



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

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## DIVISION OF INSURANCE FRAUD

*OIG Report of Investigation Number 14034 IA*

It is alleged that former Department of Insurance Fraud Major Geoffrey Branch and former Department of Insurance Fraud Lieutenant Deborah De La Paz Boxer violated Agency Policy and Procedure (AP&P) 8-02, Confidential Informants and Sources, by having an inappropriate personal relationship with Confidential Informant. It is also alleged that Branch and Boxer violated this same policy by having provide materials and labor for the remodeling of their shared personal residence. It is also alleged that Branch and Boxer violated AP&P 2-02, Purchase of Commodities/Contractual Services, by awarding contract to construct office space for a Department of Insurance Fraud Task Force office space without a competitive bidding process, or quotes from different vendors. In addition, it is alleged that Branch and Boxer's personal and business relationships with isolated AP&P 5-26, Standards and Procedures of Discipline – Career Service Employees (Conduct Unbecoming a Public Employee).

*Teresa Michael*

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

September 7, 2016



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## INVESTIGATIVE PREDICATE

On June 25, 2014, former Division of Insurance Fraud (DIF) Detective John Swope<sup>1</sup> alleged that DIF Major Geoffrey Branch had an inappropriate relationship with a confidential informant of the . Swope alleged that Branch, while head of a joint DIF and Broward County Sheriff's Office (BSO) Money Service Business (MSB) Task Force, awarded a no-bid contract for the construction of MSB Task Force office space in Deerfield Beach. Swope also alleged that had performed remodeling work at the private residence of Branch. On July 17, 2014, OIG Director of Investigations Captain Mike Shoaf assigned the investigation to OIG Investigator Charles Brock.

## ALLEGATIONS

It is alleged that former Major Branch and former Lieutenant Boxer violated AP&P 8-02, Confidential Informants and Sources (Exhibit #2), by not documenting as a confidential informant, and by having an inappropriate relationship with

It is also alleged that Branch and Boxer violated AP&P 2-02, Purchase of Commodities/Contractual Services (Exhibit #3), by awarding a contract to construct office space for a Department of Insurance Fraud Task Force without a competitive bidding process, or quotes from different vendors.

In addition, it is alleged that Branch and Boxer's personal and business relationships with, specifically, engaging in social activities with and using him to remodel the shared residence of Branch and Boxer, violated AP&P 5-26, Standards and Procedures of Discipline – Career Service Employees, Conduct Unbecoming a Public Employee (Exhibit #4).

INVESTIGATOR'S NOTE: Swope's complaint also detailed several other management related issues. This report will not address those issues. It is recommended that DIF management review Swope's statements and take any action deemed appropriate concerning Swope's management issues.

## EXECUTIVE SUMMARY

From June 24, 2014, to August 4, 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 both Branch and Boxer violated AP&P 8-02, in that they failed to document the actions of an individual they utilized as a confidential informant (CI) to assist with DIF investigations. Branch and Boxer also violated AP&P 8-02 by having an inappropriate personal and business relationship with . In addition, Branch and Boxer violated AP&P 2-02, by awarding a contract to construct office space for a Department of Insurance Fraud Task Force without a competitive bidding process, or quotes from different vendors. Lastly, Branch and Boxer's personal and business relationships with violated AP&P 5-26; Chapter 112.313, Florida Statutes; and Rule 60L-36.003, Florida Administrative Code.

<sup>1</sup> Swope resigned from the Department on December 31, 2014.





## COMPLAINANT INTERVIEW

On December 4, 2014, a sworn recorded interview of Division of Insurance Fraud, Bureau of Investigations, Detective John Swope was conducted at the State Fire Marshal Office in Plantation, FL. The following represents actual and paraphrased statements made by Swope:

Swope said he was given a case file from DIF Major John Dygon with information provided by the [redacted] This information included a list of construction companies conducting suspected workers' compensation insurance fraud. Swope noticed that one of the companies on this list was owned by [redacted] Swope said he learned from [redacted] had [redacted] and [redacted] was rumored to have done personal work for Branch at his home in Boca Raton. Swope asked the [redacted] about [redacted] and was told, "That guy's on probation, everybody knows it." The union representative also told Swope that [redacted] is also engaged in insurance fraud, and "He's easy pickins' if you want him." Swope subsequently contacted the OIG with this information. [Investigators Note: Swope was advised to follow normal DIF protocols concerning new case information.]

Swope advised that BSO Detective Gianino and Palm Beach Sheriff Office (PBSO) Detective Jamie Roussel told him that they had both spoken with [redacted] while he was taking measurements for the Task Force off-site build out. Swope said that both Gianino and Roussel said that [redacted] was bragging about having a close, personal friendship with Branch, and that he had done work on Branch's home. Swope became upset with Gianino and Roussel after this because they did not inform anyone of their knowledge of the relationship between [redacted] and Branch until Swope made his complaint to the OIG, despite knowing of it for some time.

Swope felt he could not place this information into the DIF ACISS system, since Boxer and Branch would have access to this, and they had a personal relationship with [redacted] Swope ultimately contacted DIF Major Buddy Hand and requested a transfer to another unit<sup>2</sup>.

Swope said that he was told that [redacted] had been arrested on federal charges in the past and had been working as a confidential informant for Branch. He stated, [redacted]

[redacted] After learning of the criminal history of [redacted] and the personal relationship between [redacted] and Branch and Boxer, he decided to make a complaint with the OIG and other agencies<sup>3</sup>.

Swope said Branch asked him if he knew anyone who could help Branch obtain a home equity line of credit on a piece of investment property in Boca Raton. Branch said that the property in Boca Raton was in need of extensive drywall repair. Swope told Branch about an acquaintance Swope knew from his church that was in the mortgage industry. Branch told Swope that he had a [redacted] who could do the needed improvement work for "next to nothing or almost nothing". Swope believes the [redacted] Branch was referring to was [redacted] Swope said he checked with the [redacted]

<sup>2</sup> Swope's request for a transfer was granted by DIF.

<sup>3</sup> Swope initially made a complaint to the Florida Department of Law Enforcement's (FDLE) Office of Executive Investigations. FDLE subsequently forwarded Swope's complaint to DCFO Jay Etheridge, who forwarded the information to the OIG.

and learned there are no records of

He stated, "If the work was performed, and I mean this sincerely, all I've heard is innuendo and, you know, supposition that this person did the work. If it was done, it was done without permits. has no reflection coming into their city and performing that type of work." He believes that all of the work was done "off the books."

Swope stated, presently, hasn't missed a step. He's doing the same thing he did that sent him to jail to begin with." Swope said it is alleged that is currently engaged in illegal activity to include workers' compensation fraud. Swope has informed Captain Dygon of the relationship between Branch and and alleged ongoing criminal activities.

Swope added, "As I understand, when it was related to me by BSO personnel, that initial federal arrest would eventually result in a Motion 35 hearing, which testified on behalf. The more I read about and our agency's involvement, the sicker I get."

Swope was asked about his understanding of who controlled the funds used by the Task Force. He stated, "It is my understanding that Geoff Branch had the authority to implement payments in the field. To pay a vendor, or for instance, with the build out, that was paid on behalf of Geoff Branch. He had the authority to obligate and activate activities on that account." Swope said that it was explained to him that any monies seized by the Task Force were deposited into a BSO account, then subsequently divided among the participating agencies, with ten percent going into an operating fund for the Task Force. Swope believes that Branch had the authority to write checks from the operating fund.

## DOCUMENTATION/RECORDS ANALYSIS

A review of a written statement submitted to the OIG by Swope (Exhibit #1), shows that Swope learned of a possible inappropriate relationship between Branch and that Branch testified on behalf at a Motion 35 hearing to get criminal sentence reduced, and that Branch hired to perform work on his residence. Swope wrote:

"Detective Andy Gianino has also made accusations regarding to a relationship that Major Geoff Branch was engaged with that was the subject of an arrest by the unit, a subject by the name

"There was a Motion 35 hearing that was conducted where testified on get a sentence reduction for this defendant."

"Once released, the was then hired by the major to perform work on his Palm Beach residence as well as work on the Broward Deerfield Office of the MSB Squad. Three former task force officers have informed Major Branch."

"Gianino stated that this

A review of AP&P 8-02, Confidential Informants and Sources (Exhibit #2), shows the following:

A confidential informant is defined as "A person who cooperates with a law enforcement agency confidentially in order to protect the person or the agency's intelligence gathering or investigative efforts and:

1. Seeks to avoid arrest or prosecution for a crime, or mitigate punishment for a crime in which a sentence will be or has been imposed; and
2. Is able, by reason of his or her familiarity or close association with suspected criminals, to:
  - a. Make a controlled buy or controlled sale of contraband, controlled substances, or other items that are material to a criminal investigation;
  - b. Supply regular or constant information about suspected or actual criminal activities to a law enforcement agency; or
  - c. Otherwise provide information important to ongoing criminal intelligence gathering or criminal investigative efforts."

Section VII, Procedures, Subsection D, states, in part:

"Confidential Informants shall be completely documented utilizing the "Confidential Informant Packet" (form DFS-L0-1963), which includes an informant profile. If the confidential informant is on parole/probation, the Department "Parole/Probation Agreement" (form DFS-L0-1965) must also be completed. (CFA 18.03M "A") (CFA 18.03M "B")

1. Under no circumstances will a confidential informant be utilized in any capacity prior to being fully documented."

Section VII, Control/Supervision of Confidential Informants/Sources, Subsection E, Paragraph 5, states:

"Detectives will not socialize or form non-Department partnerships or business relationships, become inappropriately friendly, or identify with a confidential informant or source and shall maintain the relationship on a strictly professional basis. Gifts or loans shall not be exchanged between any Department members and confidential informants or sources."

Paragraph 8 states, in part:

"Confidential informants and sources shall not be given members' home addresses or home telephone numbers."

A review of AP&P 2-02, Purchase of Commodities/Contractual Services (Exhibit #3), shows the following:

"Commodity" is defined as "any of the various supplies, materials, goods, merchandise, equipment, information technology, and other personal property, including a mobile home, trailer, or other portable structure with floor space of less than 5,000 square feet, purchased, leased, or otherwise contracted for by the state and its agencies."

Section VI, Procedures, states, in part, "Purchases which meet or exceed \$2,500, but are less than the threshold for Category Two<sup>4</sup>, will be made by soliciting a minimum of three written quotations."

<sup>4</sup> Chapter 287.017, Florida Statutes, Purchasing Categories, Threshold Amounts, lists the threshold for Category Two as \$35,000.

A review of AP&P 5-26, Standards and Procedures of Discipline – Career Service Employees (**Exhibit #4**), shows the following:

Section IX, Standards for Disciplinary Action, sub-section E, Violation of Law or Agency Rules, states, in part, "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. All employees are subject to Part III of Chapter 112, Florida Statutes, governing standards of conduct, which agencies shall make available to employees. An agency may determine that an employee has violated the law even if the violation has not resulted in arrest or conviction."

Section IX, Standards for Disciplinary Action, sub-section F, Conduct Unbecoming a Public Employee, states, in part, "Employees shall: (1) conduct themselves, on and off the job, in a manner that will not bring discredit or embarrassment to the state; (2) be courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers; (3) maintain high standards of honesty, integrity, and impartiality..."

Section IX, Standards for Disciplinary Action, sub-section G, Misconduct, states, "Employees shall refrain from conduct which, though not illegal or inappropriate for a state employee generally, is inappropriate for a person in the employee's particular position. For example, cowardice may be dishonorable in people generally, but it may be entirely unacceptable in law enforcement officers. By way of further example, people are generally free to relate with others, but it may be entirely unacceptable for certain employees to enter into certain relations with others, such as correctional officers with inmates."

[Investigator's Note: The exhibits originally labeled as **Exhibit #5** and **Exhibit #6** were not used for this report.]

A review of an email message from Branch to "Darcey O'Brien" (Internal Revenue Service Investigator), dated March 4, 2009, with a subject of "Darcey O'Brien", shows that Branch was aware of [redacted] was a criminal defendant in an ongoing DIF case. In the email, Branch writes, "When will I know if 1) I have access to anything you have n [redacted] and two, what is the new date of sentencing. I think I'd like to attend. He called our Compliance folks again and professed that he had done nothing wrong and that he had a bunch of people to turn in."

