prior to becoming the Bureau Chief, part of Dygon's responsibilities included overseeing the Money Services Business (MSB) Task Force operating out of DIF's Broward Field Office, which Swope and de la Paz-Boxer were part of. Dygon stated he was over the MSB Task Force from approximately January or February of 2014 through the disbanding of the task force in approximately April 2014.

Dygon stated that DIF employees are "supposed to document any conversations, phone calls, meetings, [and] payments if it was appropriate...each time you met with the confidential informant." This type of documentation should have been entered into ACISS, DIF's case management system, by the detective working the case. Dygon stated, "It's the Lieutenant's responsibility to make sure that things are documented correctly. All reports are sent to the immediate supervisor." When Dygon was asked how a supervisor would know that a report should contain information about a CI, he responded, "A supervisor should be aware of what the detectives are doing." Dygon stated documentation is a dual responsibility between the detectives and lieutenant. The detective has the onus of notifying a supervisor of contact with a CI and documenting it, and the lieutenant has the responsibility of ensuring that the documentation is accurate and complete.

Dygon stated that any information that Swope obtained from a CI that led to an arrest should "absolutely" be documented, and that it would have been de la Paz-Boxer's responsibility to review Swope's work and make sure that all contact with the CI was properly documented. When Dygon was asked whose responsibility it was to complete CI Operational Plans and CI Activity Records required by AP&P 8-02, Confidential Informants and Sources, he stated it is the detective's responsibility to prepare them, but it is the supervisor's responsibility to "make sure that everything is in place and properly done."



Dygon stated he was aware of the bad relationship between Swope and de la Paz-Boxer following Swope's allegations against de la Paz-Boxer (see OIG case 14034 IA). Dygon stated Swope was transferred to another field office as a result of his relationship with his supervisors; however, Dygon does not know exactly when that was or how long the communication between Swope and de la Paz-Boxer was "non-existent." (NOTE: "Non-existent" was the term used by Swope during his subject interview in OIG case 14108 IA to describe his communication with de la Paz-Boxer from May 28, 2014, through Swope's resignation from DIF on December 19, 2014.) Dygon stated that Swope and de la Paz-Boxer should have been able to maintain a professional relationship during this time, and there was no way de la Paz-Boxer could have been supervising Swope effectively if their communication was "non-existent." Dygon stated if de la Paz-Boxer had trouble communicating with Swope, she should have brought it to Dygon's attention immediately to resolve it.

Dygon stated there was a time when he spoke with de la Paz-Boxer about making sure reports were properly completed. Sometime after that, Dygon went in to the office and Swope approached him and said, "Chief, can you get your lieutenant's butt out of my butt because she's driving me crazy about ACISS?" Dygon stated that based on this conversation with Swope, "It sounded to me like [de la Paz-Boxer] was at least in theory trying to follow the proper procedure." However, Dygon stated he does not think de la Paz-Boxer understood ACISS and there were "a lot of things that he would have liked to have seen [that were] missing from the reports." Dygon stated that he placed his trust in the lieutenants and detectives to properly document cases in ACISS, but he "was always going into the system and finding different things, and I would bring it to the attention of the supervisor to correct or have it corrected."

When Dygon was asked his opinion on what caused the cases not to be documented in ACISS, he responded, "I think it was the detective [Swope] not doing his job properly, and I think it was the lieutenant [de la Paz-Boxer] who may or may not have known what should have been [documented] and never inquired." (NOTE: The specific details regarding activities that were and were not documented for Swope's CI are found in the Report of Investigation for OIG case 14108 IA. See Exhibit 3.)

## SUBJECT INTERVIEW

De la Paz-Boxer declined to provide a subject interview. Instead, her attorney provided a response on her behalf (Exhibit 4).

## FINDINGS/CONCLUSION

It is alleged that former Lieutenant de la Paz-Boxer violated AP&P 5-26, Standards and Procedures of Discipline; FAC Chapter 60L-36, Conduct of Employees; and AP&P 8-02, Confidential Informants and Sources, by failing to properly hold her subordinate employees accountable by not requiring the correct paperwork concerning the CI referenced in OIG Case 14108 IA. Although de la Paz-Boxer may have "routinely sent reports back unapproved for [Swope] to correct errors," the fact remains that the appropriate paperwork was never included in the ACISS reports and/or the CI file. This behavior demonstrates poor performance, negligence, and inefficiency or inability to perform assigned duties as described in AP&P 5-26 and FAC Chapter 60L-36.005. It also fails to meet the documentation requirements outlined in AP&P 8-02. – **SUSTAINED**

It is also alleged that former Lieutenant de la Paz-Boxer violated AP&P 5-26, Standards and Procedures of Discipline, FAC Chapter 60L-36, Conduct of Employees, and AP&P 8-02, Confidential

**Informants and Sources, by knowing that former DIF Detective John Swope arrested people using information developed from a CI, without documenting the information in the CI file as required by policy. As Swope's supervisor, de la Paz-Boxer had the responsibility to be aware of Swope's actions and to ensure that all required documentation was completed relating to arrests made by Swope. This behavior demonstrates poor performance, negligence, and inefficiency or inability to perform assigned duties as described in AP&P 5-26 and FAC Chapter 60L-36.005. It also fails to meet the documentation requirements outlined in AP&P 8-02. – SUSTAINED**

**ATTESTATION**

I, the undersigned, do hereby swear, under penalty of perjury, to the best of my personal knowledge, information, and belief, the contents of this report are true and accurate. This investigation was conducted pursuant to Section 20.055, Florida Statutes, in accordance with applicable Principles and Standards for Offices of Inspectors General as published by the Association of Inspectors General.

Andrew Blimes  
Andrew Blimes, Investigator

STATE OF FLORIDA  
COUNTY OF LEON

Sworn to (or affirmed) and subscribed before me this 8<sup>th</sup> day of September 2016, Andrew Blimes, Investigator for the Department of Financial Services, Office of Inspector General, who is personally known by me.

Charles R. Brock  
Signature of Notary Public  
☒ Notary Public or ☐ Law Enforcement Officer



This investigation was conducted by Investigator Andrew Blimes, supervised by Director of Investigations Mike Shoaf and approved by Inspector General Teresa Michael. The investigation was conducted in accordance with guidance from the Association of Inspectors General handbook.

Reviewed by: MSY Date: 9/8/2016  
Mike Shoaf, Director

Approved by: Teresa Michael Date: 9/8/16  
Teresa Michael, Inspector General

**EXHIBIT LIST**

AP&P 5-26, Standards and Procedures of Discipline .....Exhibit #1

AP&P 8-02, Confidential Informants and Sources.....Exhibit #2

DFS OIG 14108 IA Report of Investigation .....Exhibit #3

Letter from James Casey Dated August 4, 2016 .....Exhibit #4

Chapter 60L-36, FAC.....Exhibit #5

Performance Evaluations for de la Paz-Boxer.....Exhibit #6

Training Records.....Exhibit #7

**DISTRIBUTION LIST**

**Action Official Distribution:**

Simon Blank, Director, Division of Investigative and Forensic Services

**Information Distribution:**

- Jeff Atwater, Chief Financial Officer
- Robert Kneip, Chief of Staff
- Drew Parker, General Counsel
- Jay Etheridge, Deputy Chief Financial Officer
- Kim Fluharty-Denson, Executive Senior Attorney, Division of the General Counsel
- Renee Gordon, Senior Attorney
- Rick Sweet, Director of Administration
- Elizabeth Kelley, Chief of Human Resource Management





CHIEF FINANCIAL OFFICER  
**JEFF ATWATER**  
STATE OF FLORIDA

①

## **DIVISION OF INVESTIGATIVE AND FORENSIC SERVICES**

*OlG Report of Investigation Number 16035 IA*

It is alleged that Captain Kevin Fiedor, Lieutenant David O'Dell, and Detective Tony Grice violated numerous Department of Financial Services (DFS) Administrative Policies and Procedures and/or Florida Statutes in their interactions with former Detective Travis Kincaid and other DFS employees.

A handwritten signature in blue ink that reads "Teresa Michael".

Teresa Michael, Inspector General  
Office of Inspector General  
Department of Financial Services

March 13, 2017



## **INVESTIGATIVE PREDICATE**

On August 2, 2016, Florida Department of Financial Services (DFS) Division of Investigative and Forensic Services (DIFS) Director Simon Blank forwarded the Office of Inspector General (OIG) an email from former Bureau of Fire and Arson Investigations (BFAI) Detective Travis Kincaid (Exhibit 1) regarding alleged misconduct on the part of Captain Kevin Fiedor and Lieutenant David O'Dell. On August 3, 2016, OIG Director of Investigations Mike Shoaf assigned this complaint to OIG Investigator Andrew Blimes for investigation.

## **ALLEGATIONS**

Kincaid alleged that during his employment with the Department, he witnessed Lieutenant David O'Dell and Captain Kevin Fiedor commit various acts of misconduct. As Kincaid's allegations concern numerous acts of alleged misconduct, involving multiple employees, over a series of months, each allegation of misconduct will be addressed separately in this report.

During the course of the investigation, Kincaid also alleged that Detective Tony Grice made inappropriate comments about African-Americans and homosexuality.

Also during the course of the investigation, former Detective Mike Miller alleged that O'Dell made inappropriate comments regarding having to work for a woman.

## **EXECUTIVE SUMMARY**

From August 3, 2016, to February 1, 2017, OIG staff conducted interviews and reviewed pertinent documentation/records as it relates to the allegations. As a result of the investigation, OIG staff determined that the following policy/statute violations occurred:

- Fiedor violated AP&P 5-26, Standards and Procedures of Discipline by pressuring his subordinate employees and others to take part in church-sponsored activities.
- Fiedor violated AP&P 1-15, Department of Financial Services Code of Ethics; AP&P 2-07, Fleet Management – Use of State Owned, Leased, or Rented Vehicles; and AP&P 5-26, Standards and Procedures of Discipline, by authorizing his subordinates to drive their state-issued vehicles to church-sponsored events for personal interests.
- Fiedor violated AP&P 6-01, Inspector General Investigations; AP&P 5-26, Standards and Procedures of Discipline, Section IX.E, "Violation of Law or Agency Rules," (Exhibit 2), namely Section 837.02, Florida Statutes, Perjury in Official Proceedings (Exhibit 40); and DIFS SOP 2.1.2, Standard of Conduct (Exhibit 41), by providing inaccurate and false information to the OIG during his sworn statement.
- O'Dell violated AP&P 5-26, Standards and Procedures of Discipline, by making jokes at the expense of Kincaid after Kincaid's separation from DFS.
- O'Dell violated AP&P 5-26, Standards and Procedures of Discipline, by making comments about homosexuality that offended his co-workers.
- Grice violated AP&P 5-26, Standards and Procedures of Discipline, by making inappropriate comments about homosexuality and African-Americans while on duty.
- An unknown person violated AP&P 1-15, Department of Financial Services Code of Ethics, and AP&P 5-26, Standards and Procedures of Discipline, by placing a collection jar in the office for an unknown amount of time as part of a pro-life campaign.

There were also numerous allegations that were determined to be unfounded or not sustained/inconclusive. These are referenced later in the report.

## PERSONS INTERVIEWED

The following individuals provided sworn recorded statements as part of this investigation:

Name	Division	Title	Reason	Interview Date
Travis Kincaid	Former DIFS	Former Detective	Complainant	August 18, 2016 November 2, 2016
Danny Vaden	DIFS	Detective	Witness	October 25, 2016
Jayson Deese	DIFS	Detective	Witness	October 26, 2016
Shonnie Smith	Division of Public Assistance Fraud	Staff Assistant	Witness	October 26, 2016
Michael Miller	Former Division of Insurance Fraud	Former Detective	Witness	October 27, 2016
Ross Holt	DIFS	Captain	Witness	October 28, 2016
Tommy Barron	DIFS	Lieutenant	Witness	November 16, 2016
Tony Grice	DIFS	Detective	Subject	November 17, 2016
David O'Dell	DIFS	Lieutenant	Subject	November 22, 2016
Kevin Fiedor	DIFS	Captain	Subject	December 6, 2016

## DOCUMENTATION/RECORDS ANALYSIS

### Exhibit #1: Complaint Written by Kincaid

This exhibit contains a letter written by Kincaid to an unidentified "Major" on an unspecified date. Email records included in the exhibit show that Kincaid sent this letter to Chief Joe Steadman, Major Mark Trammell, Detective Jayson Deese, and Director Blank on July 29, 2016, from his Department email account travis.kincaid@myfloridacfo.com. In the letter, Kincaid makes several allegations concerning the management of the Bureau of Fire and Arson Investigations, such as: 1) He was not allowed to work and train his canine according to policy and contract, 2) He was called "stupid" and "liar" by his supervisors and others, 3) He was told to drive his state vehicle to after-hours church functions, 4) He was "constantly" pressured to attend church events, and 5) He was not allowed to accurately record time on his timesheets. There were also numerous other allegations related to management issues, such as uniform concerns and constant threats of being fired.

### Exhibit #2: DFS AP&P 5-26, Standards and Procedures of Discipline

This policy states, "Employees shall...be courteous, considerate, respectful, and prompt in dealing with and serving the public and coworkers." It also states, employees shall "maintain high standards of honesty, integrity, and impartiality," "abide by the law and applicable rules and policies and procedures, including those of the employing agency and the rules of the State Personnel System," "place the interests of the public ahead of personal interests," and "protect state property from loss or abuse."

### Exhibit #3: BFAI Policy 2.5.3, Law Enforcement Canines

This policy requires canine teams to train seven days per week. Handlers are to be given two hours per day during their normal work days to train their canines, and they are required to train for one and a half hours on their days off.

**Exhibit #4: Photos of Marcus Pointe Baptist Church flyers**

This exhibit contains pictures submitted by Kincaid showing a flyer advertising a "Sportsman's Night Out" sponsored by Marcus Pointe Baptist Church. Meta data from the photos show that they were taken on July 11 and 27, 2016.