A review of a "Cooperation/Substantial Assistance and Non-Prosecution Agreement Between the Office of Statewide Prosecution and [redacted]", shows that [redacted] agreed to provide ongoing cooperation with law enforcement investigations into "fraudulent activities, including an organized scheme to defraud, workers' compensation insurance fraud, and money laundering." The agreement states, in part, "MAR [redacted] y [redacted] (Investigator's Note: While DFS was not a part of this agreement, [redacted] investigation into "the above stated activities.")

A review of email messages obtained from Branch's Department email account show [redacted] assisted in several DIF investigations (E [redacted]). One of the messages appears to indicate that some of this assistance includ [redacted] surreptitiously recording conversations occurring in his office.

A review of a "Factual Proffer," issued in the United States District Court Southern District of Florida, for Case #08-20911-CR-SEITZ (Exhibit #10), dated, December 10, 2008, shows that [redacted] admitted to conducting various forms of criminal fraud through [redacted]

A review of an email message from "John Askins" (former DIF Director) to Branch, dated October 21, 2010, with a subject of "RE: I have a future in the defense bar" (Exhibit #11), shows that Branch testified as a defense witness for [redacted] Branch wrote, "While my testimony in SUPPORT of conviction during the last month seemed to fall on deaf ears, my testimony as a defense witness this morning in SUPPORT of a *sentence reduction* for [redacted]"

A review of email messages between Branch, Boxer and others from March 6, 2012 to August 23, 2012, concerning the construction of MSB Task Force office space at a [redacted] shows that [redacted] were chosen for the project without any competitive bids or price quotes from other vendors.

A review of a document found during a forensic examination of Branch's DFS laptop computer shows that the document appears to be a draft of an unsent email message to "Eric" (Exhibit #13). In this message Branch discusses the building of [redacted] "The build-out was done at the builder's cost...." The total cost of the project is stated as \$12,915.45.

A review of email messages between Branch, Boxer, and [redacted] shows that Branch and Boxer used [redacted] and associated sub-contractors for remodeling work performed at the shared residence of Branch and Boxer [redacted]. Selected messages show:

On December 20, 2013, [redacted] sent an email message to both Branch and Boxer concerning the choice of a granite slab for their kitchen.

On January 9, 2014, Boxer forwarded a message sent to her through [redacted] to Branch containing an attachment of "signed drawings for the Kitchen for your records."

On February 4, 2014, [redacted] sent an email message to Branch concerning the choice of marble counter tops. [redacted] wrote, "Attached is Anna's business card of Expo Marble...She is loaning us the A Frame rack for the windows...Deborah and yourself need to come to Expo to select the type of edges you want for your tops."

A review of an invoice from Capitol Air Conditioning, dated January 13, 2014 (Exhibit #15), shows that [redacted] purchased a new air conditioning system for the shared residence of Branch and Boxer. The price of the new system is listed as \$4,475.00.

A review of a document titled "Item Actual Cost Detail," obtained from [redacted] (Exhibit #16), shows that from November 23, 2013, to September 30, 2014, a total of \$25,196.99 in material and services were provided for the project named "Branch House." The price of the new air conditioning system documented in Exhibit #15 of this report is not listed in this cost detail.

A review of a document titled "Job Profitability Detail for Branch House," obtained from [redacted] shows that Powertech provided a total of \$25,196.99 in material and services [redacted]



for "Branch House." This document also shows that the material and labor were apparently provided at actual cost by \_\_\_\_\_, and, as of March 22, 2016, \_\_\_\_\_ has not received any payment for the material and services provided.

A review of email messages between Branch and \_\_\_\_\_ dated December 13, 2013, and December 18, 2013, shows that Branch and Boxer formed a social relationship, to include attending a Christmas party given by \_\_\_\_\_ and engaging in sightseeing activities with \_\_\_\_\_ during a trip to New York City (Exhibit #18).

Exhibit #19 is the transcript of a sworn statement by \_\_\_\_\_ provided to the OIG by Assistant State Attorney David Schulson, 17<sup>th</sup> Judicial Circuit, Broward County, Florida, dated March 21, 2016. This exhibit is discussed in detail in the Witness Interviews section of this report.

Exhibit #20 is the transcript of a sworn statement by Geoffrey Branch provided to the OIG by Assistant State Attorney David Schulson, 17<sup>th</sup> Judicial Circuit, Broward County, Florida, dated April 20, 2016. This exhibit is discussed in detail in the Subject Interviews section of this report.

Exhibit #21 is a letter from the OIG to State Attorney Dave Aronberg, 15<sup>th</sup> Judicial Circuit, Palm Beach County, dated May 13, 2015. This exhibit is discussed in detail in the Law Enforcement Referrals section of this report.

Exhibit #22 is a copy of a memorandum from Detective Justus Reid, Office of the State Attorney, 15<sup>th</sup> Judicial Circuit, Palm Beach County, dated March 9, 2016. This exhibit is discussed in detail in the Law Enforcement Referrals section of this report.

Exhibit #23 is a letter from the OIG to Assistant State Attorney Tim Donnelly, 17<sup>th</sup> Judicial Circuit, Broward County, Florida, dated January 14, 2016. This exhibit is discussed in detail in the Law Enforcement Referrals section of this report.

Exhibit #24 is a letter and attached memorandum to the OIG from Assistant State Attorney David Schulson, 17<sup>th</sup> Judicial Circuit, Broward County, Florida, dated May 2, 2016. This exhibit is discussed in detail in the Law Enforcement Referrals section of this report.

Exhibit #25 is copies of letters sent from the OIG to both Geoffrey Branch and Del De La Paz Boxer requesting an interview. This exhibit is discussed in the Subject Interviews section of this report.

Exhibit #26 is a letter from attorney James Casey, on behalf of Branch to the OIG, dated August 4, 2016. Casey refers to this document as a "letter of proffer," and contains responses to some of the allegations of misconduct against Branch. Some of the responses include:

"Neither Mr. Branch nor Ms. de la Paz-Boxer had final say or any binding authority for any work which was performed on D \_\_\_\_\_ utilized by the \_\_\_\_\_." [Investigator's note: This is refuted by emails showing that both Branch and Boxer were instrumental in the selection \_\_\_\_\_ to perform the work and his getting paid for the work (Exhibit #12), as well as a sworn statement from Broward County Sheriff's Office Detective Joseph Kessler who stated that Branch selected \_\_\_\_\_

\_\_\_\_\_ as the SAO documents clearly reveal was never a Confidential Informant for DIF." Investigator's Note:

informant, Exhibits #7, #8, #9, #11, and sworn statements of witnesses, show that \_\_\_\_\_ was being used as a confidential informant.]

\_\_\_\_\_ as the SAO documents clearly reveal, voluntarily provided information in support of criminal investigations being conducted and under the supervision of the Broward Sheriff's Office Money Laundering Task Force prior to providing any information to DIF." [Investigator's Note: Exhibit #8 shows that \_\_\_\_\_ was legally required to cooperated with law enforcement investigations.]

**Exhibit #27** is a letter from attorney James Casey, on behalf of Boxer to the OIG, dated August 4, 2016. Casey refers to this document as a "letter of proffer," and contains responses to some of the allegations of misconduct against Boxer. Some of the responses include:

"Ms. de la Paz-Boxer had no financial interest or obligation in the Boca Raton residence, which is the focus of your investigation, when any of the work in question was performed. She did not participate in the acquisition of the residence, the acquisition of the services of \_\_\_\_\_ nor anyone else who may have performed work on the Boca Raton residence..." [Investigator's Note: Exhibit #14, as well as sworn statements from witnesses, shows that Boxer was instrumental in the design and choice of materials for the remodeling work performed by \_\_\_\_\_ at the Branch/Boxer residence.]

"Neither Mr. Branch nor Ms. de la Paz-Boxer had final say or any binding authority for any work which was performed on \_\_\_\_\_" [Investigator's Note: Exhibit #12 shows that Boxer was instrumental in getting \_\_\_\_\_ paid for the construction work done for the Task Force.]

\_\_\_\_\_ as the SAO documents clearly reveal was never a Confidential Informant for DIF." [Investigator's Note: Despite no documentation \_\_\_\_\_ being a confidential informant, Exhibits #7, #8, #9, #11, and sworn statements of witnesses, show that \_\_\_\_\_ was being used as a confidential informant.]

A review of a letter from Assistant State Attorney David Schulson to Doug Sheedy, Manager of Code Enforcement for the city of Boca Raton, dated April 6, 2016, shows that Schulson referred information concerning Branch doing renovations at his residence "without applying for a single permit" (**Exhibit #28**). In the letter, Schulson states, "I am reporting this matter to you because at the time of purchase of the home and subsequent renovations, Mr. Branch was employed as a Major with the Florida Department of Insurance Fraud."

A review of a Building Plan Review/Inspection History report for the Branch residence obtained from the Palm Beach County Code Enforcement website shows that on May 13, 2016, the Branch residence was found to be out of compliance for not having permits for "Window & Door Replacement w/out Glazing Protection" (**Exhibit #29**). On May 31, 2016, during a final building inspection, the residence was found to be in compliance.

A review of DFS Division of Investigations and Forensic Services, Bureaus of Insurance/WC/OFI ACISS Case Master Report 09-229 (**Exhibit #30**), shows that Branch learned \_\_\_\_\_ and his alleged involvement in criminal activities related to Workers' Compensation Fraud from a tip from the Special Investigative Unit for FCCI Insurance Group. The report also shows the following:

Branch initiated the DIF investigation as Reporting LEO and Approved the initiation as the Lieutenant Supervisor for West Palm Beach Squad 2 on February 12, 2009.

On March 4, 2009, Branch, Boxer, and DIF Investigator Paul Sennet interviewed Jean Favreau concerning alleged criminal activity of .

On March 20, 2009, Branch, Boxer, and Sennet prepared and drafted a search warrant, a search warrant affidavit, and an order to seal for the search of .

On March 24, 2009, Branch, Boxer, Sennet and other law enforcement personnel executed a search warrant at .

On April 20, 2009, Branch, Boxer and Sennet interviewed both . and Daniel O'Brien relating to workers' compensation fraud.

On April 27, 2009, Boxer entered the following narrative: "As of March 20, 2009 to present, I have assisted DIF Detective Paul Sennett with the investigation of ) . My assistance has included but has not been limited to the following: Surveillance of the subject business, execution of search warrant at suspect business, copying of business records obtained as a result of search warrant executed at suspect business and delivery to office manager, and interviews."

. Sennet arrested . in Broward County with charges of Insurance Fraud, Florida Communications Fraud Act, and Money Laundering. The narrative entry was approved by Branch.

. was convicted for the listed criminal charges. Sennet's narrative entry contains the following:

. was convicted in the Southern District of Florida in Broward County pursuant to Federal charges that were filed with the US attorney's Office [sic] for the same criminal conduct during the same time period that the State of Florida was contemplating charges. . was sentenced to 5 years of Federal Prison and ordered to pay 1.2 million dollars. As a result of . federal conviction, the State of Florida having probable cause that . committed violations of organized scheme to defraud, workers compensation insurance fraud and money laundering executed a Cooperation/Substantial Assistance and Non-Prosecution Agreement between the Office of Statewide Prosecution and . based on his current sentencing and plea-agreement with the Federal Government.

In addition to having to pay restitution to Bridgefield Insurance Company [sic] (\$53,878.46) and Investigative Costs to DIF (\$3,284.81), Miami-Dade Police Department (\$1,744.44) and the Office of Statewide prosecution (\$3,622.92); . is also obligated to other disclosures as described in the agreement with the State of Florida, see attached [sic]."

## WITNESS INTERVIEWS



On December 2, 2014, a sworn recorded interview of Division of Insurance Fraud, Bureau of Investigations, Detective Desiree McGovern was conducted at the State Fire Marshal Office in Plantation, FL. The following represents actual and paraphrased statements made by McGovern:

McGovern said that when she joined the task force, LT Boxer was her supervisor, with MAJ Branch heading the unit.<sup>5</sup> Shortly after her arrival to the unit Captain Dygon took over for Branch.

McGovern was asked about any relationship between Branch, Boxer, and a construction company owner named [REDACTED]. She said that she has heard rumors that "Geoff flew out of state to get him off charges." She added, "And that he used him to do work on his personal home as well as the off-site." She heard these rumors from other Task Force members. McGovern stated that she does not know the individual named [REDACTED]. She stated during one of the new cases Branch made a comment to an attorney that he helped someone get off of charges. After the meeting McGovern asked Valerio who Branch had helped and Valerio told her the [REDACTED].

McGovern stated that she did not know anyone else who would have direct information concerning [REDACTED] except for Branch and Boxer. McGovern was asked if she had an issue with an officer developing a friendship or personal relationship with someone they arrested or investigated and she responded, "I see a lot of issues pertaining to the Geoff and Debbie issue. And I personally feel it should have been remedied a long time ago. [McGovern was referring to a superior dating a subordinate]". McGovern stated that Branch has been on boards and panels that Boxer has appeared before while they were involved in a relationship. McGovern was asked if she would ever have a personal relationship with someone she has investigated or arrested, to which she responded, "I would not do that. I morally just do not think that is a healthy situation."

On December 4, 2014, a sworn recorded interview of Palm Beach County Sheriff Office, Strategic Investigations Division, Detective Jamie Roussel was conducted at the State Fire Marshal Office in Plantation, FL. The following represents actual and paraphrased statements made by Roussel:

Jamie Roussel is an Agent/Detective with Palm Beach County, and is currently assigned to the Broward County Workers' Compensation Fraud Task Force. He was previously attached to the Division of Insurance Fraud (DIF) Money Services Business (MSB) Task Force. He started with the Task Force in July of 2012, and is familiar with Branch, Boxer and [REDACTED].

Roussel said he went to [REDACTED] on January 27, 2014, working an undercover operation for the Task Force where [REDACTED] was acting as a confidential informant for Branch. [REDACTED] was having a meeting with ERL Services, a shell company target of the Task Force and Roussel was going to be introduced to the subject during the meeting [REDACTED]. While Roussel, Branch and Boxer were [REDACTED] to set up the meeting, Roussel said that Boxer told him she needed to pick out cabinets for the Branch/Boxer residence. He stated, "It was apparent that she helped in picking cabinetry [REDACTED] place of business for the new house." Roussel assumed that [REDACTED] was a confidential source for Branch, as Branch was the "front man" for the undercover operation at [REDACTED]. According to Roussel, Branch never referred [REDACTED] as a source, just as [REDACTED]. Roussel was instructed to record the meeting with [REDACTED] and the subject from ERL Services. [Investigator's Note: Roussel provided the OIG with a copy of the recording he made of the [REDACTED].

<sup>5</sup> McGovern said she became a member of the MSB task force in March of 2014, just days before it disbanded.

meeting at [redacted] and the subject from ERL Services. This recording confirmed that Roussel secretly recorded a meeting between [redacted] and a criminal suspect that occurred at [redacted].

Roussel said it was rumored that Branch had actually arrested [redacted] in the past<sup>6</sup>. Roussel was asked how it made him feel that Branch had a relationship with [redacted]. He stated, "Well, Geoff was using him to remodel his house. 'Cause when I was there, it was open, it was just the three of us. And Debbie was saying 'I gotta pick up cabinetry. Well if he did do time, based on that, I mean that's a huge conflict of interest. I mean, that's not even morally correct."

Roussel said that after being introduced to [redacted], he realized that he had seen him before, when [redacted] was taking measurements at the [redacted].

Roussel thinks that someone told him [redacted] because of the assistance [redacted] provided to the Task Force, Branch "went to bat for him" and got [redacted] federal sentence reduced at a Motion 35 hearing. He does not remember who told him this.

**On December 2, 2014, a sworn recorded interview of Broward County Sheriff's Office, Strategic Investigations Division, Detective Joseph Kessling was conducted at the State Fire Marshal Office in Plantation, FL. The following represents actual and paraphrased statements made by Kessling:**

Kessling is a Detective for the BSO in the Strategic Investigations Division, working in the Money Laundering/Worker's Compensation Task Force. He became a member of the DIF (MSB) task force when it was formed, and is familiar with Branch, Boxer and [redacted].

Kessling was asked what he knew about the relationship between Branch and [redacted]. Kessling said he knew that Branch had arrested [redacted] on multiple workman's compensation charges. [redacted] was a convicted felon, and that Branch had testified on his behalf at a trial so [redacted] could get a reduced sentence. He stated, "But apparently they became friends. Which is taboo." He said that Branch made numerous comments that he had a friend who would get him deals on construction supplies and workers for an investment property. He stated, "Come to find out that this guy [redacted], from what I understand, did a lot of work at [redacted]."

Kessling said that [redacted] was chosen to do some construction at a [redacted] sub-station, so that a section of the station could be used by [redacted]. According to Kessling, there was no competitive bid process<sup>7</sup> for this project and it was Branch who selected [redacted] company for the project.

**On December 2, 2014, a sworn recorded interview of Division of Insurance Fraud, Bureau of Investigations, Detective Leisa Valerio was conducted at the State Fire Marshal Office in Plantation, FL. The following represents actual and paraphrased statements made by Valerio:**

<sup>6</sup> A search of DIF records conducted by Director Simon Blank showed no evidence of Branch having arrested [redacted]. However, in DIF Case #09-229, then Lieutenant Branch assisted in the investigation of [redacted] for Workers' Compensation Fraud. [redacted] was ultimately arrested by DIF Investigator Paul Sennet as a result of this investigation (Exhibit #30).

<sup>7</sup> AP&P 2-02, Purchase of Commodities/Contractual Services (Exhibit #3), requires "a minimum of three written quotations."

Valerio was the Acting Lieutenant for the MSB squad, filling in for Lieutenant Boxer who was moved to a different squad. She was previously the Lead Detective for the MSB squad, and reported to Lieutenant Boxer. She stated, "I was basically Debbie's [Boxer] right hand."

Valerio was asked about the alleged relationship between Branch, Boxer and [redacted]. Valerio said she knows of [redacted] but does not know him as an informant for Branch or Boxer. She knows that he is the owner of a construction company. She heard that before she came to the Task Force there was an IRS case where [redacted] was a witness. Branch told Valerio that he assisted in getting [redacted] a reduced sentence. Valerio heard Boxer talk about [redacted] on a couple of occasions. At the time, Valerio did not know that [redacted] was connected to [redacted]. She did know that the Task Force was using [redacted] to assist in targeting other companies for investigation. She, along with Detectives Melvin and Roussel conducted surveillance where they observed a suspect going to [redacted]. She said the suspect in this incident was not [redacted] but another individual who was meeting with [redacted]. Valerio met [redacted] when he was doing the remodeling at the Deerfield Beach office. She does not know how [redacted] was chosen to do the construction work for the Task Force at the Deerfield Beach office. Valerio was asked if she knew [redacted] ever did any personal work for Branch or Boxer. She stated, "I have heard her [Boxer] on a couple of occasions talk to [redacted] and I assumed it was things that were related to Geoff's house." Valerio did not put together the relationship [redacted] had with Branch until she and Branch were attending a convention concerning PIP fraud. Valerio told Branch that they should bring someone from the construction industry to speak, and Branch told her that "he had [redacted] and that he had gotten him a reduced sentence."

Valerio was asked if she felt it would be appropriate for someone from DFS, who has pursued a criminal investigation against someone, to have a personal relationship with that individual. She stated, "Absolutely not."

Valerio said that she heard "Probably a good five or six phone calls where she [Boxer] spoke to somebody [redacted] in reference to work that was being done [redacted]. According to Valerio, Branch divorced his wife and bought a new house, which is the one [redacted] was doing the work on. Valerio does not know the address of Branch's residence. She stated, "I just know it's not too far from [redacted] that we had because a couple of times Debbie had to run over there and come back, and she said she wasn't going to be long." She said that Branch and Boxer are boyfriend and girlfriend and are now living together. Valerio believes [redacted] is in Boca Raton and that it was purchased in [redacted]."

**On December 4, 2014, a sworn recorded interview of Broward County Sheriff's Office, Bureau of Investigations, Detective Andy Gianino was conducted at the State Fire Marshal Office in Plantation, FL. The following represents actual and paraphrased statements made by Gianino:**

Gianino assisted DIF Major Branch in arranging the presentation to BSO command staff that ultimately led to the creation of the MSB Task Force. Gianino had known Branch since 2002, when both were members of a counter-terrorism task force. Gianino was a member of the MSB Task Force for about two and a half years, and is familiar with Branch, Boxer and [redacted].

Gianino said the MSB Task Force was under Branch's direction with DIF Lieutenant Deborah de la Paz-Boxer running the day-to-day operation. According to Gianino, BSO handled the financial and legal aspects of the Task Force, as DIF did not have those capabilities. The Task Force worked out of DIF offices, first in Plantation, then in Ft. Lauderdale and Deerfield Beach. Gianino said the Task Force

"Bounced around with no clear direction as to who was running it. It went from Branch, to Major [Buddy] Hand, to Captain [John] Dygon, back to Major Branch. It was a mess at the end."

Gianino was asked if he had any information concerning the office space that was constructed for the [redacted]. He said he does not know how the construction was paid for. He gave Branch and Boxer a tour of the facility, as he knew it was unused space that could possibly be used by the Task Force. Gianino said he knew [redacted] stating, "He was an informant years ago that I had contact with. But I think I met [redacted] once in the last three years, at his facility, [redacted]"

Gianino said he and Boxer met with [redacted] on one occasion at [redacted] office. He could not remember if the meeting was for a case with the Task Force or for a personal visit between [redacted] and Boxer. Gianino said that [redacted] was working as a confidential informant and stated, "Absolutely, we used his business front for many enforcements."<sup>8</sup>

Gianino said that Branch knew of [redacted] criminal history, and Branch testified at a hearing to get [redacted] federal sentence reduced. He does not know how [redacted] company was chosen to do the construction [redacted], just that Branch said [redacted] company was doing the build-out.

Gianino said it was common knowledge among the Task Force that [redacted] was doing some work on Branch's personal residence. He could not remember who he heard this from, but suspects it was another detective, perhaps Lisa Valerio, rather than from Branch or Boxer.

## LAW ENFORCEMENT REFERRALS

On May 13, 2015, in accordance with Chapter 20.055(7)(C), Florida Statutes, which states that Offices of Inspectors General are required to, "Report expeditiously to the Department of Law Enforcement or other law enforcement agencies, as appropriate, whenever the inspector general has reasonable grounds to believe there has been a violation of criminal law," the OIG requested that the Office of the State Attorney for the 15<sup>th</sup> Judicial Circuit, Palm Beach County, review the totality of evidence obtained by the OIG in relation to possible violations of law committed by either Branch or Boxer within the jurisdiction of the 15<sup>th</sup> Judicial Circuit (**Exhibit #21**). On March 18, 2016, the OIG received a copy of a memorandum from Detective Justus Reid, 15<sup>th</sup> Judicial Circuit, containing the following information (**Exhibit #22**):

On August 7, 2015, Reid spoke with DIF Major John Dygon. Reid wrote, "Chief Dygon advised that he searched his agency records and did not find any documentation [redacted] ever being a documented confidential informant. Further, Chief Dygon advised that he made contact with Major Nate Osgood of the Broward County Sheriff's Office (BSO) regarding [redacted] status as a confidential informant with BSO. Per Chief Dygon, Major Osgood did not find any documentation [redacted] every being a documented confidential informant with the Broward County Sheriff's Office."

On February 12, 2016, Reid interviewed [redacted]. Reid wrote, "[redacted] advised that he, to the best of his knowledge, had never signed any documentation for a DIF 'Confidential

<sup>8</sup> During the interview, Gianino said that he knew [redacted] as an informant "for many years." Gianino had personally used [redacted] as an informant while working with BSO before the creation of the MSB Task Force.