**Exhibit #5: Photos of Collection Jar**

This exhibit contains pictures taken and submitted by Kincaid showing a collection jar in the shape of a baby bottle. The jar is labeled "Children are a gift from God," and has a caption that reads, "Thank you for supporting babies and their mothers. Your support will save and change lives. Just fill this bottle with change, bills, and checks and return it for collection. Please return this bottle so we can continue helping those in need." The jar also has a return label on it addressed to the Pregnancy Resource Center of Milton. *(NOTE: From the Pregnancy Resource Center of Milton web site: "The Pregnancy Resource Center of Milton is a non-profit volunteer organization. As a support system for women and their families, we encourage community concern by working with other agencies to meet the physical and emotional needs of mother, father, and child.")* The pictures appear to have been taken in an office. Meta data from the photos show that they were taken on May 13, 2016.

**Exhibit #6: Fiedor's Memo**

This exhibit contains a rough draft of a memo that was sent from Fiedor to Holt on July 19, 2016. The memo states that the "goal is to improve our [accelerant detection canine] program and enhance detective relationships while successfully closing cases by making quality arrests." The memo then discusses the canine handlers' training and other responsibilities. *(Note: Regarding this memo, during his interview Canine Commander Ross Holt stated, "I have issue with that memo because I thought they were trying to change policy.")*

**Exhibit #7: Classification Action Request Forms**

This exhibit contains two classification/pay action request forms (CAR). The first indicates that Grice was the field training officer (FTO) for Detective Danny Vaden from August 25 through September 19, 2014, and again for closeout observation from November 17 through December 12, 2014. The second indicates that Grice was the FTO for Kincaid from July 28 through August 22, 2014, and again for closeout observation from October 20 through November 14, 2014.

**Exhibit #8: Grice's Policy Acknowledgement Form**

This exhibit contains an acknowledgment of receipt of DFS AP&P 5-26. The acknowledgment was signed by Grice on February 3, 2010. Grice acknowledged his signature on this form during his sworn statement with the OIG on November 17, 2016.

**Exhibit #9: O'Dell's Policy Acknowledgement Form**

This exhibit contains an acknowledgment of receipt of DFS AP&P 5-26. The acknowledgement was signed by O'Dell on February 3, 2010. O'Dell acknowledged his signature on this form during his sworn statement with the OIG on November 22, 2016.

**Exhibit #10: Fiedor's Policy Acknowledgement Forms**

This exhibit contains an acknowledgment of receipt of DFS AP&Ps 5-24, 5-26, and 2-07. Fiedor acknowledged receipt of AP&P 5-24 and 5-26 on February 3, 2010, and acknowledged receipt of AP&P 2-07 on January 21, 2009. Fiedor acknowledged his signature on these forms during his sworn statement with the OIG on December 6, 2016.

**Exhibit #11: Email from Vaden dated November 10, 2016**

This exhibit contains an email from Vaden to Blimes dated November 10, 2016. In the email, Vaden confirms that he has not heard Fiedor "make any comments regarding homosexuals."

**Exhibit #12: Photos of Kincaid**

This exhibit contains two pictures of Kincaid. The photos show Kincaid with what appears to be soot smeared across his right cheek. Meta data from the photos show that they were taken on June 21, 2016.

**Exhibit #13: Email from Vaden dated November 15, 2016**

This exhibit contains an email from Vaden to Blimes dated November 15, 2016. In the email, Vaden confirms that he has not witnessed O'Dell conducting business for his secondary employment while on state time and/or using state resources.

**Exhibit #14: Kincaid's Timesheet**

This exhibit contains Kincaid's timesheet for the period from June 17, 2016, through July 14, 2016. The timesheet was approved by O'Dell on July 18, 2016. Kincaid submitted nine hours of regular work on June 28, and 1.5 hours of regular work each day from June 29 through July 5.

**Exhibit #15: Office Diagram**

This exhibit contains a layout of the Pensacola Field Office as drawn by Grice during his sworn statement on November 17, 2016.

**Exhibit #16: Email to Kincaid dated November 14, 2016**

This exhibit contains an email from Blimes to Kincaid dated November 14, 2016. The email documents a conversation that occurred between Blimes and Kincaid on November 10, 2016. During the conversation, Kincaid stated that he has heard O'Dell and Fiedor make comments about homosexuality being "wrong and/or not in accordance with the Bible." Kincaid was asked to respond via email and confirm the substance of the conversation. However, as of the date of this report, Kincaid has not responded.

**Exhibit #17: Email from Lt. Bill Spears dated June 26, 2016**



This exhibit contains an email from Spears to numerous BFAI employees in the Panhandle informing them that there will be a firearms training at the Santa Rosa Correctional Institute on June 28, 2016, at 8:00 am.

**Exhibit #18: Emails from Kincaid to O'Dell**

This exhibit contains nine emails from Kincaid to O'Dell covering a period from August 24, 2015, through January 11, 2016. The emails indicate what time of day Kincaid will be training his canine for the upcoming week.

**Exhibit #19: Kincaid's Leave Request**

This exhibit was provided by O'Dell during his sworn statement. It includes an email with subject "K9 availability" that was sent from Kincaid to O'Dell on June 23, 2016. The email states Kincaid will be in Miami from 5 pm on June 28 through around 10 pm on July 3.

**Exhibit #20: Kincaid's Training, Counseling, and Performance Improvement Plan**

This exhibit contains three memorandums all addressed to Kincaid. The first one, dated May 10, 2015, from Lt. Karl Morgan, states that Morgan will be training Kincaid on the ACISS system on May 11. The second, dated April 25, 2016, from O'Dell, contains a corrective counseling as a result of Kincaid "not conducting proper scene examinations" at three fire scenes. The third one, dated July 15, 2016, from O'Dell, has the subject line "Performance Improvement Plan." In the memo, O'Dell discusses several deficiencies in Kincaid's performance and provides a list of five instructions to "help address the above-referenced performance concerns and to help bring your performance and workmanship up to Bureau standards." (*NOTE: This memo was not signed or dated by Kincaid, and there was no note indicating that Kincaid had refused to sign it.*)

**Exhibit #21: O'Dell's Notes**

This exhibit contains notes kept by O'Dell dated July 8, 2016, regarding "7-8 reports that were submitted for closure by Detective Kincaid" during the week of July 4 that were rejected "for multiple reasons."

**Exhibit #22: Additional Notes Kept by O'Dell**

This exhibit contains additional notes written by O'Dell covering a period from October 2014 through January 2016. The notes contain numerous examples of issues that O'Dell had with Kincaid's work and behavior.

**Exhibit #23: O'Dell's Secondary Employment**

This exhibit contains an email from OIG Investigator Charles Brock to Blimes dated November 14, 2016. The email states, "I completed a search of Odell's email messages using the keywords 'fenc' and 'quote.' No evidence of Odell [*sic*] conducting private business through his Department email was found." (*NOTE: The keyword "fenc" was used in order to find any reference to fence, fencing, fences, etc.*)

**Exhibit #24: Email from O'Dell**



This exhibit contains an email from O'Dell to Blimes dated December 5, 2016, in which O'Dell states, "Thank you for the opportunity to review the exhibits regarding the allegation Travis Kincaid made regarding my secondary employment. I choose not to respond to this allegation based on the information provided me."

**Exhibit #25: Marcus Pointe Baptist Church Speakers**

This exhibit contains links to some of the speeches given at Marcus Pointe Baptist Church that Fiedor mentioned during his sworn statement on December 6, 2016, as well as excerpts from selected speeches. The exhibit also contains information regarding Kirk Cameron's "Love Worth Fighting For" seminar, which is also one of the speeches referenced by Fiedor. Fiedor denied numerous times that these speeches were religious in nature and stated they were "about motivation." Examples of quotes include:

- "What happens to an individual who doesn't have Christian voices in his or her life? What happens to the child who goes to public school for his most formative years, where they teach anything but Biblical principles and morals? The Bible at one time was the schoolbook. That was the book. So if you are taught how to have sex by our schools, if you're told that abortion is simply a choice with no repercussions, and if you're educated in a system that values youth and disdains the old, well, why would you grow up to believe that life is sacred?" – Kevin Sorbo, actor, from the 2015 Spirit of Christmas Service at Marcus Pointe Baptist Church.
- "A Muslim became a Christian. It's amazing. If that's the only story I heard from that, it's amazing, but she went on to tell me that her husband beat her almost to death. She had to leave him. So much for the 'peaceful religion.' But she got away, and her daughters accepted Christ as well." – Kevin Sorbo, actor, from the 2015 Spirit of Christmas Service at Marcus Pointe Baptist Church.
- "God will never leave or forsake you, and he's there during the darkest hours. Even though often we don't feel Him, we don't see Him, He's there with us, by our side. And that decision that I made to accept Jesus into my life, into my heart, as my Lord and Savior, was the best decision I ever made in my life." – Nik Wallenda, high wire artist, from the 2014 Spirit of Christmas Service at Marcus Pointe Baptist Church.
- "You know, the Bible says that the devil is like a roaring lion going about, seeking whom he may devour, and he's looking for complacent Christians. If you're a believer, and you get complacent in your life, and you quit doing the things that you know you ought to be doing—you know, get separated from church, get separated from other believers, quit spending time in the Word, you know, not communicating with God in prayer, and not just daily surrendering your life—you become complacent in those things, the devil will find you." – Marcus Pointe Baptist Church Senior Pastor Gordon Godfrey, Jr., during his 2014 Spirit of Christmas Service presentation with Nik Wallenda.

The following links are for some of the presentations referenced by Fiedor:

- Kevin Sorbo – <https://www.youtube.com/watch?v=vIgHCDD9cOs>
- Nik Wallenda – [https://www.youtube.com/watch?v=eRcNyP0rD\\_Q](https://www.youtube.com/watch?v=eRcNyP0rD_Q)
- John Smoltz – [https://www.youtube.com/watch?v=EP1\\_vEaDZAM](https://www.youtube.com/watch?v=EP1_vEaDZAM)

**Exhibit #26: Email from Division of Public Assistance Fraud Staff Assistant Shonnie Smith**

This exhibit contains an email from Smith to Blimes dated December 13, 2016. The email is a summary of a conversation Smith had with Blimes via telephone on the same date. In the email, Smith states that she had "concerns about not giving more information" during her sworn statement on October 28, 2016. The email goes on to describe behavior on the part of Fiedor that Smith believes was inappropriate. In summary, Smith believes that Fiedor was disrespectful toward the non-sworn employees in the building. However, Smith stated that Fiedor's disrespect was illustrated in his tone more than in what he actually said.

**Exhibit #27: Fiedor's Documentation**

This exhibit contains numerous documents provided by Fiedor during his sworn statement. There are several emails discussing Kincaid's training, the canine program in the Panhandle region and throughout the State, Deese unsuccessfully attempting to contact Kincaid, and Kincaid's separation. There are also notes regarding who gave Kincaid training/instruction on various aspects of his duties, and several receipts from PetSmart showing purchases Kincaid made for supplies and services using his P-card.

**Exhibit #28: Email from Morgan**

This exhibit contains an email from Morgan to Blimes dated December 22, 2016. The email contains a summary of a conversation Morgan and Blimes had via telephone on the same date. Morgan stated he remembers speaking with O'Dell and/or Fiedor regarding Kincaid's canine training during his FTO period, but he didn't remember the specifics of the conversation. However, typically, his guidance is that the FTO program is the top priority for new detectives, and he believed he likely told Fiedor/O'Dell that Kincaid's top priority should be getting through the FTO program, and any canine responsibilities would have been secondary to that.

**Exhibit #29: Printouts from Google Maps**

This exhibit contains two maps showing the distance and travel time between Pensacola and Miami, as well as the distance and travel time between Kincaid's residence and the Santa Rosa Correctional Institute.

**Exhibit #30: Email from Personnel Services Specialist Katina Daniels**

This exhibit contains an email from Daniels to Blimes dated December 29, 2016. The email contains a summary of a conversation Daniels and Blimes had via telephone on the same date. Daniels stated she did not remember ever speaking with Kincaid regarding his 12 hours of canine overtime each month. After reviewing her customer contact log, she stated that it showed that there were calls received from Kincaid, but the exact nature of the calls is not listed.

**Exhibit #31: DFS AP&P 2-07, Fleet Management – Use of State Owned, Leased, or Rented Vehicles**

Section VI.H of this policy states, "Use of any assigned vehicle outside of an employee's work schedule or duties, other than incidental use, is prohibited."

**Exhibit #32: DFS AP&P 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination**

Section III.A of this policy states, "It is the policy of the Department that each employee is allowed to work in an environment free from any form of unlawful discrimination and that each employee shall not commit acts of unlawful discrimination." In section V.A.3, discrimination is defined as "the difference of treatment of a job applicant, employee of the Department, or persons or entities regulated by or doing business with the Department, during the course of business because of their age, race, color, sex, religion, national origin, political opinions or affiliations, marital status or disability."

**Exhibit #33: Section 760.10, Florida Statutes**

Section 760.10 (1)(a), Florida Statutes, states that it is unlawful for an employer to "discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status."

**Exhibit #34: DFS AP&P 1-15, Department of Financial Services Code of Ethics**

Section V.C.1 of this policy states, "Department employees shall not use their official position, or the powers of their office, to benefit their own personal interests. This provision will be interpreted broadly to ensure that employees will not abuse the powers of their office for their own personal interests or gain." Examples of prohibited conduct include "using a Department vehicle for personal purposes, except as may be permitted for law enforcement personnel."

**Exhibit #35: DFS AP&P 5-04, Dual Employment and Compensation**

Section III.C of this policy states, "Dual employment within or outside state government...shall not require the use of Department space, personnel, time, equipment or supplies."

**Exhibit #36: Email from Holt dated January 4, 2017**

This exhibit contains an email from Holt to Blimes which confirms the substance of a telephone conversation held on December 22, 2016. During the conversation, Holt stated that he remembered talking with Fiedor and/or O'Dell after Kincaid failed his recertification, and he told them that Kincaid had failed, but they did not mention anything about Kincaid saying the Master Trainer had made a mistake. Holt stated he would have remembered if they had told him that because it is "comical."