Informant Packet. [redacted] involved himself with the DIF task force to assist in "cleaning up the construction industry". [redacted] admitted that a friendship developed with [redacted] over time and that the construction work that he completed on [redacted] was done out of that friendship."

Reid ended his memorandum by writing, "In conclusion, the culture inside of the DIF task force was described by former members as dysfunctional due to severe personality conflicts between certain task force members. There was no documentation from either agency, DIF or BSO, proving that [redacted] was a documented confidential informant or source. The allegation of official misconduct under FSS 838.022, that [redacted] received Branch's character witness testimony in federal court in exchange for construction services from [redacted] was unsubstantiated. There was no specific evidence to support the criminal allegation that [redacted] was ever offered Branch's character witness testimony in federal court in exchange for any services."

[Investigator's Note: Reid informed both the OIG and DIF command staff on several occasions that he would make a referral to the Office of the State Attorney in Broward County so that the issues pertaining to Branch using [redacted] to construct Task Force office space in [redacted] could be appropriately investigated. In January, 2016, the OIG learned that Reid had not made a referral to the Office of the State Attorney in Broward County, and the OIG subsequently contacted that office directly.]

On January 14, 2016, the OIG requested that the Office of the State Attorney for the 17<sup>th</sup> Judicial Circuit (Broward County) review the totality of evidence obtained by the OIG in relation to possible violations of law committed by either Branch or Boxer within the jurisdiction of the 17<sup>th</sup> Judicial Circuit (Exhibit #23). On May 2, 2016, the OIG received a memorandum from Assistant State Attorney David Schulson, 17<sup>th</sup> Judicial Circuit, indicating that no criminal charges would be brought forth against either Branch or Boxer (Exhibit #24).

On March 21, 2016, a sworn recorded interview of [redacted] was conducted by Assistant State Attorney David Schulson at the Office of the State Attorney, 17<sup>th</sup> Judicial Circuit in Fort Lauderdale, Florida. Schulson provided the OIG with a transcript of [redacted] statement (Exhibit #19). The following represents actual and paraphrased statements made by [redacted]

[redacted] first met Branch when [redacted] were raided by Branch and other DIF detectives during a workers' compensation insurance fraud investigation<sup>9</sup>. He subsequently began assisting Branch and other members of the MSB Task Force. When asked about the type of assistance he was providing, [redacted] stated, "You mean the work as a cop?" He added, "And without exaggeration, there was probably I would say six, maybe eight operations originating from our office where the agents wear our shirts pretending to be project managers, we use our checks to pay shell companies."

[redacted] said that he initially began working with the MSB Task Force hoping that his business, [redacted] would not be shut down due to his assistance to law enforcement. He was asked if he thought his cooperation with the Task Force might help him with federal charges he was facing. [redacted] stated, "Yes. Yes. Because they told me that it might, but they didn't make any promises." He added, "They [the MSB Task Force] did not want us to go to prison. They were trying to appeal to the Federal agent that we were too valuable as informants to go to jail, and they had, according to their

<sup>9</sup> As shown in Exhibit #30, this occurred on March 24, 2009.

own words, they had never had somebody with, you know -- we had the office, we had the exposure, we had the name, we had the knowledge, so that was good for their, whatever thing they wanted to do."

said Branch asked [redacted] to do some remodeling work at a [redacted] residence. The MSB Task Force needed part of the sub-station to be remodeled for Task Force use. [redacted] was asked if he knew if there were any competitive bids or price quotes from other companies for the construction of Task Force office space. He stated, "No. He told me that they had no money for that, put aside for that, so I told him we should do it on a TNM basis, this way, you know, it will be the cheapest way for you to go. He says, no, no, no, they need a fixed number for that because it's BSO and that's how they work, they need a fixed number, so I went there basically trying to figure out what my cost was going to be."

said that he and [redacted] provided thousands of dollars in material and labor for remodeling work done at a residence shared by Branch and Boxer located at [redacted]. [redacted] said he initially began helping Branch with small projects at the residence. He stated, "Scrape all the popcorn off the ceiling because it was popcorn and it had water damage. It was like bad at some areas so I told him that was like my gift to him. I said, this is ridiculous, it looks like crap. Let's scrape off all the popcorn and then we'll do a finishing and you can paint." The work required at the Branch residence grew more extensive, and [redacted] began providing more materials and labor. When asked to estimate the total retail value of the remodeling work he provided to Branch and Boxer for this residence [redacted] stated, "Probably flirting with a hundred thousand dollars. [redacted] said that he personally assisted Branch in repairs to the ceiling, floors and other areas of the residence [redacted] provided all the material and labor for the remodeling at cost. [redacted] was asked to estimate the total amount of material and services he provided to Branch for the remodeling of his residence, and if he ever gave Branch a bill for his work. [redacted] stated, "No, he is going to say I never gave him an invoice, which is true, but I told him it was around 21,000. I never gave him an invoice as per se here it is, this is what you owe." [redacted] was asked if he felt Branch owes him money for the work and materials provided by himself and [redacted]. He stated, "I can't say Geoff Branch owes me money because I never gave him an invoice and I never send him a 30-day past due letter and I never call him, hey Geoff, when are you going to pay me? So if somebody asks me does Geoff Branch owe you money? Yes, but I'm not putting pressure on him to pay me."

[redacted] said he did not obtain any building permits for the work that was being done at the Branch residence as this was the homeowner's responsibility. He also knew that Branch did not obtain any building permits for the work. He stated, "Well, the issue here for him was time, and I think he thought pulling a permit would delay the process. And the original work he wanted to do was just fixing the garage and the windows and as it goes forward, my understanding it's his thinking, it's his house, his money -- was that he wanted to do more and more and then decided to borrow as much money as he could and change the windows and do a good house."

[redacted] said that he and his wife have socialized with Branch and Boxer. He stated, "We--he invited me at Christmas, he had a block [party] at his house and my wife and I went there for an hour, and my wife and [redacted] got close when we went to New York<sup>10</sup> and we stayed like two, three days, and Geoff and I were at [the] courthouse, so [redacted] were like walking in Manhattan

<sup>10</sup> Branch and [redacted] were invited to testify about workers' compensation fraud by a New York Grand Jury.

and driving around, so they got to know each other. friends. He stated, "Yes. After New York, yes."

was asked if he and Branch became good

## **SUBJECT INTERVIEW[S]**

On April 20, 2016, a sworn recorded interview of Geoffrey Branch was conducted by Assistant State Attorney David Schulson at the Broward County Courthouse in Fort Lauderdale, Florida. It should be noted that Schulson offered Branch immunity from criminal prosecution in exchange for his statement. Schulson provided the OIG with a transcript of statement (Exhibit #20). The following represents actual and paraphrased statements made by Branch:

[INVESTIGATOR'S NOTE: On May 19, 2016, the OIG received a copy of the transcript of ASA Schulson's interview with Branch. It was only upon reviewing the transcript that the OIG learned that Schulson granted Branch immunity from criminal prosecution in exchange for his testimony. Despite frequent communication between Schulson and the OIG, Schulson did not inform the OIG about his office granting Branch immunity from criminal prosecution.]

Branch began his career with the DIF in 1998 and was employed by the Department until January 31, 2015. In 2009, Branch was promoted to Major and the Bureau Chief of Workers' Compensation Fraud. Branch first met in 2009 during the execution of a search warrant at for an insurance fraud investigation. agreed to cooperate with the state during this investigation.

Branch said that assisted in a series of investigations for the MSB Task Force. However, Branch said he was not directly involved with the Task Force's use of he stated, "Now, keep in mind that I was a good bit removed other than being the contact person because at the time we had somebody assigned to the Broward Sheriff's Office Money-Laundering Task Force. And they were the ones that were actually tackling that part of it."

Branch testified at a Rule 35 hearing on behalf of detailing some of the assistance that provided to the Task Force. He stated, "I requested bullet points on everything that he touched and whether it was successful or not and I was given that. And that was the basis of my testimony at the Rule 35."

Branch was asked if, based on the assistant was providing to the Task Force, was there ever any discussion as to having documented as a confidential informant. He stated, "I don't know if they had any discussion with him. I didn't have any discussions. The relationship was unique in that it was a very -- he was very eager to assist and there was never any hesitation or question. If he got something or he thought something would be of interest to law enforcement, he would call. He would call me. He would call somebody."

Branch admitted that he and Boxer socialized with Branch said that he, Boxer, and wife travelled together to New York City so that could testify before a New York Grand Jury investigating workers' compensation fraud. He also said he and Boxer attended a Christmas party. Branch stated, "So to answer your question, at least one occasion that we had socialized with he and his friends and his wife, not extensively. Communicated with him on the phone pretty regularly."

Branch was asked about the relationship between [redacted] and members of the Task Force. He stated, "I know that at least two or three of the detectives in my office had gone over there on a regular basis or called him and said, hey, can you help us with this or can you do that? I don't think he ever actively, again, work on anything in an undercover capacity, for any of us anyway."

At one point during Task Force operations, there was a discussion about converting part of a [redacted] S [redacted] Branch was asked how [redacted] was suggested for the project. He stated, "I would've brought it up into the conversation. When we were having a very casual, frank conversation of what we thought it would do, what was thought it would take, I said you ask [redacted] what he thinks it would take to do something like that."

Branch was asked if he had any knowledge of any procedures, either from DFS or BSO, about getting more than one proposal for a project over a certain dollar amount. He stated, "I had no idea. All I know is that I felt confident that I had included at least Captain [Robert] Schnakenberg [BSO] in the loop. That if there was anything that needed to be I's dotted and T's crossed that certainly somebody, you know, it's they're building." He added, "Yeah. It was a joint idea that certainly if someone thought something was not crossed or not done correctly that they would have brought it to my attention or somebody's attention and said we've got to do it a different way."

Branch said he purchased a house in Boca Raton that needed some remodeling and construction work, and that [redacted] offered to help him with the work that needed to be done. As he and [redacted] began working on the house, he realized that more work needed to be done than was originally planned. He stated, "It was really a gradual progression. I mean our idea was maybe two months or three months we'd have this thing refinanced and I paid anybody that I owed off, you know, as soon as I could and it just seemed to grow."

Branch described [redacted] providing extensive assistance in the remodeling of Branch's residence. He stated, "He would send people. Like I would say this is what I'm working on and this is what I think is important for me to get across, also. There weren't long extended periods of time, there weren't even hours where people were there working where I wasn't there working alongside of them. That is, it appears that he was sending teams of people out to do stuff. They were only there when I was there and if they were working on something, I was working on it with them."

Branch said he did not apply for any building permits during the remodeling of his residence. When asked why he did not apply for the permits, he stated, "It was strictly a speed thing. I was only thinking about getting the thing and livable condition. I was living on my mom's pullout couch and I just wanted to get into the house..." Branch was asked that as a law enforcement officer at the time, charged with enforcing workers' compensation laws and conducting fraud investigations, did he think about the ramifications of not getting the proper permits when they are required? He stated, "I don't think my thought process was anywhere near clear enough to get to that level."

Branch admitted that he has not paid [redacted] for the work that was done at his residence. He had initially planned on refinancing the house after the work was completed, and using the profits from the refinancing to pay back [redacted] and other debt. However, the refinancing was for less than Branch had thought, and he told [redacted] he could not pay him back right away. He stated, "I said, [redacted] It's evident that whatever cash I get out of this refi is not going to cover everything that I owe. I'm going to pay some credit cards off. I distinctly remember saying I'm not looking at this like a charity case. If you send me what I owe you, I don't know how I'll do it but I'm



going to pay you back." Branch said that on his feet."

old him he could be repaid when Branch "got back

Branch was asked if since the time the house was refinanced had he had any conversation with about paying him the money that was owed. Branch stated, "We haven't had any conversation about it. I can tell you that it was my intent, based partially on what he had said about when you get back on your feet. It was my intent to initiate that conversation and start paying. That was my intent."