**Exhibit #37: DFS AP&P 6-01, Inspector General Investigations**

Section VII.L of this policy states, "All employees are required to cooperate with OIG investigations to ensure management receives a report containing all relevant, true, and accurate information."

**Exhibit #38: Emails Provided by Captain Ross Holt**

This exhibit contains emails provided by Holt covering a period from December 2, 2013, through August 2, 2016. Holt stated these emails contain "all [of his email] communications reference [accelerant detection canines] that are from the North West region." According to an email from Fiedor to Holt, Kincaid completed his FTO program on or around January 14, 2015.

**Exhibit #39: O'Dell's Secondary Employment Request**

This exhibit contains a Request for Review and Determination Relative to Outside Employment or Self-Employment forms completed by O'Dell on June 6, 2014, April 12, 2016, and June 20, 2016. The forms have all of the required approvals and are effective through the end of the following fiscal year. O'Dell's personnel file contained similar forms for various years dating back to 2001. All forms request dual employment to conduct self-employed carpentry work. *(NOTE: O'Dell's file did not contain a form for fiscal year 2015/16. It is unknown if this form is missing from his personnel file or if one was never completed.)*

**Exhibit #40: Section 837.02, Florida Statutes**

This exhibit contains a section from Florida Statutes Chapter 837, Perjury. Section 837.02(1) which states, "Whoever makes a false statement, which he or she does not believe to be true, under oath in an official proceeding in regard to any material matter, commits a felony of the third degree."

**Exhibit #41: DIFS Standard Operating Procedure (SOP) 2.1.2, Standard of Conduct**

Section IV.F of this procedure states, "Members shall not obstruct any investigation by destroying, altering, concealing or disguising real evidence, or by planting false evidence or furnishing false information to a lawful authority."

## **ALLEGATION #1**

**Kincaid alleged that he was "not allowed to work and train his canine as allowed per policy and contract."**

During his sworn statement, Kincaid stated that his dog failed to pass its initial recertification after he joined the BFAI because he was not allowed to train it properly. Detective Deese, who is also a canine handler in the Panhandle Region, stated that Kincaid's dog was about seven years old at the time and had probably been certified five or six times previously. Therefore, Deese also believed it likely that Kincaid failed the recertification because of the way O'Dell and Fiedor were making Kincaid train his dog.

Kincaid stated that according to policy and contract, he was supposed to be provided with two hours of regular work time during the day to train his dog (Exhibit 3). However, Kincaid stated that he would regularly tell O'Dell that he would be leaving at 3:00 pm to train his dog, and O'Dell would contact him at 2:30 pm and "[keep] me past those times where I couldn't leave at three to go train my dog." Kincaid believed O'Dell did this intentionally and stated he was told that he would have to fit his training into his day by training for a "few minutes here, do this here, do that there, whatever." Kincaid stated that he would then end up training his dog on his own time. Kincaid stated that he never had a set time that he would train his dog for more than four or five days.

Kincaid also stated that Fiedor and O'Dell pressured him to train the dog at the office so that Kincaid could be observed. Kincaid stated he could never train his dog without being questioned. He stated it seemed like whenever he would train his dog, it was like O'Dell and Fiedor thought he was "going to the beach" or "laying in a hammock" instead of actually training. He stated he invited them to come with him to see what he does in training, but they never wanted to go with him.



When Captain Ross Holt, the Canine Commander for the BFAI, was asked his opinion on why Kincaid was unable to successfully recertify, he responded it was "handler error." Holt stated the Master Trainer from Maine Specialty Dogs, the company that sells and certifies the dogs, told him that Kincaid failed because he "needed to pay more attention to how the dog was operating...[Kincaid] needs more training," not the dog. Holt stated he does not believe Kincaid failed to initially pass his recertification due to training restrictions placed on him by Fiedor or O'Dell.

Holt stated that Kincaid thought he "wasn't able to train the dog as frequently as he wanted, where he wanted, and when he wanted. He told me he was being told to come to the office." Holt stated that none of the handlers in the State are required to train their dogs at their offices, and handlers are instructed "to train [the dogs] at various hours and times so they don't fit into a pattern or don't become accustomed to a pattern where they will only work at certain times." Holt stated it is possible for handlers to train their dogs in their offices, but a drop of gasoline will last up to seven days. So if handlers train at their office regularly, the dogs will simply go to the same places where the drops were placed previously, and the handler won't know if the dog is actually smelling gas or just remembering where the gas was. Holt stated he doesn't like to bring gas into the office because the smell bothers other employees.

Holt stated the Panhandle is the only region of the State in which regional command staff has problems with their canine handlers' training and hours. When Holt was asked if he believes the problem in the Panhandle is caused by the canine handlers or their command staff, he responded, "It may be a 50/50 problem, but I know that Captain Fiedor wrote a two-page memo to me how he wanted the dogs to be trained, how he wanted the dogs to be called out...I have issue with that memo because I thought they were trying to change policy" (See Exhibit 6 and Additional Issue 1 below). Holt stated he forwarded the memo to Chief Joseph Steadman, Major Ball, and Major Trammell for review because they set policy. Holt stated as of the date of his interview with the OIG, he had not heard anything back from Steadman, Ball, or Trammell. Holt stated, "In Pensacola, both supervisors want a more hands-on approach to their canine handlers, which I had issue with." Holt also stated he believed that Fiedor's memo included a "mandatory on-call" that the detectives weren't being compensated for.

Deese stated that Kincaid "always" called him and complained that if Kincaid tried to leave the office to train his dog, O'Dell and Fiedor would "make him feel like he was going and laying out at the beach and not actually training because they don't understand what goes in it." Deese stated that Fiedor and O'Dell "have absolutely no clue about the canine [program], but yet they would direct [Kincaid] on how to train his canine." Deese stated that he and Kincaid trained together twice a month, and the one time they tried to train at Kincaid's office, "It was a disaster." He stated the gasoline used for training made the office smell and people continuously came up to pet the dogs. Deese stated that he does occasionally train his dog in his office building, but that is because there are empty offices and empty break rooms in his building where he can go without disturbing anyone or being disturbed.

Barron stated he never heard that O'Dell and Fiedor wanted Kincaid to train at the office, but Barron stated, "You can train these dogs just about anywhere," depending on what type of training is being done. Barron stated that in the Pensacola Office, Kincaid probably could have trained "in a different room every day and probably not hit the same one in two months."

When Detective Danny Vaden was asked if he ever witnessed O'Dell or Fiedor intentionally create a conflict so that Kincaid would not be able to train his dog, Vaden replied, "There was one time that I

remember that they wanted him to not leave, but train his dog there at the office." Vaden said on this day he helped Kincaid set up training obstacles outside at the office. While this is the only specific example that Vaden knew of firsthand, he stated that Kincaid approached him at least weekly to "vent" about O'Dell and Fiedor impeding his training.

There were no witnesses that could provide firsthand information regarding Kincaid being allotted two hours each day for training.

Throughout their statements, Fiedor and O'Dell stated several times that the canine handlers set their own training schedules, and command staff rarely get involved. Fiedor and O'Dell both stated they never had any doubt that Kincaid was training his dog when he said he was, and they never believed he was "at the beach." O'Dell and Fiedor both stated that they never told Kincaid that he had to train at the office. However, while Kincaid was going through FTO, the situation was complicated because the BFAI had never hired a detective that already had a dog, and Kincaid had to train his dog every day and do numerous FTO-related activities. Therefore, O'Dell contacted Captain Karl Morgan, who at the time was in charge of the FTO program and was a canine handler, and Morgan advised that the FTO responsibilities were the "most important thing," because if Kincaid did not complete his FTO, the dog "was of no use to us." So during that time, Fiedor and O'Dell did ask Kincaid to train his dog "near the office," so that if he was called to a fire with his trainer, he would be close by. (NOTE: Morgan confirmed having a conversation with O'Dell and/or Fiedor regarding Kincaid's FTO program. See Exhibit 28.) Fiedor and O'Dell both stated that they did not give Kincaid any instructions on where to train after Kincaid completed his FTO.

O'Dell stated that once Kincaid was through his FTO program, he trained "wherever he wanted," and training hours always counted as regular work. O'Dell stated Kincaid "made his own schedule," and provided numerous emails in which Kincaid notified him of the times he would be training his dog during several weeks (Exhibit 18). (NOTE: While O'Dell provided nine emails in which Kincaid notified him of his training schedule, it was noted that only two included a response from O'Dell approving the schedule. It is unknown if the other seven requests were approved or not.)

Fiedor stated he did not regularly instruct Kincaid regarding training his dog and provided examples of the few times he had conversations with Kincaid about when to train. Fiedor stated there was at least one occasion in which Deese had trouble getting Kincaid to respond to training date requests, so Deese contacted Barron and Fiedor for assistance (Exhibit 27). Fiedor also stated that Kincaid would leave the office at 3:00 pm every day "like clockwork" to train his dog. Fiedor contacted Barron, who is a former canine handler, to ask his opinion, and Barron stated the dog should not train at the same time every day. Fiedor then contacted Holt, who also stated that the dogs should not be trained at the same time every day. At that point, Kincaid was told that he needed to vary the times that he trained his dog.

Fiedor stated that he believes the canine handlers are on call 24/7, and they are paid an additional 5% for it. However, he understands that detectives need to take time off for vacations, illness, etc. He stated if a handler needed time off, it was never an issue, and no one was ever reprimanded if they were unable to go to a fire when they weren't officially on call.

AP&P 5-26, Standards and Procedures of Discipline, states employees shall "maintain high standards of honesty, integrity, and impartiality," and "protect state property from loss or abuse." Kincaid alleged that he was not allowed by Fiedor and O'Dell to train his dog for two hours each day as other handlers were throughout the State, as required by BFAI policy. If true, this could lead to the loss of the dog through its failure to successfully recertify as an accelerant detection canine.



However, there was not enough evidence to prove or disprove this allegation. - **NOT SUSTAINED/INCONCLUSIVE**

Kincaid also alleged that he was forced to train his dog at the office. There is nothing in the policy that covers when or where canine training should take place. Fiedor and O'Dell admitted that during Kincaid's FTO period, they requested him to train near the office, but not necessarily at the office, and after he completed his FTO period, they did not give him any instructions regarding where to train. Vaden stated he only knew of one time (unknown date) when Kincaid was told to train at the office. Deese stated Kincaid complained that he was told to train at the office, but Deese had no firsthand knowledge of these instructions. - **POLICY FAILURE/NOT SUSTAINED/INCONCLUSIVE**

## ALLEGATION #2

**Kincaid alleged that he was not allowed to properly record his work time on his timesheet.**

Kincaid stated that he was regularly forced to change his timesheet in order to show less hours than the number of hours he actually worked. Kincaid stated he was required to be in the office from 8:00 am until 5:00 pm, which caused him to work more than eight hours regularly. He stated that O'Dell told him that he could not work more than eight hours without letting O'Dell know, and Kincaid responded that was why he tried to plan his days to set aside two hours to train his dog. Kincaid stated that several times he did not know he would be working more than eight hours until it happened. Kincaid stated that he did occasionally notify O'Dell that he would be working extra, but eventually he "just started eating the time myself because I realized that I was fighting a losing battle...it didn't matter what I said or what I did, they were just gonna hold me to my eight hours."

Kincaid stated that on or around June 28, 2016, everyone in the office was scheduled to have a range day (Exhibit 17). Kincaid stated that it is his understanding that once he signs in on the radio, he is on the clock and his regular work day has begun. Kincaid stated that on the day he went to the range, he began training his dog at 6:00 am and then signed on and left his home at 7:00 am to make it to the range by 8:00 am. Kincaid was at the range until 3:45 pm, at which point he drove home, arriving back at approximately 4:45 pm. Kincaid stated he drove to Miami (for personal reasons) that evening and then spent another hour that night training the dog from 9:30 pm to 10:30 pm. (NOTE: According to Google Maps, the drive from Pensacola to Miami is over nine hours. See Exhibit 29. Because of the change in time zones between Pensacola and Miami, for this statement to be accurate, Kincaid would have needed to make the trip in less than four hours. Even if the time change is disregarded, Kincaid still would have needed to make this trip in less than five hours.) Kincaid stated that he put 10 hours of regular work on his timesheet for this day, and O'Dell rejected the timesheet and told him he could only put eight hours of work. (NOTE: Based on Kincaid's account of the day, he should have claimed 11.75 hours.) Kincaid believes this to be unfair since other detectives were given eight hours of regular work for the range day, and Kincaid had to work an additional two hours training his dog. Kincaid stated that O'Dell eventually "did compromise with me at nine hours. He did let me put down nine hours." In a follow-up interview, Kincaid recounted this day again; however, several details were different. During the second interview, Kincaid stated he arrived at the range at 7:15 am and did not have time to train his dog prior to going to the range. He stated he trained his dog for two hours that night after he got home, which caused him to "miss something his son was doing." He stated when he went into the office the following day, O'Dell was "livid" with him for putting 10 hours on his timesheet. (NOTE: During O'Dell's statement given to the OIG, he stated Kincaid was on leave beginning the day immediately

*after the range day; therefore, O'Dell stated Kincaid's account of him being "livid" the following day could not be accurate. A review of Kincaid's timesheet, included as Exhibit 14, shows that Kincaid claimed 1.5 hours of regular work for several days following the range day. This time is believed to be the time required of canine handlers to train their dogs on their scheduled days off. O'Dell also provided an email in which Kincaid notified him that Kincaid would be in Miami from 5:00 pm on June 28 through 10:00 pm on July 3. See Exhibit 19.)*

Vaden stated he has never been instructed to record more or less hours than the number of hours he actually worked on his timesheet, and stated that O'Dell has told him "several times" to put extra hours on his timesheet if he worked the extra hours. Vaden stated that Kincaid told him that he (Kincaid) was instructed regularly to change the hours on his timesheet to reflect an incorrect number of hours worked. However, Vaden stated he does not know who told Kincaid to do that or if the hours were right or wrong.