Branch was asked if he thought that working as a Major with DIF, having perform remodeling work at his residence might be an issue with his chain-of-command? He stated, "No. It never crossed my mind. No. Obviously, fast forward to today, in conversations I've had with Mike [Mike Gottlieb, the attorney representing Branch], my judgment in thinking wasn't at its finest hour."

[Investigator's Note: On July 22, 2016, both Branch and Boxer were sent letters from the OIG, informing them of the investigation into allegations of their misconduct while employed with the Department (Exhibit #25). Branch and Boxer were also informed that since they were no longer the subjects of any criminal investigations being conducted by the Office of the State Attorney for either the 15<sup>th</sup> or 17<sup>th</sup> Judicial Circuit, they were being offered the opportunity to give a statement to the OIG for its administrative investigation. On August 8, 2016, the OIG received "letters of proffer" from James Casey, an attorney representing both Branch and Boxer (Exhibits #26 and #27). Both letters indicate that neither Branch nor Boxer will be providing statements to the OIG. Both letters appear to contain responses on behalf of Branch and Boxer to some of the allegations under investigation, and these responses will be addressed in the conclusion section of this report.]

## FINDINGS/CONCLUSION

It is alleged that former DIF Major Geoffrey Branch and former DIF Lieutenant Deborah De La Paz Boxer violated AP&P 8-02, Confidential Informants and Sources (Exhibit #2), by not documenting as a confidential informant, and by having an inappropriate relationship with In the letters of proffer for Branch and Boxer, it is stated, as the SAO documents clearly reveal, was never a Confidential Informant for DIF." While it is true that there is no documentation listing as a confidential informant, clearly met the definitions in policy for being classified as a confidential informant: Branch testified: assistance in Task Force operations, resulting in a reduced federal sentence for and regularly provided Branch and other Task force members with information about criminal activities relating to money laundering and insurance fraud. In sworn statements to the OIG, members of the Task Force stated they considered a confidential informant referred to his assistance to the Task Force as "work as a cop." Both Branch, in his capacity as a Law Enforcement Major in charge of the Task Force, and Boxer in her capacity as a Law Enforcement Lieutenant in charge of the day to day operations of the Task Force, should have ensured that was registered as a Confidential Informant, and that his activities were properly documented according to Department policy. **SUSTAINED.**

It is alleged that former DIF Major Geoffrey Branch and former DIF Lieutenant Deborah De La Paz Boxer violated AP&P 8-02, Confidential Informants and Sources (Exhibit #2), by having an inappropriate relationship with Section VII, Control/Supervision of Confidential Informants/Sources, Subsection E, Paragraph 5, states, in part: "Detectives will not socialize or form non-Department partnerships or business relationships, become inappropriately friendly, or identify

with a confidential informant or source and shall maintain the relationship on a strictly professional basis." In sworn statements both Branch and [redacted] admit to travelling to New York together. Email messages found in Branch's Department Outlook account describe Branch, Boxer and [redacted] engaging in sightseeing activities together while in New York. Branch, Boxer and [redacted] also attended a Christmas party together. When asked if he thought he and Branch were good friends, [redacted] replied, "Yes. After New York, yes."

[redacted] also provided \$25,196.99 (Exhibit #16) of material and services for the remodeling work done to the shared residence of Branch and Boxer. As of April 20, 2016, [redacted] has not been paid for any of this work. In the letter of proffer for Boxer, it is stated, "Ms. de la Paz-Boxer had no financial interest or obligation in the [redacted] [redacted] which is the focus of your investigation, when any of the work in question was performed. She did not participate in the acquisition of the residence, the acquisition of the services of [redacted] nor anyone else who may have performed work on the [redacted]"

However, email messages between [redacted] Branch and Boxer (Exhibit #14) show that Boxer was involved in the selection of a marble slab and cabinet designs for the remodeling of the kitchen in the Branch/Boxer residence. PBSO Detective Jamie Roussel said that during a meeting at [redacted], Boxer told him she needed to pick out cabinets for the Branch/Boxer residence. He stated, "It was apparent that she helped in picking cabinetry at [redacted] place of business for the new house." DIF Detective Leisa Valerio stated, "I have heard her [Boxer] on a couple of occasions talk to [redacted] and I assumed it was things that were related to Geoff's house." **SUSTAINED.**

It is alleged that Branch and Boxer violated AP&P 2-02, Purchase of Commodities/Contractual Services, by awarding [redacted] contract to construct office [redacted]

[redacted] without a competitive bidding process, or quotes from different vendors (Exhibit #12). Email messages between Branch, Boxer [redacted] and members of DIF and BSO chains-of-command, show that [redacted] were chosen to construct the office space with no competitive price quotes or bids. When asked if he had any knowledge of any requirement to obtain competitive quotes or bids for the project, Branch stated, "I had no idea." Branch admitted to choosing [redacted] for the project. AP&P 2-02 states, in part, "Purchases which meet or exceed \$2,500, but are less than the threshold for Category Two, will be made by soliciting a minimum of three written quotations." In the letter of proffer for Boxer, it is stated, "Neither Mr. Branch nor Ms. de la Paz-Boxer had final say or any binding authority for any work which was performed on Broward Sheriff's Office property." While Branch selected [redacted] for the construction project, Boxer was instrumental in submitting the invoice to both BSO and DIF for the payment to [redacted] and [redacted]. Boxer should have known that competitive price quotes were required. **SUSTAINED.**

It is alleged that Branch and Boxer's personal and business relationships with [redacted] violated AP&P 5-26, Standards and Procedures of Discipline - Career Service Employees, Violation of Law or Agency Rules, and Conduct Unbecoming a Public Employee (Exhibit #4). **SUSTAINED.**

AP&P 5-26, Section IX, Standards for Disciplinary Action, sub-section E, Violation of Law or Agency Rules, states, in part, "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. All employees are subject to Part III of Chapter 112, Florida Statutes, governing standards of conduct, which agencies shall make available to employees. An agency may determine that an employee has violated the law even if the violation has not resulted in arrest or conviction." In his sworn statement [redacted] said he knew that Branch did not obtain any building permits for the remodeling or construction work at the Branch residence. In his sworn statement, Branch admitted to not obtaining any building permits for the [redacted]

remodeling or construction work done at his residence. An inspection conducted by the Palm Beach County Office of Code Enforcement found the Branch residence out of compliance for not having the proper permits related to window and door replacement (**Exhibit #29**).

Section IX, Standards for Disciplinary Action, sub-section F, Conduct Unbecoming a Public Employee, states, in part, "Employees shall: (1) conduct themselves, on and off the job, in a manner that will not bring discredit or embarrassment to the state; (2) be courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers; (3) maintain high standards of honesty, integrity, and impartiality...."

In utilizing \_\_\_\_\_ as an undocumented confidential informant, and using \_\_\_\_\_ to provide materials and services for the remodeling of their shared residence, and by failing to get competitive bids for a construction project at a BSO sub-station, both Branch and Boxer discredited the Department and failed to maintain a high standard of honesty, integrity and impartiality.

**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.

  
Charles Brock, Investigator

**STATE OF FLORIDA  
COUNTY OF LEON**

Sworn to (or affirmed) and subscribed before me this 8 day of September, 2016,  
Charles Brock, 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 Charles Brock, 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:

9/8/2016

Approved by:

  
Teresa Michael, Inspector General

Date:

9/8/16

**EXHIBIT LIST**

Written statement of John Swope .....	Exhibit #1
AP&P 8-02, Confidential Informants and Sources.....	Exhibit #2
AP&P 2-02, Purchase of Commodities/Contractual Services.....	Exhibit #3
AP&P 5-26, Standards and Procedures of Discipline .....	Exhibit #4
(Unused) .....	Exhibit #5
(Unused) .....	Exhibit #6
Email message from Branch to "Darcey O'Brien", dated March 4, 2009.....	Exhibit #7
Cooperation/Substantial Assistance and Non-Prosecution Agreement Between the Office of Statewide Prosecution and .....	Exhibit #8
Email messages from Branch showing tl .....	Exhibit #9
DIF investigations.....	Exhibit #9
Factual Proffer", issued in the United States District Court Southern District of Florida, for .....	Exhibit #10
Email message from "John Askins" to Branch, dated October 21, 2010 .....	Exhibit #11
Email messages between Branch, Boxer and others concerning the construction of MSB Task Force office space at a l .....	Exhibit #12
Draft of an unsent email message from Branch to "Eric" .....	Exhibit #13
Email messages between Branch, Boxer, : .....	Exhibit #14
of the . .....	Exhibit #14
Copy of an invoice from Capitol Air Conditioning.....	Exhibit #15
A document titled "Item Actual Cost Detail" from : .....	Exhibit #16
for the .....	Exhibit #16

A document titled "Job Profitability Detail for Branch House" from .....	Exhibit #17
Email messages from Branch's Department email account showing he and Boxer formed a social relationship with .....	Exhibit #18
Transcript of sworn interview of .....	Exhibit #19
Transcript of sworn interview of Geoffrey Branch .....	Exhibit #20
Letter of referral from the OIG to the office of the State Attorney for the 15 <sup>th</sup> Judicial Circuit.....	Exhibit #21
Memorandum from Detective Justus Reid, 15 <sup>th</sup> Judicial Circuit.....	Exhibit #22
Letter of referral from the OIG to the office of the State Attorney for the 17 <sup>th</sup> Judicial Circuit.....	Exhibit #23
Memorandum from Assistant State Attorney David Schulson, 17 <sup>th</sup> Judicial Circuit .....	Exhibit #24
Letters from the OIG sent to both Branch and Boxer.....	Exhibit #25
Letter of Proffer from James Casey re: Branch.....	Exhibit #26
Letter of Proffer from James Casey re: Boxer.....	Exhibit #27
Letter of referral to City Code Enforcement.....	Exhibit #28
Building Plan/Inspection History report for Branch residence from I County Code Enforcement.....	Exhibit #29
Copy of ACISS Case Master Report .....	Exhibit #30

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CHIEF FINANCIAL OFFICER  
**JIMMY PATRONIS**  
STATE OF FLORIDA

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## DIVISION OF WORKERS' COMPENSATION

*OIG Report of Investigation Number 17024 I*

It is alleged that Government Analyst I Cheryl Powell, Investigations Manager Swendy Ariyanayagam, Bureau Chief Pam Macon, Assistant Director Andrew Sabolic, Director Tanner Holloman, and Division of Risk Management Assistant Director Robin Delaney, violated numerous Department of Financial Services Administrative Policies and Procedures in their interactions with former Workers' Compensation Administrator S.112.3188(1),FS.

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

April 17, 2018





## ***INVESTIGATIVE PREDICATE***

On August 9, 2017, the Florida Department of Financial Services (DFS) Office of Inspector General (OIG) received an online complaint (Exhibit #1) from former Workers' Compensation Administrator S.112.3188(1),FS<sup>1</sup> regarding alleged misconduct on the part of numerous Division of Workers' Compensation (DWC) employees. On August 9, 2017, OIG Director of Investigations Mike Shoaf assigned this complaint to OIG Investigator Andrew Blimes for investigation.

## ***ALLEGATIONS***

S.112.3188(1),FS alleged that during s. 112.3188(1), F.S. employment with the Department, s. 112.3188(1), F.S. witnessed various acts of misconduct committed by the following employees:

- DWC Director Tanner Holloman
- DWC Assistant Director Andrew Sabolic
- Former DWC Bureau of Compliance (BOC) Chief Robin Delaney<sup>2</sup>
- DWC BOC Chief Pam Macon
- DWC BOC Investigations Manager Swendy Ariyanayagam<sup>3</sup>
- DWC BOC Government Analyst I Cheryl Powell<sup>4</sup>

As S.112.3188(1),FS's allegations concern numerous acts of alleged misconduct, involving multiple employees, over a span of approximately 18 months, each allegation of misconduct will be addressed separately in this report.

## ***EXECUTIVE SUMMARY***

From August 9, 2017, to April 12, 2018, 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 violations occurred:

- Powell violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F CONDUCT UNBECOMING A PUBLIC EMPLOYEE, and AP&P 4-04, Information Technology Resources Acceptable Use Policy, by excessively using her telephone and computer for personal use.
- Powell violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by excessively using her telephone and computer for personal use while claiming State time on her timesheets.
- Ariyanayagam violated AP&P 5-26, Standards and Procedures of Discipline Section IX.C INEFFICIENCY OR INABILITY TO PERFORM ASSIGNED DUTIES, by reporting an incorrect number of case closure reviews completed by Powell during a performance evaluation period.

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<sup>1</sup> S.112.3188(1),FS resigned from the Department effective August 25, 2017.

<sup>2</sup> Delaney is currently the Division of Risk Management Assistant Director.

<sup>3</sup> Effective April 1, 2018, Ariyanayagam became a Bureau Chief in the Division of Consumer Services

<sup>4</sup> Powell was a Government Operations Consultant II and reported to S.112.3188(1),FS prior to S.112.3188(1),FS's separation; however, Powell was demoted to a Government Analyst I on November 1, 2017, and now reports to Investigations Manager Greg Mills.

- Ariyanayagam violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F CONDUCT UNBECOMING A PUBLIC EMPLOYEE and Section IX.C INEFFICIENCY OR INABILITY TO PERFORM ASSIGNED DUTIES, by knowingly submitting timesheets that were inaccurate.
- Ariyanayagam violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by sharing inappropriate personal stories with S.112.3188(1),FS.
- Macon violated AP&P 5-26, Standards and Procedures of Discipline Section IX.C INEFFICIENCY OR INABILITY TO PERFORM ASSIGNED DUTIES, by knowingly approving timesheets that were inaccurate.

## PERSONS INTERVIEWED

The following individuals provided statements as part of this investigation. All statements were sworn and recorded unless otherwise noted.

Last Name	First Name	Title	Involvement	Race (a)
Aldana	Scarlett	Workers Compensation Administrator	Witness	Hispanic or Latino
Ariyanayagam	Swendy	Investigations Manager	Subject	Asian
Beckstrom	Lynise	Workers Compensation Administrator	Witness	White
Cabrera	Julio	Former Regulatory Analyst II	Witness	Hispanic or Latino
Carlin	Mark	Former Government Analyst II	Witness	White
Casal	Jacqueline	Former Insurance Analyst II	Witness	Hispanic or Latino
Cerrone	Bob	Former Workers Compensation Administrator	Witness	White
Cicio	Michael	Insurance Analyst II	Witness	White
Delaney	Robin	Former Chief of Compliance (b)	Subject	White
Fluriach	Hector	Insurance Analyst II	Witness	Hispanic or Latino
			Complainant	
Glover	Kirk	Insurance Analyst II	Witness	Black or African-American
Gumph	Jack	Former Government Analyst II	Witness	White
Holloman	Tanner	Director	Subject	Black or African-American
Krossman	Patty	Former Investigations Manager	Witness	White
Ledwell	Maria	Insurance Specialist I	Witness	Hispanic or Latino
Loy	Michelle	Workers Compensation Administrator	Witness	White
Macon	Pam	Chief of Compliance	Subject	Black or African-American
Mickens	Alexia	Insurance Specialist I	Witness	Black or African-American
Mills	Greg	Investigations Manager	Witness	Black or African-American
Morales (d)	Loysy	Former Insurance Analyst II	Witness	Hispanic or Latino
Powell	Cheryl	Government Analyst II	Subject	Black or African-American
Proano	Anita	Senior Management Analyst Supervisor	Witness	Hispanic or Latino
Rivera	Wanda	Workers Compensation Administrator	Witness	Hispanic or Latino
Rodriguez (e)	Yailen	Former Insurance Analyst II	Witness	Hispanic or Latino
Sabolic	Andrew	Assistant Director	Subject	White
Seidler	Maria	Workers Compensation Administrator	Witness	Hispanic or Latino
Tigner-Lofton	Laura	Insurance Analyst II	Witness	Black or African-American
Valdivia	Xotchi	Insurance Analyst II	Witness	Hispanic or Latino
Victores	Marilyn	Former Insurance Analyst II	Witness	Hispanic or Latino
Wilson	Errol	Insurance Analyst II	Witness	Black or African-American

(a) According to People First records

(b) Delaney is currently the Assistant Director of the Division of Risk Management

(c) [REDACTED] declined to provide a recorded statement; however, [REDACTED] was sworn in and did answer questions related to the investigation. [REDACTED] also provided three written complaints.

(d) Morales declined to provide a statement but answered multiple questions via telephone.

Rodriguez declined to provide a recorded statement; however, she was sworn in and did answer questions related to the investigation.

The reporting structure within DWC is set up as follows:

- The following line-level employees report(ed) to a district supervisor:
  - Cabrera, Casal, Cicio, Fluriach, Glover, Ledwell, Mickens, Morales, Rodriguez, Tigner-Lofton, Valdivia, Victores, and Wilson
- The following district supervisors report(ed) to an Investigations Manager:
  - Aldana, Beckstrom, Cerrone, S.112.3188(1),FS, Loy, Rivera, and Seidler
- The following analysts also report(ed) to the Investigations Manager:
  - Gumph and Powell
- The following Investigations Managers report(ed) to the Bureau Chief:
  - Ariyanayagam, Krossman, and Mills
- The following employees also report(ed) to the Bureau Chief:
  - Carlin and Proano
- The following Bureau Chiefs reported(ed) to the Assistant Director:
  - Delaney and Macon
- The Assistant Director (Sabolic) reports to the Director (Holloman).

## ***DOCUMENTATION/RECORDS ANALYSIS***

### **Exhibit #1: Online Complaint Forms Submitted by S.112.3188(1),FS**

This exhibit contains two complaints submitted by S.112.3188(1),FS to the OIG through the OIG's online complaint system on August 9, 2017, and a third complaint submitted on September 27, 2016. The first complaint is made against Ariyanayagam. S.112.3188(1),FS alleges that Ariyanayagam uses her position for personal gain, does not allow employees to report the proper time on timesheets, gossips about and conspires against other employees, and harasses people based on personal bias and agendas.

The second complaint is made against Powell. S.112.3188(1),FS alleges that Powell submits timesheets with "time marked as worked and spent doing personal things." S.112.3188(1),FS also alleges that Powell discriminates against Hispanics and spends time "gossiping and making fraudulent accusations." S.112.3188(1),FS writes that she has notified Ariyanayagam and Sabolic of Powell's behavior.

The third complaint is made against Ariyanayagam. S.112.3188(1),FS alleges that Ariyanayagam falsified Powell's performance evaluation to give Powell a higher score than she earned. S.112.3188(1),FS writes that the falsified score was "payback for Cheryl Powell's false allegations" that allowed Ariyanayagam to "eliminate others."

### **Exhibit #2: Email from S.112.3188(1),FS to Holloman dated August 9, 2017**

This exhibit contains an email from S.112.3188(1),FS to Holloman dated August 9, 2017, with a copy sent to the Chief Financial Officer (CFO) and Human Relations (HR). The message was then forwarded to the OIG from HR on August 15, 2017. In the email, S.112.3188(1),FS alleges that Holloman offered to allow s. 112.3188(1), F.S. to use 102 hours of annual leave with sick days "here and there" at the end of S.112.3188(1),FS's employment so that s. 112.3188(1), F.S. would be paid for all of August 2017. However, S.112.3188(1),FS writes that Holloman then had a "change of heart" after S.112.3188(1),FS asked to speak with the CFO. S.112.3188(1),FS writes that Holloman has an "inability to remain

impartial and fair,” and alleges Holloman has not been “accurate, truthful and genuine” since he initially told s. 112.3188(1), F.S. could use leave through August. S.112.3188(1),FS also writes that Holloman’s refusal to find s. 112.3188(1), F.S. another position within the agency was “retaliatory and discriminatory,” and S.112.3188(1),FS goes on to write s. 112.3188(1), F.S. feels all three Hispanic females (S.112.3188(1),FS, Jacqueline Casal, and Yailen Rodriguez) in s. 112.3188(1), F.S. section are being discriminated against in retaliation for an anonymous OIG complaint that was made (see OIG Case 17018 MR). *(NOTE: The allegations made in 17018 MR include Powell being given a state car to travel in for approximately four or five years. The complainant alleged that Powell took the car home regularly and used it for lunch hours and personal errands. The complainant also alleged that Powell is “difficult, power driven [and] nasty” to customers, employees, and peers, and Powell is “specifically nasty with the Hispanic community.” Based on interviews conducted and the documentation/records reviewed, there was no apparent violation of policy, procedure, or rule.)*

S.112.3188(1),FS writes that the discrimination is “spear headed [sic] by Swendy Ariyanayagam and Cheryl Powell,” and writes that Ariyanayagam has been “defaming my name, my work and my person” by discussing S.112.3188(1),FS’s termination with “everyone.” S.112.3188(1),FS writes that Ariyanayagam also “persecuted” former Insurance Analyst II Michelle Jimerson, but does not specify how Jimerson was persecuted. *(NOTE: OIG staff attempted to contact Jimerson for a statement; however, the OIG’s letter was returned as “not deliverable.” Jimerson was terminated effective September 28, 2015, for violations of Rule 60L-36.005(3), Florida Administrative Code; DFS AP&P 5-26, Standards and Procedures of Discipline; DFS AP&P 1-15, Code of Ethics; DWC’s Training Memorandum 08-002; and DWC’ Memorandum 05-003.)*

S.112.3188(1),FS then describes Powell’s “great Leave and Attendance problem,” claiming Powell is over 15 minutes tardy approximately 50 times a year. S.112.3188(1),FS goes on to write that Powell is disrespectful and bullies people. S.112.3188(1),FS writes Powell is “continuously” on the office phone making personal calls and has “made racial comments” to Rodriguez and S.112.3188(1),FS.

S.112.3188(1),FS writes that s. 112.3188(1), F.S. has informed Macon, Delaney, and Sabolic of numerous issues, but S.112.3188(1),FS “was ignored.” S.112.3188(1),FS writes FS s. 112.3188(1), F.S. informed s. 112.3188(1), F.S. chain of command of the following occurrences:

- 1) Ariyanayagam asked S.112.3188(1),FS to loan her [Ariyanayagam] money for a down payment on a car. S.112.3188(1),FS felt [S.112.3188(1),FS] “couldn’t say no.”
- 2) Ariyanayagam asked S.112.3188(1),FS to attend classes, such as public speaking and exercise, with her. If S.112.3188(1),FS did not attend, Ariyanayagam would “throw constant tantrums at work,” and call S.112.3188(1),FS “stupid, idiot and an anal retentive.”
- 3) S.112.3188(1),FS alleges s. 112.3188(1), F.S. “spent countless hours” driving Ariyanayagam around and “doing things for her [Ariyanayagam]” because S.112.3188(1),FS felt s. 112.3188(1), F.S. would lose s. 112.3188(1), F.S. job if s. 112.3188(1), F.S. said no.
- 4) S.112.3188(1),FS alleges that Ariyanayagam made [S.112.3188(1),FS] work on Saturdays “at least 4 times,” and S.112.3188(1),FS was not compensated for time worked.
- 5) S.112.3188(1),FS alleges that Ariyanayagam has “slapped me in the back of the head.”
- 6) S.112.3188(1),FS writes that Ariyanayagam “gets rid of” anyone that challenges her. S.112.3188(1),FS alleges that Ariyanayagam has or intends to get rid of former Investigations Manager Patricia Krossman, former Workers Compensation Administrator Robert Cerrone, Workers Compensation Administrator Scarlett Aldana, Senior Management Analyst Supervisor Anita Proano and Investigations Manager Greg Mills.

- 7) S.112.3188(1),FS writes, "Swendy [Ariyanayagam] during work hours made me listen to [inappropriate personal stories] while I expressed to her that I didn't want to listen but I still had to."
- 8) S.112.3188(1),FS writes that Ariyanayagam bullied and intimidated [S.112.3188(1),FS] by telling stories of how Ariyanayagam belonged to a "radical group who was responsible for murdering the first female prime minister of India."
- 9) S.112.3188(1),FS alleges that when Ariyanayagam went on ride along with Insurance Analyst II Xotchi Valdivia, Ariyanayagam had Valdivia drop her [Ariyanayagam] off at a hair salon "for hours" during State time.