O'Dell stated employees are supposed to put the number of hours they work on their timesheets. He stated detectives are supposed to notify him any time they work overtime, but he has never instructed anyone to put less hours on their timesheet than the number of hours they actually worked. O'Dell also stated that none of the detectives are required to be in the office from 8:00 am to 5:00 pm, including Kincaid. O'Dell stated that he regularly had to reject Kincaid's timesheet because it was submitted with incorrect hours. For example, Kincaid regularly complained that he was being "ripped off" because he wasn't allowed to claim his 12 hours of canine overtime pay each month. However, O'Dell stated Kincaid was required to work a full 160-hour shift before getting overtime, and Kincaid would submit a timesheet with "two days' sick leave, a day of annual leave, and have 172 hours," which O'Dell would not approve. O'Dell stated this issue came up "again and again and again" and Kincaid "never could grasp that concept." O'Dell stated he eventually instructed Kincaid to call Personnel Services Specialist Katina Daniels for clarification (Exhibit 30).

When O'Dell was asked if travel time to the range was counted as regular work on range days, he responded, "Not to my knowledge. I wish it was." He stated the range is approximately a 50-minute drive from his house, but again stated travel time is not counted as regular work. O'Dell stated the detectives fill in their timesheets "based on their honesty." He stated if a range day is short, a lot of times detectives will go home and finish the day by cleaning their weapons and gear or they will head back to the office. Detectives are trusted to put the right number of hours on their timesheets on these days. O'Dell stated he does not remember having a conversation with Kincaid regarding Kincaid's hours on the range day in June.

Fiedor stated that detectives "put down exactly what they worked" on their timesheets, and typically, any overtime hours are supposed to be offset during the same pay period. Fiedor said that Kincaid was "never held at the office for eight hours" and then required to train his dog on his own time. Fiedor stated, "If [Kincaid] spent eight hours at the office in his two years, I'd be surprised." Fiedor stated Kincaid never voiced concerns that he was training his dog on his own time, and stated that every concern Kincaid ever had with his timesheet "concerned his 12 hours extra. He wanted that 12 hours. He never really understood you have to work the 160 to get the 172."

Fiedor stated that travel time on range days is included as regular work hours "if we are traveling to a range." Fiedor stated that the range is about a 15- to 20-minute drive for the people that live in Santa Rosa County, which would have been Kincaid. Fiedor stated, with traffic, it would maybe have taken Kincaid 30 minutes to get to the range. Fiedor stated that Kincaid's account of traveling an hour each way to the range "would be incorrect." (NOTE: According to Google Maps, travel time from Kincaid's house to the Santa Rosa Correctional Institute, which is where the range is located, is

*approximately 22 to 30 minutes. See Exhibit 29.) Fiedor also stated that he was the last person to leave that range on June 28, 2016, and he left at 3:30 pm, indicating that Kincaid did not stay at the range until 3:45 pm.*

AP&P 5-26, Standards and Procedures of Discipline, states employees shall “maintain high standards of honesty, integrity, and impartiality” (Exhibit 2). Due to the inconsistencies in Kincaid’s two accounts of the range day, OIG staff was unable to determine the proper number of work hours Kincaid should have claimed on that day. There is no evidence to support that allegation that Fiedor and O’Dell knowingly forced Kincaid to submit inaccurate timesheets. – **UNFOUNDED**

### **ALLEGATION #3**

**Kincaid alleged that he was called “stupid” and a “liar” by Fiedor and O’Dell both to his face and to other employees.**

Kincaid stated that “the first couple” times he was called a name, it was O’Dell calling him into his office with no one else present and accusing Kincaid of lying about something. Kincaid stated that after this, O’Dell and Fiedor began telling Detective Deese and possibly Detective Vaden that Kincaid was a liar. Kincaid also stated that one day shortly after Detective Ben Pineda began working with the BFAI, Pineda was called to a murder scene immediately after being on call. Pineda asked Kincaid if this was normal practice, and Kincaid told Pineda that detectives were not typically called out to scenes immediately before or after being on call because they might not have the chance to rest. After Kincaid’s conversation with Pineda, O’Dell came to Kincaid’s office and told Kincaid that he (Kincaid) was “not going to turn [Pineda] against us. You’re not happy here, and you’re not going to make him not happy here. He’s happy to be here, and you’re not going to turn him against us. And it’s none of your damn business—now that is a direct quote—It’s none of your damn business who I assign anything to.” Kincaid stated that during this discussion, O’Dell also called him “stupid” and “ignorant,” but there were no witnesses.

Vaden stated he has never witnessed Fiedor or O’Dell being “abnormally hard” on Kincaid. Vaden stated that he has never heard O’Dell or Fiedor call Kincaid “stupid” or a “liar.” However, Kincaid did tell Vaden that O’Dell had called him stupid. Vaden is not aware of anyone else that would have witnessed the conversation between O’Dell and Kincaid in which O’Dell might have called Kincaid stupid.

Deese stated that he has never heard O’Dell or Fiedor call Kincaid stupid. However, he stated Kincaid called him once upset because O’Dell had asked Kincaid, “Are you just stupid? Do you not get this?” referring to reports in ACISS, the case management system used by the BFAI. Deese stated that he has never heard O’Dell or Fiedor call Kincaid a liar directly, but he has “heard it through [Barron.]” Deese stated that when Kincaid started with the BFAI, Barron would tell him stories he heard from Fiedor and O’Dell about Kincaid “not being truthful. They told a story about him [Kincaid] tricking [Detective] Matt Streichert into signing an affidavit...and one point that I remember specifically is that they said [Kincaid] lied about some deposition he had to give in Tennessee.” Deese stated, “After hearing it so much from Lt. Barron that [Kincaid] was a liar, I started not believing anything [Kincaid] said, and I probably started treating him differently and looking at him differently until I realized later on down the road that a lot of the stuff he (Kincaid) was saying was actually true.”



Barron stated that he has never heard Fiedor or O'Dell call Kincaid a "liar," but they have had discussions about whether or not Kincaid was truthful. Barron stated, "[Kincaid] has told me some very untruthful things that I know for a fact is [sic] not correct." Barron stated Fiedor and O'Dell have never said anything that seemed like it was a personal attack, and their conversations have been "strictly professional." Barron stated he has not heard Fiedor or O'Dell call Kincaid "stupid," a "liar," or any other name that could be offensive. Barron stated he never told Deese about conversations he had with Fiedor and O'Dell about Kincaid not being truthful.

O'Dell stated he has never called Kincaid "stupid" or "ignorant." O'Dell stated when Kincaid would have difficulty understanding something, Kincaid would make comments like "you must think I'm stupid," but O'Dell would assure Kincaid that no one thought he was stupid and Kincaid just needed to slow down and take his time. O'Dell also denied telling Kincaid that it was "none of his damn business" who he sends to fires. However, O'Dell did state that Pineda went to a fire immediately after being on call because Pineda was in training, and he needed to go to the fire that O'Dell sent him to as part of his training. O'Dell stated that Pineda approached him and said that Kincaid was "trying to stir stuff up" by telling Pineda he shouldn't have had to go to the fire. O'Dell stated that he did tell Kincaid that O'Dell "sends who he wants" to fires.

When O'Dell was asked if he ever called Kincaid a "liar," he responded, "I did not call him a liar, but he has lied to me." O'Dell provided an example of Kincaid blaming bad photos on a malfunctioning camera; however, when O'Dell took pictures with the camera, they turned out fine. O'Dell also stated that when Kincaid was turning in equipment on his last day, he said he threw his boots away, was never issued a flashlight, and had lost his canine's badge; however, after O'Dell told Kincaid he might have to pay for these items, Kincaid went home and got the boots and flashlight. O'Dell also stated that when O'Dell and Fiedor asked Kincaid about failing his recertification, Kincaid initially said there was another dog there that looked like his dog. Kincaid said the other dog had failed, but the trainers "got the wrong guy" and had mistakenly failed Kincaid instead. O'Dell and Fiedor contacted Captain Holt, who was present at the recertification, and Holt allegedly said, "No. The trainer—the head guy—didn't pick the wrong guy. I was there. It was [Kincaid]. And it wasn't [Kincaid's dog]. The dog did fine. [Kincaid] messed up entirely." (NOTE: According to Holt, he was never told that Kincaid initially said it wasn't his dog that failed. However, Holt did recall having a conversation with Fiedor/O'Dell about Kincaid's failure to successfully recertify. See Exhibit 36. During Fiedor's sworn statement, he also stated Kincaid initially said the trainer failed the wrong dog.) When O'Dell and Fiedor asked Kincaid about this, Kincaid then said the man doing the recertification was new and he failed Kincaid because he "hated" Kincaid for some reason. O'Dell stated Kincaid is "just very untruthful about things that really don't matter."

O'Dell stated that he never told Kincaid that he could fire him at any point. However, at the time Kincaid resigned, O'Dell was preparing a Performance Improvement Plan for Kincaid, and Kincaid was aware of it (Exhibit 20).

Fiedor also denied ever calling Kincaid "stupid" or anything similar to his face or to anyone else. Fiedor stated that Kincaid is "using his own words against me and Lt. O'Dell." Fiedor stated Kincaid would make comments like "I don't know why this is so hard for me. You must think I'm stupid." Fiedor stated, "Generally, in almost every conversation, [Kincaid] would belittle himself in some way and then ask us if that's how we felt." Fiedor also stated he believes Kincaid has been untruthful to him and/or O'Dell, and then discussed Kincaid failing his recertification. Fiedor stated Kincaid provided three separate excuses for why he failed: the trainer failed the wrong dog, the trainer hated him, and O'Dell and Fiedor didn't let him train properly (Exhibit 27).

AP&P 5-26, Standards and Procedures of Discipline, states employees shall "be courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers" (Exhibit 2). Kincaid alleged being called "stupid," a "liar," and "ignorant." Kincaid named Deese and Vaden as people who had possibly heard Fiedor and O'Dell make these comments. However, both Deese and Vaden denied ever hearing these comments directly, and both stated they had heard them through Kincaid or someone else. Barron also denied ever hearing Fiedor or O'Dell make inappropriate comments directed at Kincaid. Fiedor and O'Dell both stated they never called Kincaid "stupid" or a "liar," and these were terms Kincaid used in stating what he [Kincaid] felt Fiedor and O'Dell must think. Therefore, there is no evidence to support that these comments were actually made. Although Grice admitted to calling Kincaid a "liar," Kincaid's allegation centered on the general demeaning comments and attitude directed at him by Fiedor and O'Dell. The OIG did not believe that Grice's admission that he called Kincaid a liar rose to this level. – UNFOUNDED

#### ALLEGATION #4

**Kincaid alleged that Fiedor and O'Dell generally treated him with disrespect, and after resigning, a Public Assistance Fraud employee went to his house to check on him due to the way he was treated.**

Kincaid alleged that Staff Assistant Shonnie Smith, who works for the Division of Public Assistance Fraud and is housed in the same office building as the BFAI detectives in Pensacola, came to his house after he separated from DFS and "asked if I'm ok and brought me stuff because she said she could not believe how I was treated."

Smith admitted that she did go to Kincaid's house after he separated, but stated it was to visit Kincaid's dog. Smith stated she never heard anyone say anything overtly inappropriate to Kincaid, but the tone they used when talking to or about him was disrespectful, and Fiedor and O'Dell both seemed glad and relieved after Kincaid resigned. However, Smith stated that Fiedor and O'Dell's disrespect was conveyed through their tone, not the actual words that were said. Smith stated, "[Fiedor] would just have an attitude with [Kincaid], and 'you could tell [Fiedor] didn't like how much Kincaid was out of the office.'"

Smith stated, "When [Kincaid] left, I will say that two different times, the first day after [Kincaid] left, David O'Dell came in, he passed my door, [Kincaid's] door was directly across from mine, and he said, 'Morning, Shonnie.' I said good morning. And he said, 'Morning, Travis.' And he said, 'Oh, my bad,' and kind of giggled. It kind of hurt my feelings, but I didn't say anything. I acted like I didn't even hear it." Smith stated that O'Dell did the exact same thing "a couple weeks later" after someone else had already moved into Kincaid's old office.

Smith stated, "The last day [of Kincaid's employment], for me, I felt really bad for [Kincaid]." Smith stated that Fiedor, O'Dell, and Detective Grice "took turns" questioning Kincaid for hours and collecting and inspecting all of Kincaid's gear and equipment. Kincaid told her that it got to a point where Kincaid wanted to turn in things that he had bought personally just so he could leave. Smith stated Fiedor, O'Dell, and Grice went into the conference room where Kincaid was bringing his equipment "one after the other. [Kincaid] was standing there and they were going over stuff over and over and over and over. It just seemed like it was harassment to me." Smith admitted she is not familiar with the way the BFAI typically collects equipment from separating employees, but she has worked with the State for 34 years, including time spent being responsible for the investigative evidence vault at the Florida Department of Law Enforcement. Therefore, Smith believes she

understands the importance of knowing where every piece of equipment is, but she stated Kincaid's treatment was "overkill."

Smith stated at the end of Kincaid's last day, he came and hugged her and thanked her for being a friend. Kincaid then walked out of the building, and Smith thought, "He doesn't have his personal vehicle. How is he getting home?" Smith stated she walked out of her office and heard O'Dell say, "Is he gone? I could have driven him home," but Smith stated O'Dell "didn't act like he was really serious about it." Smith then went back into her office and called Kincaid, who had ordered an Uber and was waiting for his ride to arrive. Smith told Kincaid she could drive him home, and Kincaid responded, "No, I don't want to cause any problems. It was hard enough all day long. I just wanted to get out of there." Smith stated, "The very end of the day was not nice. It was not fun. It was very uncomfortable. They knew he left. They knew he left on foot, and nobody volunteered to take him home."

Grice stated that BFAI employees have "truckloads of equipment," and Kincaid had additional equipment since he was a canine handler. Grice denied that Kincaid was treated differently than any other separating employees. Grice stated he offered Kincaid a ride home "three or four different times" on Kincaid's last day, but Kincaid declined. Grice stated that O'Dell and Fiedor both also offered to give Kincaid a ride home.