S.112.3188(1),FS claims that Holloman has failed s. 112.3188(1), F.S. by allowing Ariyanayagam's and Powell's actions to continue. S.112.3188(1),FS writes that Holloman is "very bias and preferential when it comes to dealing with people of your color; you do not deal with light skin Hispanics in the same way."

**Exhibit #3:** Email from S.112.3188(1),FS to CFO Jimmy Patronis dated August 10, 2017

This exhibit contains an email that S.112.3188(1),FS sent to the CFO on August 10, 2017. S.112.3188(1),FS then forwarded the email to Blimes on August 15, 2017. In the email, S.112.3188(1),FS reiterates several of s. 112.3188(1), F.S. allegations made in Exhibits 1 and 2, including retaliation by Holloman, Ariyanayagam, Macon, Sabolic, and Powell for making the anonymous OIG complaint (see OIG Case 17018 MR). S.112.3188(1),FS writes that s. 112.3188(1), F.S. made the anonymous complaint due to "Powell's racial comments and issues with the Hispanic female in the office." S.112.3188(1),FS writes that Holloman told s. 112.3188(1), F.S. he could not find s. 112.3188(1), F.S. another position in the Department because he "couldn't trust" s. 112.3188(1), F.S., and he "can not [sic] have people filing reports." S.112.3188(1),FS writes that s. 112.3188(1), F.S. believes s. 112.3188(1), F.S. was let go as a result of filing the anonymous OIG complaint. At the end of the email, S.112.3188(1),FS writes that s. 112.3188(1), F.S. would like s. 112.3188(1), F.S. job and a "fair chance to work," as well as wanting Ariyanayagam to lose her job.

**Exhibit #4:** AP&P 1-15, DFS 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."

**Exhibit #5:** 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 of Financial Services (Department), to assure each job applicant and employee equal employment and promotional opportunities without regard to that person's age, race, color, sex, religion, political opinions or affiliations, marital status, or disability, except when there exists a bona fide occupational qualification necessary to perform the tasks associated with the position." Section III.B. 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." Section XIV.B. states, "Any Department supervisor or managerial employee who has knowledge of any sexual harassment or any complaint of sexual harassment or of any other acts of unlawful discrimination or any complaint of other acts [of] unlawful discrimination involving any

agency employee, shall immediately report the matter to the Agency Head or the Chief of Human Resource Management. If any supervisor or managerial employee fails to take corrective action and/or report the matter, the individual shall be subject to disciplinary action up to and including dismissal."

**Exhibit #6: AP&P 5-26, Standards and Procedures of Discipline**

Section IX.B. NEGLIGENCE of this policy 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." Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE states employees shall "(2) be courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers; (3) maintain high standards of honesty, integrity, and impartiality; (4) place the interest of the public ahead of personal interests; (5) not use, or attempt to use, their official position for personal gain or confidential information for personal advantage."

**Exhibit #7: Powell's 2016-2017 Performance Evaluation Completed by S.112.3188(1),FS**

This exhibit contains Powell's annual performance evaluation completed by S.112.3188(1),FS prior to S.112.3188(1),FS's separation from the department. For Performance Expectation 1.1 Case Closure Review, S.112.3188(1),FS notes, "Lead investigator Powell performed 195 Case Closure reviews, averaging 16.25 reviews per month." This earned Powell a score of 2 for the measure. For Performance Expectation 2.1 Communication, Powell received a score of 2. All other scores are identical to the scores given by Ariyanayagam in Exhibit 10. Powell's overall score in this exhibit is 3.00. Attached to the performance evaluation, S.112.3188(1),FS included a series of system-generated reports from DWC's case management system. The report titled "Performance Standards – Case Review Report" lists a total of 195 cases reviewed by Powell during the period of July 1, 2016, through June 30, 2017. *(NOTE: In reviewing this exhibit, the OIG noted that Powell was given a score of 5 for Performance Expectation 1.2 Employer Investigations. The accompanying comment notes that Powell conducted nine employer investigations. However, based on the stated scoring metric, a score of 5 requires more than nine employer investigations to be completed. An employee that conducted 9 employer investigations should receive a score of 4 based on the stated grading scale.)*

**Exhibit #8: Powell's Quarterly Performance Evaluations Completed by S.112.3188(1),FS**

This exhibit contains email documentation of quarterly performance evaluations completed by S.112.3188(1),FS for Powell. The exhibit contains three reviews for the quarters ending September 2016, December 2016, and March 2017. In the first email, dated November 1, 2016, S.112.3188(1),FS writes that s. 112.3188(1), F.S. and Powell had discussed Powell's need to improve in Case Closure Reviews and Petition Review Analysis. In the second email, dated January 6, 2017, S.112.3188(1),FS writes that she and Powell had discussed "improvements from the last quarterly review and the need to continue the same forward momentum in Case Closure Reviews." In the third email, dated April 5, 2017, S.112.3188(1),FS writes that Powell completed 15.66 case reviews per month during the quarter, but a score of 3 requires 18 reviews per month.

**Exhibit #9: Powell's Attendance Record Maintained by S.112.3188(1),FS**

This exhibit contains a record of Powell's attendance and leave from July 2016 through June 2017. The record contains 71 occurrences in which Powell arrived late, left early, called out sick, or used

annual leave without advanced approval. On the final page of the record, S.112.3188(1),FS wrote, "27 tardy [sic] during the evaluation period of 10 minutes or more. Tardy of less than 10 minutes not counted/considered."

**Exhibit #10: Powell's 2016-2017 Performance Evaluation Completed by Ariyanayagam**

This exhibit contains Powell's final annual performance evaluation completed by Ariyanayagam. For Performance Expectation 1.1 Case Closure Review, Ariyanayagam notes, "Lead investigator Powell performed 292 Case Closure reviews, averaging 24.3 reviews per month." This earned Powell a score of 4 for the measure. Next to this paragraph, S.112.3188(1),FS has written the note "Cheryl Powell, Swendy Ariyanayagam, Pamela Macon falsified evaluation numbers!" For Performance Expectation 2.1 Communication, Powell received a score of 3. All other scores are identical to the scores given by S.112.3188(1),FS in Exhibit 7. Powell's overall score in this exhibit is 3.27. *(NOTE: In reviewing this exhibit, the OIG noted that Powell was given a score of 5 for Performance Expectation 1.2 Employer Investigations. The accompanying comment notes that Powell conducted nine employer investigations. However, based on the stated scoring metric, a score of 5 requires more than nine employer investigations to be completed. An employee that conducted 9 employer investigation should receive a score of 4 based on the stated grading scale.)*

**Exhibit #11: Insurance Analyst II Salaries**

This exhibit contains information retrieved from the People First system by the OIG. Due to allegations made by S.112.3188(1),FS that Insurance Analyst II Errol Wilson (B/M) was paid more than any other entry level Insurance Analyst II due to race, OIG staff reviewed the starting salaries of eight current and former Insurance Analyst IIs within the South Region of DWC. Hire dates for the eight employees ranged from April 1, 2011, through July 5, 2017. Of the eight employees:

- Four of them—one white and three Hispanic or Latino—had starting salaries of \$2,724.76 per period (\$32,697.12 annually). These employees work (or worked) out of the West Palm Beach, Ft. Lauderdale, and Miami offices. Dates of hire for these employees are April 1, 2011, September 24, 2013, October 6, 2014, and July 5, 2017.
- Two of them—one black or African-American and one Hispanic or Latino—had starting salaries of \$2,812.67 per period (\$33,752.04 annually). These employees work out of the West Palm Beach and Ft. Lauderdale offices. Dates of hire for these employees are May 31, 2016, and August 8, 2016.
- One of them—black or African-American—had a starting salary of \$2,896.00 per period (\$34,752.00 annually). This employee works out of the Ft. Lauderdale office. Dates of hire for this employee is May 26, 2017.
- Wilson, who is African-American, had a starting salary of \$3,000.00 per period (\$36,000.00 annually). Wilson works out of the West Palm Beach office. Wilson's date of hire is November 28, 2016.

*(NOTE: These salaries represent base salaries only and do not include any supplementary competitive area differentials. The pay range for an Insurance Analyst II position is \$25,774.06 to \$75,258.91.)*

**Exhibit #12: Powell's DFS Desk Phone Records**

This exhibit contains a record of all incoming and outgoing calls to and from DFS extension 75737, which was the number associated with Powell's desk phone prior to her demotion. The record covers

the period of June 1, 2017, through July 31, 2017. The record shows that Powell made or received 10 or more calls to/from the following numbers:

- Powell made 67 long-distance calls to a Chicago telephone number (773-426-2322), as well as received four calls from the same number. In total, Powell spent 9 hours and 34 minutes on the phone with this Chicago number, for which the State was charged \$15.01. Six of these calls were over a half hour in length, and one was over an hour. All calls were between 7:30 AM and 4:30 PM. *(NOTE: It was determined that this number is associated to one of Powell's non-work friends, and these calls were not work-related.)*
- Powell made 31 long-distance calls to a Miami telephone number (786-454-0610), as well as received 10 calls from the same number. In total, Powell spent 2 hours and 36 minutes on the phone with this Miami number, for which the State was charged \$3.33. All calls were made between 7:30 AM and 3:15 PM. *(NOTE: It was determined that this number is associated to one of Powell's non-work friends, and these calls were not work-related.)*
- Powell made 14 long-distance calls to a Boynton Beach telephone number (561-619-8325), as well as received four calls from the same number. In total, Powell spent 23 minutes on the phone with this Boynton Beach number, for which the State was charged \$0.75. Based on Powell's voicemail records, this number is associated with Central Auto, and the calls are, at least in part, related to the repair of a State vehicle. All calls were made between 8:15 AM and 5:15 PM.
- Powell received 11 calls from a West Palm Beach telephone number (561-223-7615), as well as made 7 long-distance calls to the same number. In total, Powell spent 57 minutes on the phone with this West Palm Beach number, for which the State was charged \$0.49. All calls were made between 8:15 AM and 4:30 PM. *(NOTE: It was determined that this telephone number is associated with Insurance Analyst II Michael Cicio, and these calls were work related.)*
- Powell made 10 long-distance calls to a North Miami-Dade telephone number (305-653-4105). In total, Powell spent 11 minutes on the phone with this North Miami-Dade number, for which the State was charged \$0.50. A Google search revealed that this phone number is associated with a medical provider. All calls were made between 8:15 AM and 4:30 PM. *(NOTE: It was determined that these calls were not work-related.)*
- Powell made 10 long-distance calls to a Ft. Lauderdale telephone number (954-275-0868), as well as received eight calls from the same number. In total, Powell spent 50 minutes on the phone with this Ft. Lauderdale number, for which the State was charged \$0.97. All calls were made between 8:15 AM and 4:30 PM. *(NOTE: It was determined that this telephone number is associated with Insurance Analyst II Shelley Senfeld, and these calls were work related.)*
- Powell made 10 long-distance calls to a Hollywood, FL telephone number (954-483-3742). In total, Powell spent 50 minutes on the phone with this Hollywood number, for which the State was charged \$1.55. All calls were made between 8:15 AM and 4:30 PM. *(NOTE: It was determined that this number is associated to Powell's sister, and these calls were not work-related.)*

In addition to making multiple calls to the above numbers, Powell made the following calls of longer than 30 minutes:

- On June 6, 2017, at 9:39 AM, Powell made an internal call to DFS extension 76535. This is the extension for Distributed Computer Systems Analyst Charles Kersey. The call lasted 43 minutes. *(NOTE: Powell stated this call was work-related.)*
- June 6, 2017, at 2:50 PM, Powell made a long-distance call to a Chicago telephone number (773-441-6081). The call lasted one hour and 38 minutes, and the State was charged \$2.73 for the call. *(NOTE: Powell stated this call was not work-related.)*



- On July 18, 2017, at 1:04 PM, Powell made a long-distance call to a Miami number (305-613-3036). The call lasted 59 minutes, and the State was charged \$1.62 for the call. (*NOTE: Powell stated this call was not work-related.*)
- On July 20, 2017, at 9:05 AM, Powell made an internal call to a Tallahassee number (850-413-1558). The call lasted one hour and five minutes. A Google search revealed that this is an Office of Insurance Regulation conference call number. (*NOTE: Powell stated this call was work-related.*)

During the two months of reviewed calls, Powell also made 24 toll-free calls using her desk phone. All toll-free calls were made between 8:40 AM and 3:15 PM Monday through Friday. The longest toll-free call lasted 16 minutes, and the average call time was four minutes and 13 seconds. The following toll-free numbers were called multiple times during the two-month period:

- Five calls to 800-325-4368. A Google search revealed that this number is associated with Colonial Life Insurance. (*NOTE: Powell stated these calls were not work-related.*)
- Four calls to 800-432-1000. A Google search revealed that this number is associated with Bank of America. (*NOTE: Powell stated these calls were not work-related.*)
- Two calls to 800-463-3339. A Google search revealed that this number is associated with FedEx. (*NOTE: Powell stated these calls were not work-related.*)
- Two calls to 877-769-0251. A Google search revealed that this number is associated with the Florida Department of Revenue. (*NOTE: Powell stated these calls were not work-related.*)
- Two calls to 888-826-6890. A Google search revealed that this number is associated with National Car Rental. (*NOTE: Powell stated these calls were not work-related.*)

In total, this record lists 433 calls (one local, 254 long-distance, 74 inbound, 80 internal, and 24 toll-free). All calls were made between the hours of 7:30 AM and 5:15 PM Monday through Friday.