O'Dell stated that Smith made comments without being fully aware of the situation regarding Kincaid's last day. He stated he offered Kincaid a ride home, but Kincaid said he already had a ride. O'Dell stated he never jokingly said he could have taken Kincaid home. O'Dell stated, "I was serious about taking him home. You don't wanna do that to anybody. I mean, I didn't dislike the guy. I liked the guy." O'Dell stated that Kincaid's last day was just like anyone else's last day. O'Dell stated it takes the whole day to collect equipment and go through case files.

When O'Dell was asked about saying "Good morning, Travis," after Kincaid had resigned, he stated he did not remember saying that, but does not think Smith would make up that he said it. O'Dell stated, "That's just me. I didn't mean anything by that. I couldn't tell you if I didn't remember he wasn't there or if I just said it just to say it." O'Dell stated that if he said it, he did not say it with malice.

Fiedor stated that Smith "has no clue what we do. She doesn't know how we do things. She doesn't know the amount of tools and equipment that each one of these guys carries with them everywhere they go." Regarding Kincaid's last day, Fiedor stated Kincaid "went through the exact same process that everybody has gone through." Fiedor also stated that he offered Kincaid a ride home, but Kincaid refused the offer.

AP&P 5-26, Standards and Procedures of Discipline, states employees shall "be courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers." It was alleged that Fiedor, O'Dell, and Grice violated this policy by "harassing" Kincaid on his last day, not offering him a ride home, and making disrespectful comments about him. Smith admitted that she is not familiar with the procedure the BFAI uses to collect equipment, and multiple people stated that the process generally takes all day. Fiedor, O'Dell, and Grice all also stated that they offered to take Kincaid home on his last day. - **NOT SUSTAINED/INCONCLUSIVE**

It was also alleged that O'Dell was not courteous, considerate, and respectful when he joked about Kincaid's resignation by continuing to say "good morning" to him after he separated and was no



longer in the office. O'Dell admitted that these comments might have been made, but stated it was not with malice. However, Smith stated that these comments upset her. – **SUSTAINED**

## **ALLEGATION #5**

**Kincaid alleged that Detective Tony Grice used offensive and/or discriminatory terms while on duty.**

During his sworn statement to the OIG on August 18, 2016, Kincaid alleged that Grice has used the terms "queer" in a demeaning manner and "nigger" while on duty. Based on witness statements, these inappropriate comments and others were allegedly made in a vehicle while Grice was training Kincaid and Vaden, as well as in the office.

Kincaid stated that when he and Vaden were in training, they were in a vehicle with Detective Tony Grice, who was their field training officer (Exhibit 7). Kincaid stated that Grice was talking about "the gay and lesbian weekend in Pensacola Beach," and Grice told Kincaid and Vaden that "when [Grice] was with the Santa Rosa Sheriff's Department, he had to go down there with all them queers and everything else." Kincaid stated that Grice continued to make comments such as these, as well as other offensive comments regarding African-Americans. Kincaid stated, "The way [Grice] was talking and the names he was calling black people—I'm not gonna repeat that—the names he was saying about the gay and lesbian community—I said it once. I don't feel comfortable saying it again because I'm not like that—[Vaden] and me [sic] both, we felt almost like we were being tested by [the OIG] to see if we were gonna go report it." Kincaid stated, "It was so uncomfortable in the vehicle." When Kincaid was asked to clarify the word Grice was using to refer to black people, he confirmed that Grice used the word "nigger."

Vaden confirmed that Grice "used a racially derogatory word towards the African-Americans," which Vaden confirmed was the word "nigger." Vaden stated Grice used the term more than once all on the same day when he was with Vaden and Kincaid, but Vaden could not remember how many times he heard Grice say it. Vaden stated he has not heard Grice use the term since that day. Vaden confirmed that Grice's comments were so inappropriate that he and Kincaid talked about it being an "integrity test" to see if they would report it.

When Vaden was asked if he has heard Grice make any other offensive comments towards groups of people, he responded, "No, not really. That's really been about the only time." When he was asked specifically if he has heard Grice make comments about homosexuals, Vaden responded, "Well, yeah, now that you mention that, I wasn't really thinking about that." However, Vaden did not initially discuss the incident that allegedly occurred in Grice's vehicle; he discussed comments he has heard in the office. Vaden stated there is a "homophobic atmosphere" in the office when the topic comes up or "when there's something on the TV or something in the news," such as Bruce Jenner's sexual reassignment. Vaden stated he has heard Grice make comments like homosexuality is "not normal," or "the Bible says it's wrong." Vaden stated he could not remember Grice specifically referring to homosexuals as "queers" while he was training Kincaid and Vaden, but Vaden did remember Grice telling a story about having to work patrol during the "gay and lesbian weekend" at Pensacola Beach.

When Smith was asked if she had heard any general comments made in the office about homosexuality, she responded, "Yes, there is one person here that is openly, well, not so much openly, but I have heard comments before about being homosexual—and that's not the term that

they used." When she was asked if she was referred to Grice, she said yes. When she was asked what term Grice used, she said, "He used 'faggot,' um, 'he's queer.'" Smith stated, "He lets it be known that he doesn't promote homosexuality or anything like that. 'No homos,' or anything like that comes out of his mouth. He openly is very prejudiced." Smith stated that her office is near the conference room where the BFAI detectives eat lunch and watch Gun Smoke, and she can hear the conversations they have while they eat (Figure 1). Smith stated she has only heard Grice use the term "faggot" once, but has heard other conversations about the topic. Smith stated Grice would "be saying how he opposed certain things and how he felt about it. And they would laugh, and he would make his point." Smith stated that she has closed the door of her office because the conversations were upsetting her and/or making her feel uncomfortable. Smith stated she is not sure who



Figure 1 The doorways to Smith's office (left) and the conference room (right).

specifically other than Grice has made comments regarding homosexuality. When Smith was asked who else heard these conversations, she replied, "I don't even know who. I mean, who routinely is in the conference room? I couldn't tell you specifically on those days. It's usually the same group." She stated the people in the group are Fiedor, O'Dell, Grice, and sometimes Vaden.

Fiedor stated he has never heard Grice make any

derogatory comments towards any race or sexual orientation.

O'Dell stated he "knows how [Grice] feels" about homosexuality because they have been friends for over 20 years. He stated they have had conversations about homosexuality, but he does not remember any of them taking place in the office.

Grice stated that 99% of the time, he, Fiedor, and O'Dell have lunch together in the conference room, and Vaden is there about 50% of the time. Grice stated that homosexuality is "not a topic that we talk about," but stated it has come up "occasionally." Grice stated when it comes up, people will say, "We know how Grice feels about that," and stated that his feeling is that "it's your choice. You do what you wanna do. I don't have to answer for that. My religious belief on that is it's not right, [but] I don't go around pushing that on anybody. Everybody in the office knows that. That's pretty much the extent of it. I don't understand it. And the beliefs that I have, my religious beliefs, say it's wrong." Grice stated that he "may have" voiced this opinion while at work. When Grice was asked how everyone in the office knows how he feels about homosexuality if he doesn't talk about it, he responded, "Because they know I'm a Christian man, and they know my beliefs." Grice stated conversations about homosexuality are very brief and infrequent. Grice stated he "stays away" from the topic because he "doesn't want to offend anybody." Grice stated there used to be a homosexual employee in the office, and the two of them were friends and he knew Grice's stance on homosexuality.

Grice stated he has "not openly" heard anyone else in the office say that homosexuality is a sin or wrong. When asked what he meant by "not openly," he said, "We all go to church, and we all talk in a private setting." He then again stated that they don't talk about it in the office because "it's not the right thing to do and it's not the right place to do it," but then stated, "if we're talking, and we're talking church, and it's me and you talking, and you ask me what's my feelings on it, I'm gonna tell you what my feelings is [sic]." However, he stated he would not have this conversation where people could overhear it. When Grice was asked about Smith having to close her door so that she couldn't hear the conversations in the conference room, he stated it was "disturbing" because "not a word of it's true." Grice stated he has never used the word "faggot" or "queer" at work, and he doesn't use those words outside of work either. Grice stated Smith made this up because "she's friends with [Kincaid]" and was upset about how Kincaid was treated. Grice stated he also believes Vaden made up his story about Grice using offensive terms because Vaden and Kincaid "were best friends." When Grice was asked why three independent witnesses have reported him using offensive terms to describe homosexuals, he responded, "I don't understand that. If I'm so against it, why was my best friend that way?" He then reiterated that he believes this is "retaliation on [Kincaid's] behalf" and that Kincaid, Smith, and Vaden "got together" and made up this story.

When Grice was asked if any of the three witnesses had given him reason to doubt their integrity in the past, he said, "[Kincaid]. [Kincaid] is a liar. And I told him he's a liar." Grice then provided the following examples of times when he believed Kincaid was untruthful:

- Grice stated Kincaid told O'Dell that he [Kincaid] hadn't been trained on the ACISS system, when Grice knows he was trained because Grice trained him. Grice stated after Kincaid told O'Dell that, he approached Kincaid and said, "You just flat lied to the lieutenant."
- Grice spoke of an instance in which Kincaid told him he had "dug out" a fire scene when he hadn't actually.
- Grice also stated that when Kincaid was returning his equipment, he stated that he threw away a pair of HAIX boots that the State had paid approximately \$300 for. When Kincaid was told that he would have to pay for the boots, he went home and got the boots and said he "forgot they were in his garage."
- Grice also questioned the validity of pictures that Kincaid submitted to the OIG as evidence (Exhibit 12 and Figure 2). Grice stated, "His shirt is perfectly clean. Look at the fingerprints on his face. Tell me that's not staged."
- Grice stated that prior to Kincaid joining the BFAI, Kincaid bragged about having a 90% clearance rate on his arson cases, which is "unheard of." Grice stated he would guess the national average is in the upper 20% range. (NOTE: Fiedor stated that 17-19% meets the standard on their evaluations, and Kincaid got 11% on his first evaluation.)



Figure 2 Kincaid with ashes/soot on his face

Grice stated he is not aware of Smith or Vaden ever lying to him. However, he went on to state that Kincaid only worked a half day on his last day, and he, O'Dell, and Fiedor all offered to give Kincaid a ride home. Referring to Smith's statement that no one offered to give Kincaid a ride, Grice stated, "That's a lie. That's her talking about something when she don't [sic] know what she's talking about."

Grice denied ever using the term "nigger" while at work and stated, "Tony Grice does not use that word. I think it's discriminating. It's downplaying these people. I refer to them as 'blacks.' That's [how] we refer to them in our paperwork, in our reports. I don't use that word. I have good friends that are that color." He again stated that he believes Kincaid and Vaden "made up" this story. Grice stated he can't remember any time that he, Kincaid, and Vaden were all in his truck at the same time, and stated that Kincaid always drove his own truck everywhere since he had a canine. (NOTE: Captain Karl Morgan confirmed that it is typical for detectives going through FTO to drive vehicles separate from their trainers. However, Morgan could not say for certain that Kincaid, Vaden, and Grice would not have ever ridden in the same vehicle. See Exhibit 28. It should also be noted that the stated dates of Kincaid's and Vaden's FTO as listed in Exhibit 7 do not overlap. However, email records show that Kincaid did not complete his FTO until on or about January 14, 2015. See Exhibit 38.)

AP&P 5-26, Standards and Procedures of Discipline, states employees shall "be courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers." Vaden and Kincaid both stated that they heard Grice use the term "nigger," and Vaden, Kincaid, and Smith stated that they have heard Grice speak about homosexuals in an inappropriate manner. – SUSTAINED

## ALLEGATION #6

**It was alleged that O'Dell and Fiedor use offensive and/or discriminatory language regarding homosexuality while on duty.**

During a telephone conversation with Kincaid on November 10, 2016, he alleged that he has heard O'Dell and Fiedor make inappropriate comments about homosexuality while on duty and in the office. Kincaid stated that O'Dell and Fiedor make comments such as homosexuality is "wrong" or "not in accordance with the Bible" (Exhibit 16).

Vaden stated that the opinion in the office is that "the Bible says [homosexuality is] wrong," "it's not normal," "I don't see how people could do that," and "it's not going to be tolerated." Vaden stated that along with Grice, O'Dell has also voiced opinions like this. Vaden stated these comments "are not in any kind of official capacity. It's generally sitting around eating lunch or something like that." Vaden stated the comments have not made him uncomfortable, but he feels like they are inappropriate for the workplace. Vaden stated these types of comments are not frequent and don't lead to long conversations. Vaden stated he has never heard Fiedor make any comments about homosexuality (Exhibit 11).

Former Detective Mike Miller stated that when he was employed with the SFM, employees would often eat lunch together in the conference room and watch the TV. However, he stated that he never heard anyone make any derogatory comments about African-Americans or homosexuals.



Barron stated he has never heard anyone make any comments in the office about homosexuality. Barron stated he knows Grice, O'Dell, and Fiedor, and he would be "shocked" if any of them had made the comments they are alleged to have made.

Grice stated that the general belief about homosexuality in the office is that it is against their personal beliefs, but they don't hold it against people that are homosexual. When he was asked who else he has heard make comments like that, he responded, "You know, I'm not gonna say names because I can't tell you 100%. Okay? I'm not. I'm just not gonna say a name because there's a lot of Christian people in that office that feel the same way." When Grice was asked specifically if he has heard O'Dell make comments like this, he replied, "He probably feels the same way I do." Grice was then asked, "Does he probably feel that way, or you know he feels that way?" Grice responded, "Oh, he feels that way. He feels it's not what the Bible teaches. But we don't go around boasting about it." When Grice was asked if O'Dell makes comments about this at work, he stated, "I can't say that's never happened. I can't tell you that." Grice stated he has never heard Fiedor made a comment like this. However, Grice stated he has heard Vaden make comments about not agreeing with homosexuality. Grice stated, "Can I give you a specific date and time? No, because it wasn't offensive to me. But he's been in there when conversations was [sic] going on." Grice stated that O'Dell and Fiedor have "probably been in [the room]" when comments like this were being made, but he is not sure.

Fiedor stated the topic of homosexuality "never" comes up in the office and stated that there used to be an "open homosexual" working in the office. Fiedor stated, "He [the "open homosexual"] worked in the office every day, ate lunch with us every day, he went to the firing range with us, he trained with us. He was there every day. None of these topics surfaced during the time he was there. My logic is, that's when you would expect issues if there were issues within the office." When Fiedor was told that several people have reported hearing or being part in conversations about homosexuality at work, he reiterated that he has never heard the topic come up.

O'Dell stated that he does not remember ever speaking about homosexuality at the office. He stated, "I'm not saying I never did it in the 20 years that I've been there, but no, I don't remember a conversation." He stated he does not know Fiedor's view on homosexuality, and he does not believe Fiedor knows his view on it either. He stated that he and Grice have been friends for over 20 years, and they have discussed homosexuality, but the discussions have not been at work. He stated he does not remember any conversation at work where homosexuality was called a "sin" or "against the Bible" or anything similar. When O'Dell was asked if he believed Vaden would make up hearing him make comments about homosexuality, O'Dell stated, "If he said he heard me say something, then probably what he may have heard me say is that I don't agree with it. I don't use the word 'sin' around the office."

AP&P 5-26, Standards and Procedures of Discipline, states employees shall "be courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers." Grice admitted that he has heard O'Dell state that homosexuality is "not what the Bible teaches," and stated that it is possible that O'Dell has made these comments in the office. Vaden and Kincaid both stated they have heard O'Dell make comments about homosexuality being "wrong," and Smith, while unable to identify specific people making similar comments, stated that she has had to close her door because the conversations upset her. O'Dell admitted that it is possible that he has stated in the office that he "doesn't agree" with homosexuality. – **SUSTAINED**

Other than Kincaid, everyone questioned stated that they have not heard Fiedor make any comments regarding homosexuality. – **UNFOUNDED**

## ALLEGATION #7

**It was alleged that O'Dell uses offensive and/or discriminatory terms regarding women while on duty.**

During his sworn statement to the OIG on October 27, 2016, Miller stated that after former BFAI employee Gloria Whitehurst became captain over the region, "there were statements made that were very antiquated to the time," such as O'Dell, who was a detective at the time, saying, "I don't work for a female. She's not my captain." Miller stated O'Dell was very "blatant" with these types of comments, and he was never disciplined for them or told not to make them. Miller stated Whitehurst was very "strict" and wanted everything done correctly and on time, and O'Dell was "unprofessional" in his attitude toward her. Miller stated Fiedor, who was O'Dell's lieutenant at the time, was aware of the issue and "nothing was done about it." Miller stated it was "their little joke." (NOTE: Miller did not name any additional witnesses who may have heard O'Dell make these comments. Of the BFAI employees currently working in the Pensacola Field Office, only O'Dell, Fiedor, and Grice would have been employed at the time that these comments were made.)

Fiedor stated he has never heard O'Dell make inappropriate comments about Whitehurst, but did confirm that O'Dell told him he would never work for Whitehurst again after she resigned in 2013. Fiedor also stated he has never heard O'Dell make any derogatory or offensive comments about women in general.

O'Dell stated that he did say he had "had enough" of the way Whitehurst treated employees, and prior to his statement to the OIG in Whitehurst's case (OIG Case #13348 IA), he told the major "if she stay's, I'm leaving," because he did not feel like he would be able to work for Whitehurst anymore after answering questions during a sworn interview with the OIG. O'Dell also admitted to stating he "would never work for that female" again, referring specifically to Whitehurst, not women in general.

AP&P 5-26, Standards and Procedures of Discipline, states employees shall "be courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers." Based on interviews, it appears that O'Dell did state the he would not be able to work specifically for Whitehurst any longer. The comment was not made about women in general, and O'Dell stated that it was made as a result of statements made during a sworn interview with the OIG. – UNFOUNDED

## ALLEGATION #8

**Kincaid alleged that he was pressured to attend functions at Marcus Pointe Baptist Church.**



Figure 3: Bulletin Board in Pensacola Field Office



Kincaid stated Fiedor is "constantly putting up flyers for you to attend church." Kincaid stated that he has pictures of the flyers around the office (Exhibit 4 and Figure 3). Kincaid stated that he was "constantly told to go to church" and bring his family. Kincaid stated that Fiedor only forced him to go to church one time (see Allegation #9), but "at least two to three times a week" Fiedor pressured him to go to different functions. Kincaid again stated he only went to church once, but when he wouldn't go, Fiedor would "come in, shake his head, and be all disappointed [and say] 'I didn't see you at church last night.'" When Kincaid was asked if he believes Fiedor treated him differently because he didn't go to church, he responded, "I absolutely do 100%. I believe that with all my heart." When he was asked how he believes he was treated differently, he stated, "The way I was done about my dog. They knew I had the dog when I came here and that I needed to train her and that I needed to do that stuff. That's the only reason I can see as why I was treated the way I was. Because I didn't go to their church. I didn't go and sit with them at lunch."

Vaden also stated that he feels like Fiedor has pressured him to attend church events at Marcus Pointe Baptist Church. He stated Fiedor's persistence in inviting him to church was "over the top," especially when Vaden first joined the BFAI. Vaden stated, "I felt, being new and he being the captain, the times that there was something going on at the church, and if I didn't go, he was almost disappointed the next day that you weren't there. So it was a little uncomfortable." When Vaden was asked if Fiedor ever voiced disappointment about Vaden not attending church functions, Vaden responded, "Just once. He told me that he noticed that I wasn't there, but he just said, 'I really wish you would have come. You would have really liked it.'" Vaden went on to state, "In one hand, it's a friendly, trying to encourage me to come [to church] later on, but then on the other hand, just being the captain that you report to, you almost felt that he would be disappointed that you didn't go and that other people did go." Vaden stated that invitations to church events are not as frequent now as they have been in the past. He stated that the church has events approximately quarterly, and as the event gets closer, the invitations become more and more frequent. Vaden stated there are also posters and advertisements frequently placed on the bulletin board for events at Marcus Pointe Baptist Church, but he is not sure who hangs the posters because there are other employees in the office who also attend Marcus Pointe Baptist Church. When Vaden was asked if he feels like Fiedor treats people differently based on whether or not they attend the church events, he responded, "Not overtly. But like I said, he does seem disappointed if you don't go...He just mopes around and kind of acts disappointed...It was pretty uncomfortable times being a new employee from out of town. That was just a little, I won't say overwhelming, but I really wasn't expecting that."

Deese stated Fiedor has never pressured or asked him to go to a church event.

Smith stated she also attends Marcus Pointe Baptist Church, and there are "postings all over the place [in the office] that [Fiedor] keeps in here for our events at Marcus Pointe [Baptist Church]." Smith stated, "In fact, there's a flyer there right now that advertises Marcus Pointe [Baptist Church]. There's a function that must be coming up that's posted outside in the hallway right now. There's always something posted, just all the time." Smith stated Fiedor is the person that puts up the posters, and she has seen him put them up. Smith stated she has heard Fiedor talking with other people about going to church and added, "He has been encouraging me since day one, since I started going—before I started going—to Marcus Pointe [Baptist Church], and ever since I've been going to Marcus Pointe [Baptist Church], to join the choir. He openly discusses with me on a routine basis for the last two or three years about 'I want you to join the choir. You need to join the choir.' And that's right here in the office during business hours. And I don't mix politics and religion, and I don't do work and religion. So I would just say, 'I'm not gonna do it.' You know, I just kind of push him away. Slap it off and just say 'you know I'm not gonna do it.' But he has encouraged me since day one, and he does walk around talking about 'We've got this function coming up at Marcus Pointe [Baptist

Church]' and 'Here, I've got tickets for this thing that's coming. Here's tickets. Y'all need to come.' Yes, he does talk openly. Openly encourage that."

Smith stated, "I work here with another person that goes to Marcus Pointe [Baptist Church], and that conversation—the fact that we go to Marcus Pointe [Baptist Church] together—has *never* come up. Ever. We never discuss church here." However, Fiedor is "always talking up church. It's big for him. It's important." When Smith was asked if she thinks Fiedor is crossing a line by doing this at work, she replied, "Yes, because he's the only person I've ever met or worked with that did that. I've never worked with anybody that promoted attending—coming and visiting—my church on a routine basis or talking openly at work about religious things." Smith stated she is not aware of Fiedor ever asking people to join the church, but he invites them to special events like guest speakers. When asked if the speeches are religious in nature, she responded, "Yes."

Miller stated that Fiedor never pressured him to attend church events. He stated there were flyers up in the office "for a bunch of different events, whether it was the church, whether they were gonna have the, what do they call it, the men's night, and everybody was invited. It didn't matter what religious background you had. It was stuff like for giveaways, stuff like that. But then again, we put stuff also for golf tournaments. I put stuff up for classes coming up with the sheriff's office."

Barron stated he has "been to several things at Marcus Pointe [Baptist Church]," but Fiedor has never pressured him to go. Barron stated he has gone to the Sportsman's Night at Marcus Pointe Baptist Church for the last four or five years, but "not because [Fiedor] has asked me, maybe because I seen [sic] the flyer [in the office] and thought, 'That's pretty cool.'" Barron stated he does not see a problem with advertising church-sponsored events around the office. He stated there are always flyers up for various events such as golf tournaments, but he could not recall any flyers for church-sponsored events other than ones at Marcus Pointe Baptist Church.

Grice stated he has seen flyers up in the office for events at Marcus Pointe Baptist Church. Grice does not know for sure who put the flyers up but stated he would assume that it was Fiedor. Grice stated Fiedor has "absolutely not" pressured him to attend any events at Marcus Pointe Baptist Church, and Grice has never seen Fiedor pressuring anyone else to attend events. However, Fiedor does ask him and others in the office if they are interested in coming to the events at Marcus Pointe Baptist Church so that Fiedor can get the tickets. Grice stated he has never heard anyone tell Fiedor that they do not want to go, and if anyone responds that they might be unable to go, Fiedor does not act disappointed. Grice stated that Marcus Pointe Baptist Church has a Sportsman's Night every year and also one or two speakers at other times during the year that Fiedor invites employees to see. Grice repeatedly stated that Fiedor does not pressure anyone into attending the events; he simply asks if they want to go.

O'Dell stated he attends events at Marcus Pointe Baptist Church "at least twice a year," but Fiedor has never pressured him to attend. O'Dell stated he is in a bluegrass band that performs at the church annually, but again said Fiedor has never pressured him to perform.

Fiedor admitted that he hung up the flyer pictured in Exhibit 4. Fiedor stated that he puts up flyers for events at Marcus Pointe Baptist Church because "people are interested in going." Fiedor stated the annual Sportsman's Night Out at Marcus Pointe Baptist Church is an opportunity to meet celebrities and win "phenomenal" door prizes. When Fiedor was asked if this event was religious, he replied, "He [Jimmy Houston] is the speaker [at the 2016 Sportsman's Night Out at Marcus Pointe Baptist Church]. This man is the speaker. He is not a deacon or preacher. He is a sports figure, or like a sports figure. And he talks about his life, and he tries to do some motivational type

stuff." Fiedor stated he only puts flyers up in the office for the annual Sportsman's Night Out at Marcus Pointe Baptist Church, and he only does this because it is a "common interest" in the office.

He stated the other event that he invites people to at Marcus Pointe Baptist Church is the annual Law Enforcement Appreciation. He stated Marcus Pointe Baptist Church mails all of the law enforcement agencies in Escambia and Santa Rosa Counties invitations to this event. Fiedor stated the speakers are "generally Sheriff David Morgan, Sheriff Wendell Hall for Santa Rosa County, or the Police Chief Chip Simmons." He stated he invites employees to the appreciation lunch because "it's about us or bonding or whatever."

Fiedor stated he doesn't think he pressures any of his employees to attend events at Marcus Pointe Baptist Church. He stated, "If anything, it would be pressuring them to bond with the rest of the group. To be a part, if others are going. Nine times out of ten I usually go to these by myself." Regarding Smith's statement that Fiedor pressures her into joining the choir, Fiedor stated that he started telling her to join the choir while her father was terminally ill. He stated Smith took off a lot of time to take care of her father, and she came into the office one day to get some things and she "looked awful," like she hadn't been sleeping or eating. Fiedor stated there are a few ladies in the choir who are "social butterflies," and he thought they would be good for Smith, so he recommended that she "hang out with them." After Smith's father passed and she returned to work, he brought up joining the choir again and said he had already told the "social butterflies" about Smith. He said it does not require talent to be in the choir, and he was only inviting Smith to be in the choir because he thought she "had a need," and he was "trying to meet that need."

Fiedor stated that he doesn't like that people in his office feel left out, so he invites them to events to "fellowship." Fiedor stated, "This was a way for them [Kincaid and Vaden] to get with the guys [when they were new] and bond and get a relationship going and feel like they're part of the team. To say that I was 'over the top' is a misstatement because my intention is, I want them to be part of the unit." Fiedor stated he does not get his feelings hurt when people don't attend the events, and reiterated that "nine times out of ten," he goes to them alone. He stated if someone misses an event, he might say, "Man, that guy was awesome! You missed a good speaker," but he is "never mopey." He stated, "I've never had anybody tell me I'm pushy. I'm not a salesman. But I do see when people are isolating themselves in the office, staying behind closed doors, that maybe I need to go in and say, 'You know what, why don't you come join us and do a few things with us?' That's what I was trying to do." When asked if he ever considered that inviting employees to a church function might be "crossing a line," he replied, "No, because, I understand what you're saying, 'a church function.' These weren't invitations for Sunday morning or Wednesday night. These were invitations to things that number one, they grew up doing, [Vaden] and [Kincaid] both, a way for them to feel like they belong. Now, it's at a church, but if it's at a Civic Center would it have made a difference? Or if it was at some other big venue would it have made a difference? Because the event's the same, regardless of where it's gonna be at. And I thought this was not pushing religion. It's pushing an event and an interest that they already have and bonding with the unit."

AP&P 5-26 states, "Employees shall abide by the law and applicable rules and policies and procedures, including those of the employing agency and the rules of the State Personnel System." Examples of prohibited behavior include "engaging in discriminatory or harassing conduct toward a Department employee...because of that person's race, sex, age, color, religion, national origin, disability, marital status, political opinions or political affiliations, or because of that person's association with someone of a particular race, sex, age, color, religion, national origin, disability, marital status, political opinions or political affiliations," AP&P 5-26 also states employees shall "be



courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers" (Exhibit 2). Kincaid, Vaden, and Smith all stated that Fiedor pressures them into attending activities at Marcus Pointe Baptist Church. Barron stated that he has attended events at Marcus Pointe Baptist Church because he saw the advertisements placed around the office by Fiedor. Kincaid and Vaden also both stated that Fiedor acts disappointed and/or treats them differently if they don't attend the events. Fiedor admitted to hanging up the flyers and to inviting people to take part in various activities held at Marcus Pointe Baptist Church, though he maintained that the events are not religious in nature (See more on Fiedor's beliefs that events were not religious in nature in Allegation #9). – **SUSTAINED**

It was also noted that Fiedor's actions may have been in violation of AP&P 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination, which states, "It is the policy of the Department that each employee is allowed to work in an environment free from any form of unlawful discrimination and that each employee shall not commit acts of unlawful discrimination" (Exhibit 32). Fiedor's actions may have also been in violation of Section 760.10(1), Florida Statutes, which states, "It is an unlawful employment practice for an employer to discharge or to fail or refuse to hire any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status" (Exhibit 33). Kincaid alleged that he felt he was treated differently by Fiedor because he did not attend church functions. Specifically, he felt he was not allowed to train his dog properly because he did not attend events at Marcus Pointe Baptist Church. However, the OIG was unable to prove or disprove that Kincaid was not allowed to train his dog according to policy (see Allegation 1). Vaden also stated that Fiedor treated people differently based on whether or not they went to church, but stated this treatment was not "overt." When asked for an example of how Fiedor treats people that don't go to church, Vaden only stated that Fiedor would "mope around" and "act disappointed," but did not indicate that job duties or evaluations were affected by church attendance. – **NOT SUSTAINED/INCONCLUSIVE**

## ALLEGATION #9

**Fiedor provided inaccurate and false information to the OIG during his sworn statement.**

During his sworn statement to the OIG, Fiedor stated that the events he invited people to were not religious in nature. He said, "These were invitations to things that number one, they grew up doing, [Vaden] and [Kincaid] both, a way for them to feel like they belong. Now, it's at a church, but if it's at a Civic Center would it have made a difference? Or if it was at some other big venue would it have made a difference? Because the event's the same, regardless of where it's gonna be at. *And I thought this was not pushing religion* [emphasis added]. It's pushing an event and an interest that they already have and bonding with the unit." Without being questioned, Fiedor brought up the subject again later in the interview, and added, "I did write down some of the names of people that come to my church [to speak]....just because [Kincaid is] trying to mention that they were religious speakers, and I want you to hear about the 'religious speakers.' Kevin Sorbo, the actor from Hercules, he was the last one. Before that, Nik Wallenda, the tightrope guy. Remember him? [Sarcastically] He's a great religious speaker. Oliver North, Darrell Waltrip, John Smoltz, the pitcher for the Atlanta Braves. Kirk Cameron, the actor. Tim Lee, the wounded Marine veteran, and then a ton of other sports figures and singers. These are the kind of things that [my employees] were being invited to. Somebody that I would love to see, and I thought that they might [love to] see it, too." *Fiedor was asked what topics were discussed, and if those topics included "God, religion?"* [emphasis added]. Fiedor responded, "They're talking about motivation. Like one, the last one that



came, Kevin Sorbo, he beat cancer, and how it changed his whole life. How he had to start over again in Hollywood and movies. It's their daily events. It's 'This is my life.' And it's a feel-good, motivational speech. These guys aren't preachers. They're not gonna give you a sermon from the pulpit." During his interview, Fiedor was adamant that none of the speakers at Marcus Pointe Baptist Church were preachers, and none of the presentations were religious in nature.

Several of the talks Fiedor mentioned that were given at Marcus Pointe Baptist Church are available to view on YouTube or other internet sites. The OIG reviewed and listened to several speeches online that were previously given by the above celebrities at Marcus Pointe Baptist Church, and it is clear that the topics discussed are religious, specifically Christian, in nature, and Marcus Pointe Baptist Church Senior Pastor Gordon Godfrey co-presented with at least one speaker (Exhibit 25), despite Fiedor's statement that "these guys aren't preachers," and the talks were not religious in nature.

AP&P 6-01, Inspector General Investigations, states, "All employees are required to cooperate with OIG investigations to ensure management receives a report containing all relevant, true, and accurate information" (Exhibit 37). AP&P 5-26, Standards and Procedures of Discipline, states, "Employees shall abide by the law and applicable rules and policies and procedures, including those of the employing agency and the rules of the State Personnel System" (Exhibit 2). Section 837.02(1), Florida Statutes, Perjury in official proceedings, states in part, "whoever makes a false statement, which he or she does not believe to be true, under oath in an official proceeding in regard to any material matter, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084." Subsection (3) states, "Knowledge of the materiality of the statement is not an element of the crime of perjury under subsection (1) or subsection (2), and the defendant's mistaken belief that the statement was not material is not a defense" (Exhibit 40). DIFS Standard Operating Procedure 2.1.2, Standard of Conduct. Section IV.F states, "Members shall not obstruct any investigation by destroying, altering, concealing or disguising real evidence, or by planting false evidence or furnishing false information to a lawful authority." Fiedor did not provide accurate and truthful information during his sworn statement given to the OIG. – **SUSTAINED**

## **ALLEGATION #10**

**Kincaid alleged that he was forced to drive his state car to a church function.**

Kincaid stated that on or around August 14, 2014, while Kincaid was still in training, Fiedor told him he needed to go to an event being held at Marcus Pointe Baptist Church that night. Kincaid stated he did not want to go, and he told Fiedor that he was on call that night and couldn't go, but at the end of the day he was told by both Fiedor and Grice that he needed to go and that he should drive his state vehicle and be on call from the church. (NOTE: Based on the dates found in Exhibit 7, Kincaid was still going through his FTO period on August 14, 2014. A Google search confirmed that Marcus Point Baptist Church had a Sportsman's Night Out on August 14, 2014. During a telephone conversation on January 19, 2017, Holt confirmed that detectives do work on-call shifts with their trainers during their FTO periods.) Kincaid stated, "I had to sit through the service because Lieutenant [O'Dell] was singing. His band was singing at the church, and the captain wanted all his people there and everyone to watch the lieutenant sing." Kincaid stated O'Dell doesn't attend the same church, but the "blue grass band he's in is there all the time."

Vaden stated that he has never been instructed to drive his state car to a church function. He said Kincaid told him that he (Kincaid) was instructed to, but Vaden has no firsthand knowledge of it.

Vaden stated he is not aware of anyone other than Kincaid claiming they were told to drive a state car to a church function.

Deese stated that because he is a Police Benevolent Association representative, Kincaid told him that Fiedor instructed Kincaid to drive his state vehicle to a church function once while Kincaid was on call. Deese stated that Kincaid told him that this made Kincaid uncomfortable because Kincaid was still in training and his captain was instructing him to go to church and drive his state vehicle there. Deese stated that Kincaid told him about this situation "half way through his employment" with the BFAI, which would have been approximately July 2015.

During his sworn statement to the OIG, Miller stated he was never instructed to drive his car for any inappropriate reason, and he is not aware of anyone else being instructed to drive their cars for inappropriate reasons.

Barron also stated he has never been instructed to drive his state car to a church event or any other place that would be inappropriate.

Grice stated that Fiedor did give him permission to drive his state car to the Sportsman's Night at the Marcus Pointe Baptist Church one year because Grice had already bought a ticket, was on call, the church is only a few miles from the office, and Grice lives far away. Grice stated he parked his vehicle at the Escambia County Firehouse, which is right next to Marcus Pointe Baptist Church. Grice stated he is not aware of anyone else ever driving their state vehicle to Marcus Pointe Baptist Church and stated he did not recall telling Kincaid to drive his state car to the church.

Fiedor stated he never instructed Kincaid to attend Sportsman's Night Out at the Marcus Pointe Baptist Church while on call. However, Fiedor stated Kincaid did approach him one year and state that he was on call the night of the event but had already purchased a ticket. Fiedor stated Kincaid asked if he could drive his state car to the event because at the time Kincaid was living in a firehouse at the north end of the county and couldn't leave his dog there when he wasn't there. Fiedor approved Kincaid's request. Fiedor stated that "without a doubt," Kincaid misrepresented this situation to the OIG. Fiedor stated that there was never any other time that he approved or encouraged Kincaid to drive his state car to church functions.

DFS AP&P 2-07, Fleet Management – Use of State Owned, Leased, or Rented Vehicles, states, "State vehicles assigned to a DFS employees [sic] are for conducting official state business and incidental use contiguous with official business." It also states, "Use of any assigned vehicle outside of an employee's work schedule or duties, other than incidental use, is prohibited" (Exhibit 31). AP&P 5-26 states, employees shall "place the interests of the public ahead of personal interests" and "protect state property from loss or abuse." AP&P 1-15 states, "Department employees shall not use their official position, or the powers of their office, to benefit their own personal interests." This includes "using a Department vehicle for personal purposes." While the OIG was unable to prove or disprove whether Fiedor forced Kincaid to drive a state vehicle to a church function, witness statements indicated that Kincaid and Grice did drive their vehicles to the Sportsman's Night Out at Marcus Pointe Baptist Church, which is not "official state business." Because Fiedor allowed Kincaid and Grice to drive their state-issued cars to the function, unnecessary fuel costs as well as additional wear and tear on the vehicles were incurred. Because Kincaid would have had his canine with him at the time, he would have been required to leave the dog in the car with the air conditioning running for the duration of the event in order to keep the dog safe, as the Sportsman's Night Out at Marcus Point Baptist Church occurred in summer. Therefore, Fiedor failed to protect state property from loss or abuse. Also, based on the above finding that Fiedor pressures and/or

encourages his employees to attend events at Marcus Pointe Baptist Church, Fiedor has an actual or perceived personal interest in his employees attending these events. By allowing Kincaid and Grice to drive their state vehicles to events at Marcus Pointe Baptist Church while on call, Fiedor is not placing the interests of the public ahead of his own personal interests. - **SUSTAINED**

### **ALLEGATION #11**

**Kincaid alleged that there was a collection jar placed in the office to raise money as part of an anti-abortion campaign.**



Figure 4 Collection bottle

Kincaid stated that for a time, there was a collection jar in the office to "give money to women who choose life over abortion" (Exhibit 5 and Figure 4). Kincaid stated he does not know who brought the jar in, but when he [Kincaid] said something about the jar, it "got gone."

Vaden stated that he does remember a collection jar in the office with "baby decorations" on it, but stated he did not pay enough attention to it to notice what the money was being collected for. He stated Kincaid told him the jar was to collect money as part of a pro-life campaign. Vaden stated at the time, there were a few pregnant women in the office, and he assumed it had something to do with them. Vaden said he has never seen any other collection effort in the office for a religious cause.

Grice stated he did not see the collection bottle in the office to raise money for the Pregnancy Resource Center of Milton and has never seen any collection jar like that in the office. He stated it was "hard to tell" if the pictures from Exhibit 5 were taken in the office, and he did not recognize the location from the pictures. After looking through all of the pictures, he stated it does look like the Pensacola Office, but he is not sure where in the office it

is.

O'Dell stated he has never seen a collection jar in the office raising money for any religious cause. He stated he recognized the location of the photos as a "high traffic" part of the office, but he never saw the jar pictured in Exhibit 5. O'Dell stated that is a common place for people to put candy bars for school fund raisers, but reiterated that he has never seen any religious collection jar.

Fiedor stated he is not aware of who put the collection jar in the office. He stated he recognized the office from the pictures, but he never saw the collection jar in the office.

AP&P 1-15, Department of Financial Services Code of Ethics, states, "Department employees shall not use their official position, or the powers of their office, to benefit their own personal interests." This includes "[u]sing Department facilities, equipment, [or] resources for political campaigns, or other political purposes." AP&P 5-26 states, employees shall "place the interests of the public ahead of personal interests." No one other than Kincaid stated they had seen the collection jar in the office.

However, Kincaid provided photos of the jar, and witnesses confirmed that the pictures were taken in the Pensacola Field Office. While there is evidence that proves the collection jar was in the office, it is unknown who put it there and who removed it. – **SUSTAINED**

## **ALLEGATION #12**

**Kincaid alleged that O'Dell conducts work for his secondary employment using state time and resources.**

During a telephone conversation with Kincaid on November 10, 2016, he alleged that O'Dell has a fencing company that he operates as secondary employment. Kincaid stated that O'Dell uses state time and/or resources for this business by using his state phone and email to contact customers and by using his state vehicle to pick up supplies from Home Depot, Lowes, etc.

The OIG reviewed all of O'Dell's incoming and outgoing email messages from November 1, 2014, through November 10, 2016. There was no indication that O'Dell had been using his state email account to conduct business for his secondary employment (Exhibit 23).

Vaden stated he has never witnessed O'Dell conducting business for his secondary employment while on state time and/or using state resources (Exhibit 13).

Fiedor stated he has never witnessed O'Dell working on his secondary employment while at work, but he has used leave time to work on his secondary employment.

A review of O'Dell's personnel file revealed that he has a current, approved secondary employment request on file (Exhibit 39).

Based on the evidence gathered relating to this allegation, O'Dell was given an opportunity to respond to the allegation and chose not to respond (Exhibit 24).

AP&P 5-04, Dual Employment and Compensation, states, "Dual employment within or outside state government...shall not require the use of Department space, personnel, time, equipment or supplies." There was no evidence to support the allegation that O'Dell conducts work for his secondary employment using state time and resources. – **UNFOUNDED**

## **ADDITIONAL ISSUES**

During the course of the investigation the following management issues were discovered and are referred to Division Director Simon Blank for review and consideration.

### **ADDITIONAL ISSUE #1**

OIG staff was unable to locate anything in policy or procedure that would specifically prohibit O'Dell and/or Fiedor from forcing Kincaid to train his dog at the office. According to Holt, trainers throughout the State are given the freedom to train their dogs in various locations and at various times as needed. However, BFAI Policy 2.5.3 does not have any references to where, when, and how a dog and handler should train. It simply requires supervisors and handlers to "ensure that the canine's training is consistent with the food reward training method." It is recommended that this



policy be revised to include a definition of the "food reward training method" or a reference to a training manual if one is used and specify where, when, and how training is to take place.

Holt raised concerns he had about command staff in the Panhandle attempting to rewrite or change policy regarding the canine handlers (Exhibit 6). Specifically, Holt was concerned that Fiedor and O'Dell were attempting to have a more "hands-on" approach to the canine training and forcing their detectives to be on call 24 hours a day without being compensated for it. Holt confirmed that Fiedor and O'Dell are not, and have never been, canine handlers. Therefore, they do not have the knowledge and expertise to direct canine activities, and supervision as it relates specifically to canine duties should be the responsibility of Holt, who is the Canine Commander.

Fiedor stated that Exhibit 6 is "the end product of two years' worth of memos." Fiedor stated the canine detectives in his region were being used much less frequently than the other regions of the State. Fiedor stated that in June 2016, he contacted Holt to see if there was a set number of cases the dogs should try to work each year, and Holt responded that they should try to get between 50 and 75 cases (Exhibit 27). Fiedor stated that each year ends on June 30, and at the time, Deese's dog had worked 17 cases and Kincaid's had worked 22. Therefore, he had his lieutenants speak with their detectives to determine why the dogs weren't being used, and Fiedor spoke with the canine handlers to determine why the dogs weren't being used. Then, after he got input from everyone in the region and Captain Holt, he wrote the memo included as Exhibit 6. Fiedor stated that Holt never voiced any concerns to him about the document. Fiedor stated that eventually the memo "died on the floor," and a final version was never distributed to BFAI employees. *(NOTE: It should also be noted that the Panhandle Region was the only area of the state that had multiple canine handlers, and it has less population density than the rest of the State. Therefore, it is reasonable to expect the number of cases worked by each canine handler in the region to be lower than the other handlers' numbers throughout the State.)*

This issue is being referred to management for further review and appropriate action.

## **ADDITIONAL ISSUE #2**

During his sworn statement to the OIG, O'Dell stated that travel time to and from the range is not counted as regular work hours. However, Fiedor indicated that travel time to and from the range is counted as regular work hours. It is recommended that supervisors be trained in the correct manner to record hours so that timesheets can be maintained consistently through the Division.

This issue is being referred to management for further review and appropriate action.

## **ADDITIONAL ISSUE #3**

At the conclusion of every sworn statement the OIG receives, the interviewee is instructed "not to discuss this investigation with anyone, contact any witnesses or potential witnesses, or take any investigative action regarding this matter. You are not to discuss the nature of this interview, the questions asked, or the answers you have given with anyone." However, prior to Fiedor's interview, he indicated that he had spoken with both O'Dell and Grice about the investigation after they had given their sworn statements. Fiedor stated that O'Dell and Grice had both told him that it had taken them multiple days to review the material provided to them prior to their interviews. The extent of the conversations between Fiedor, Grice, and O'Dell is unknown, but since all three of

them are sworn law enforcement, they should be aware of the importance of potential witnesses and subjects not discussing open/active investigations.

This issue is being referred to management for further review and appropriate action.

Throughout Kincaid's written complaint and sworn statements, he brought up several other issues that do not rise to the level of misconduct investigated by the OIG. Examples of these include not being allowed to wear a canine uniform, not being allowed to shower after fires, and being told he could be "run off" like other former BFAI employees. These issues are being referred to management for appropriate action.

## ***FINDINGS/CONCLUSION***

### ***Allegation #1***

It is alleged that Fiedor and O'Dell violated AP&P 5-26, Standards and Procedures of Discipline, which states employees shall "maintain high standards of honesty, integrity, and impartiality," and "protect state property from loss or abuse." Kincaid alleged that he was not allowed by Fiedor and O'Dell to train his dog for two hours each day as other handlers were throughout the State, as required by BFAI Policy 2.5.3, Law Enforcement Canines. – **NOT SUSTAINED/INCONCLUSIVE**

It is alleged that Fiedor and O'Dell violated AP&P 5-26, Standards and Procedures of Discipline (Exhibit 2), which states, "Employees shall abide by the law and applicable rules and policies and procedures, including those of the employing agency and the rules of the State Personnel System," by forcing Kincaid to train his dog at the office. The OIG could not identify any policy that this would be in violation of; however, according to Holt and Kinkaid this would differ from the procedure used for other canine handlers throughout the rest of the State. – **POLICY FAILURE/NOT SUSTAINED/INCONCLUSIVE**

### ***Allegation #2***

It is alleged that O'Dell violated AP&P 5-26, Standards and Procedures of Discipline (Exhibit 2), which states employees shall "maintain high standards of honesty, integrity, and impartiality," by not allowing Kincaid to submit accurate timesheets. – **UNFOUNDED**

### ***Allegation #3***

It is alleged that Fiedor and O'Dell violated AP&P 5-26, Standards and Procedures of Discipline (Exhibit 2), which states employees shall "be courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers," by calling Kincaid "stupid," a "liar," and "ignorant." Although Grice admitted to calling Kincaid a "liar," Kincaid's allegation centered on the general demeaning comments and attitude directed at him by Fiedor and O'Dell. The OIG did not believe that Grice's admission that he called Kincaid a liar rose to this level. – **UNFOUNDED**

### ***Allegation #4***

It is alleged that Fiedor, O'Dell, and Grice violated AP&P 5-26, Standards and Procedures of Discipline (Exhibit 2), which states employees shall "be courteous, considerate, respectful, and

prompt in dealing with and serving the public and co-workers," by "harassing" Kincaid on his last day, not offering him a ride home, and making disrespectful comments about him. – **NOT SUSTAINED/INCONCLUSIVE**

It is alleged that O'Dell violated AP&P 5-26, Standards and Procedures of Discipline (Exhibit 2), which states employees shall "be courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers," by joking about Kincaid's resignation by continuing to say "good morning" to him after he separated. – **SUSTAINED**

#### *Allegation #5*

It is alleged that Grice violated AP&P 5-26, Standards and Procedures of Discipline (Exhibit 2), which states employees shall "be courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers," by making inappropriate comments about African-Americans and homosexuality. – **SUSTAINED**

#### *Allegation #6*

It is alleged that O'Dell violated AP&P 5-26, Standards and Procedures of Discipline (Exhibit 2), which states employees shall "be courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers," by making inappropriate comments about homosexuality. – **SUSTAINED**

It is alleged that Fiedor violated AP&P 5-26, Standards and Procedures of Discipline (Exhibit 2), which states employees shall "be courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers," by making inappropriate comments about homosexuality. – **UNFOUNDED**

#### *Allegation #7*

It is alleged that O'Dell violated AP&P 5-26, Standards and Procedures of Discipline (Exhibit 2), which states employees shall "be courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers," by making inappropriate comments about females. – **UNFOUNDED**

#### *Allegation #8*

It is alleged that Fiedor violated AP&P 5-26, Standards and Procedures of Discipline (Exhibit 2), by pressuring his subordinate employees and others to take part in church-sponsored activities. – **SUSTAINED**

It is alleged that Fiedor violated AP&P 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination (Exhibit 32), and Section 760.10(1), Florida Statutes (Exhibit 33), by treating his subordinates differently based on whether or not they attended church-sponsored events. – **NOT SUSTAINED/INCONCLUSIVE**

#### *Allegation #9*

It is alleged that Fiedor violated AP&P 6-01, Inspector General Investigations (Exhibit 37); AP&P 5-26, Standards and Procedures of Discipline, Section IX.E, "Violation of Law or Agency Rules," (Exhibit 2), namely Section 837.02, Florida Statutes, Perjury in Official Proceedings (Exhibit 40); and DIFS SOP 2.1.2, Standard of Conduct (Exhibit 41), by intentionally providing false and inaccurate information to the OIG during his sworn statement. – **SUSTAINED**

#### *Allegation #10*

It is alleged that Fiedor violated AP&P 1-15, Department of Financial Services Code of Ethics (Exhibit 34); AP&P 2-07, Fleet Management – Use of State Owned, Leased, or Rented Vehicles (Exhibit 31); and AP&P 5-26, Standards and Procedures of Discipline (Exhibit 2), by instructing and/or allowing his subordinates to drive their state-issued vehicles to church-sponsored events for personal interests. – **SUSTAINED**

#### *Allegation #11*

It is alleged that an unknown person violated AP&P 1-15, Department of Financial Services Code of Ethics, and AP&P 5-26, Standards and Procedures of Discipline, by placing a collection jar in the office as part of a pro-life campaign. – **SUSTAINED**

#### *Allegation #12*

It is alleged that O'Dell violated AP&P 5-04, Dual Employment and Compensation (Exhibit 35), which states, "Dual employment within or outside state government...shall not require the use of Department space, personnel, time, equipment or supplies," by conducting business for his secondary employment using Department time and resources. – **UNFOUNDED**



**ATTESTATION**

I, the undersigned, do hereby swear, under penalty of perjury, to the best of my personal knowledge, information, and belief, the contents of this report are true and accurate; and I have not knowingly or willfully deprived or allowed another to deprive, the subject of the investigation of any rights contained in Sections 112.532 and 112.533, Florida Statutes. This investigation was conducted pursuant to Section 20.055, Florida Statutes, in accordance with applicable Principles and Standards for Offices of Inspectors General as published by the Association of Inspectors General.



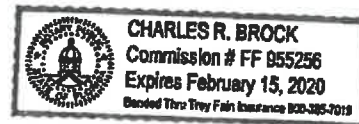
Andrew Blimes, Investigator

**STATE OF FLORIDA  
COUNTY OF LEON**

Sworn to (or affirmed) and subscribed before me this 13<sup>th</sup> day of March, 2017, Andrew Blimes, Investigator for the Department of Financial Services, Office of Inspector General, who is personally known by me.



Signature of Notary Public

☒ Notary Public or ☐ Law Enforcement Officer

This investigation was conducted by Investigator Andrew Blimes, supervised by Director of Investigations Mike Shoaf, and approved by Inspector General Teresa Michael. The investigation was conducted in accordance with guidance from the Association of Inspectors General handbook.

Reviewed by: 

Mike Shoaf, Director

Date: Approved by: 

Teresa Michael, Inspector General

Date: 

**EXHIBIT LIST**

Complaint Written by Kincaid .....	Exhibit #1
DFS AP&P 5-26, Standards and Procedures of Discipline .....	Exhibit #2
BFAI Policy 2.5.3, Law Enforcement Canines .....	Exhibit #3
Photos of Marcus Pointe Baptist Church Flyers .....	Exhibit #4
Photos of Collection Jar .....	Exhibit #5
Fiedor's Memo .....	Exhibit #6
Classification Action Request Forms .....	Exhibit #7
Grice's Policy Acknowledgement Form .....	Exhibit #8
O'Dell's Policy Acknowledgement Form .....	Exhibit #9
Fiedor's Policy Acknowledgement Forms .....	Exhibit #10
Email from Vaden dated November 10, 2016 .....	Exhibit #11
Photos of Kincaid .....	Exhibit #12
Email from Vaden dated November 15, 2016 .....	Exhibit #13
Kincaid's Timesheet .....	Exhibit #14
Office Diagram .....	Exhibit #15
Email to Kincaid dated November 14, 2016 .....	Exhibit #16
Email from Lt. Bill Spears dated June 26, 2016 .....	Exhibit #17
Emails from Kincaid to O'Dell .....	Exhibit #18
Kincaid's Leave Request .....	Exhibit #19
Kincaid's Training, Counseling, and Performance Improvement Plan .....	Exhibit #20
O'Dell's Notes .....	Exhibit #21
Additional Notes Kept by O'Dell .....	Exhibit #22
O'Dell's Secondary Employment .....	Exhibit #23
Email from O'Dell .....	Exhibit #24

Marcus Pointe Baptist Church Speakers.....	Exhibit #25
Email from Smith.....	Exhibit #26
Fiedor's Documentation.....	Exhibit #27
Email from Morgan.....	Exhibit #28
Printouts from Google Maps.....	Exhibit #29
Email from Daniels.....	Exhibit #30
DFS AP&P 2-07, Fleet Management – Use of State Owned, Leased, or Rented Vehicles.....	Exhibit #31
DFS AP&P 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination.....	Exhibit #32
Section 760.10, Florida Statutes.....	Exhibit #33
DFS AP&P 1-15, Department of Financial Services Code of Ethics.....	Exhibit #34
DFS AP&P 5-04, Dual Employment and Compensation.....	Exhibit #35
Email from Holt dated January 4, 2017.....	Exhibit #36
DFS AP&P 6-01, Inspector General Investigations.....	Exhibit #37
Emails Provided by Captain Ross Holt.....	Exhibit #38
O'Dell's Secondary Employment Request.....	Exhibit #39
Section 837.02, Florida Statutes.....	Exhibit #40
DIFS SOP 2.1.2, Standard of Conduct.....	Exhibit #41

## ***DISTRIBUTION LIST***

### **Action Official Distribution:**

Simon Blank, Director, Division of Investigative and Forensic Services

### **Information Distribution:**

Jeff Atwater, Chief Financial Officer

Robert Kneip, Chief of Staff

Chasity O'Steen, General Counsel

Jay Etheridge, Deputy Chief Financial Officer

Kim Fluharty-Denson, Executive Senior Attorney, Division of Legal Services

Stephanie Gray, Senior Attorney

Elizabeth Kelley, Chief of Human Resource Management

Kenyetta Moye, Senior Management Analyst Supervisor