### **Exhibit #13: DWC Staff Policy Acknowledgements**

This exhibit contains signed acknowledgements of receipt for various DFS AP&Ps. Included in the exhibit are signed acknowledgements from Powell, Ariyanayagam, Macon, Delaney, Sabolic, and Holloman. The acknowledgement statements each note that it is the employee's responsibility to "thoroughly review and become familiar with" the associated policies. Staff signed for receipt of the policies on the following dates (*NOTE: All staff confirmed their signatures on the documents during sworn statements with the OIG.*):

- Powell
  - Acknowledged receipt of AP&P 5-26, Standards and Procedures of Discipline, on May 16, 2006.
  - Acknowledged receipt of AP&P 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination, on May 16, 2006
  - Acknowledged receipt of AP&P 4-04, Information Technology Acceptable Use Policy, on May 28, 2009.
- Ariyanayagam
  - Acknowledged receipt of AP&P 5-26, Standards and Procedures of Discipline, on January 25, 2010.
  - Acknowledged receipt of AP&P 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination, on January 25, 2010.

- Acknowledged receipt of AP&P 5-5, Code of Ethics,<sup>5</sup> on January 25, 2010.
  - Acknowledged receipt of "Prohibited Activities," which includes "Using or attempting to use his/her position to secure special privileges, benefits or exemptions for himself/herself or others," on January 11, 2010.
- Macon
  - Acknowledged receipt of AP&P 5-26, Standards and Procedures of Discipline, on July 1, 2002.
  - Acknowledged receipt of AP&P 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination, on July 1, 2002.
- Delaney
  - Acknowledged receipt of AP&P 5-26, Standards and Procedures of Discipline, on August 12, 2003.
  - Acknowledged receipt of AP&P 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination, on August 12, 2003.
- Sabolic
  - Acknowledged receipt of AP&P 5-26, Standards and Procedures of Discipline, on January 28, 2003.
  - Acknowledged receipt of AP&P 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination, on January 28, 2003.
- Holloman
  - Acknowledged receipt of AP&P 5-26, Standards and Procedures of Discipline, on April 9, 2002.
  - Acknowledged receipt of AP&P 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination, on April 9, 2002.

**Exhibit #14:** Lync Messages between Aldana and S.112.3188(1),FS

This exhibit contains various instant messenger conversations between Aldana and S.112.3188(1),FS between the dates of June 2, 2017, and July 12, 2017. Several of the messages are regarding Ariyanayagam and her management style and/or treatment of Aldana and S.112.3188(1),FS. While not always mentioning Ariyanayagam by name, various messages such as "She is SO NASTY" and "WHAT A NASTY SUPERVISOR, ZERO MANAGEMENT SKILLS" are believed to be about Ariyanayagam. (*NOTE: During her sworn interview with the OIG, Aldana confirmed that these statements are about Ariyanayagam.*) In the messages, S.112.3188(1),FS frequently voices grievances about Ariyanayagam and claims that Ariyanayagam is "looking for excuses to fire me [S.112.3188(1),FS]." In one message, S.112.3188(1),FS instructs Aldana, "Let me know cuando quieras hacer una caja formal juntas," which translates to "Let me know when you want to make a formal box together." (*NOTE: It is believed that S.112.3188(1),FS intended to write "queja formal" instead of "caja formal," which would translate to "Let me know when you want to make a formal complaint together."* During her sworn interview with the OIG, Aldana confirmed that S.112.3188(1),FS likely meant "queja formal.") However, Aldana does not reply to the message.

**Exhibit #15:** Powell's Facebook Posts

This exhibit contains all of Powell's posts on Facebook between the hours of 7:30 AM and 5:00 PM Monday through Friday during the month of July 2017. There were a total of 21 posts made, several of which appear to be selfies of Powell in her office and/or at work. None of the posts appear to be

<sup>5</sup> The Code of Ethics policy number has since been changed to AP&P 1-15.

inappropriate (i.e. profane, sexual, etc.) in nature. (*NOTE: OIG staff obtained these posts directly from Powell's Facebook page.*)

**Exhibit #16: Valdivia's Pay History**

This exhibit shows that on October 25, 2016, Valdivia (H/F) was demoted from a Regulatory Analyst II to an Insurance Analyst II. However, Valdivia's salary remained the same. (*NOTE: Valdivia voluntarily requested the demotion in order to be transferred from the West Palm Beach Office to the Miami Office.*)

**Exhibit #17: Powell's Internet Activity**

This exhibit contains an Excel file that includes Powell's Internet activity from July 3, 2017, through October 24, 2017 (see "Powell C2\_Web\_traffic" tab). From those dates, OIG staff selected ten days which appeared to have the most Internet activity (see "Activity Dates" tab). These days were analyzed in order to determine the length of time Powell appeared to be actively surfing the web, as well as to determine the type of websites visited by Powell. Based on the data, Powell appeared to be actively surfing the web anywhere from 15 minutes to three and a half hours on the dates reviewed (See "Summary" tab), with an average activity time of approximately two hours per day over the ten days. The most common domain hits over the ten days were Boost Mobile, Bing, and Southwest.

**Exhibit #18: Email from Ariyanayagam to Victores Dated February 13, 2015**

This exhibit contains an email from Ariyanayagam to Victores (H/F) memorializing a conversation that took place on or about February 13, 2015, regarding vehicle policies. As an additional issue in the email, Ariyanayagam writes that Victores is expected to "maintain a professional outlook when dealing with your employers, co-workers etc., this includes the way you communicate as well as your work attire."

**Exhibit #19: Documentation Concerning Powell's Demotion**

This exhibit contains documentation related to Powell's demotion from a Government Operations Consultant II to a Government Analyst I. The Personnel Action Request form included in the exhibit shows that Powell's base salary stayed the same before and after the demotion; however, after the demotion, Powell lost her monthly lead worker additive of \$161.08 per month. Powell's demotion was effective November 1, 2017.

**Exhibit #20: Request for Personnel Action Memo dated September 28, 2016**

This exhibit contains a memo from Macon to Holloman requesting Holloman's approval to hire Wilson (B/M) into an Insurance Analyst II position in the West Palm Beach office. Included in the memo is a summary of Wilson's education and experience, which includes over 20 years with the Department of Children and Families and a Master's Degree in Public Administration. The memo also includes a request to hire Wilson at a salary of \$36,000 (10% over the minimum) because of his experience and education.

**Exhibit #21: Case Closure Reviews Provided by Holloman**

This exhibit contains a Closed Case Report for Powell covering the period of July 1, 2016, through June 30, 2017. The report was provided by Holloman at the request of the OIG, and Holloman advised

the report was pulled from CCAS tables by an Office of Information Technology (OIT) staff member. *(NOTE: CCAS is the case management system utilized by DWC staff.)* According to Holloman, the yellow highlighted areas under the Case Review and Narrative Review columns indicate cases reviewed by Powell during FY 2016/17. The report indicates that Powell conducted 208 case reviewed during the period.

**Exhibit #22: Case Closure Reviews Maintained by Powell**

This exhibit includes spreadsheets covering Powell's case reviews during FY 2016/17 by month. This exhibit was provided to the OIG by Holloman at the request of the OIG. According to Holloman, S.112.3188(1),FS required Powell to maintain these spreadsheets to show Powell's number of cases reviewed. Based on the cases listed in this exhibit, Powell completed 313 case reviews during the period. According to Holloman, these spreadsheets are the basis of adjustments made to Powell's performance evaluation as errors were found during the review of S.112.3188(1),FS's evaluation of Powell. *(NOTE: The adjustments made by Ariyanayagam raised Powell's score from a 2 to a 4 for this metric.)*

**Exhibit #23: Case Closure Reviews Provided by Ariyanayagam**

This exhibit includes spreadsheets covering Powell's case reviews during FY 2016/17 by month. This exhibit was provided to the OIG by Ariyanayagam. According to Ariyanayagam, this is the exact spreadsheet she used to calculate Powell's score on Powell's performance evaluation. Based on the cases listed in this exhibit, Powell completed 291 case reviews during the period. (Not 292 as indicated on the evaluation)

**Exhibit #24: Ariyanayagam's People First Timesheets**

This exhibit contains Ariyanayagam's submitted and approved timesheets from January 1, 2015, through December 31, 2017. A review of this exhibit shows that Ariyanayagam only claimed work time on one Saturday during this three-year period.

**Exhibit #25: Email from Ariyanayagam to Delaney dated February 1, 2016**

This exhibit contains Ariyanayagam's follow-up with Delaney following allegations made by S.112.3188(1),FS and Aldana to HR in January 2016. Ariyanayagam responds to the following allegations made by S.112.3188(1),FS and Aldana:

- S.112.3188(1),FS alleged that Ariyanayagam "screamed and embarrassed" S.112.3188(1),FS in front of S.112.3188(1),FS's employees. Ariyanayagam admits to raising her voice at S.112.3188(1),FS in an effort to keep S.112.3188(1),FS from hurting herself by picking up heavy file boxes.
- S.112.3188(1),FS and Aldana alleged that Ariyanayagam was the only DWC manager that wanted them in their positions. Ariyanayagam admits to telling S.112.3188(1),FS that Ariyanayagam "did have to convince Tanner [Holloman] and Andrew [Sabolic]" to promote S.112.3188(1),FS because of the short time S.112.3188(1),FS had been an s. 112.3188(1), F.S.. Ariyanayagam also admits in the email that she "shouldn't have said this."
- S.112.3188(1),FS alleged that Ariyanayagam claimed Holloman and Sabolic referred to S.112.3188(1),FS's employees' actions as "disgusting." Ariyanayagam denies this allegation.

- S.112.3188(1),FS reported that s. 112.3188(1), F.S. was upset by her most recent performance evaluation. Ariyanayagam responds that S.112.3188(1),FS's evaluation was "very good" and only had a few suggestions for improvement.
- S.112.3188(1),FS and Aldana both alleged that Ariyanayagam's management style is to lead by fear. Ariyanayagam responds that she does not want anyone to be afraid of her.
- S.112.3188(1),FS reported that s. 112.3188(1), F.S. feels Ariyanayagam still supervised S.112.3188(1),FS's district. Ariyanayagam responds that S.112.3188(1),FS's district is under Ariyanayagam's supervision, but she does not get involved in S.112.3188(1),FS's "day to day operations."

**Exhibit #26:** Email from Ariyanayagam to Sabolic and Holloman dated June 6, 2016

This exhibit contains Ariyanayagam's follow-up with Holloman and Sabolic after S.112.3188(1),FS made allegations that Ariyanayagam coerced S.112.3188(1),FS into loaning Ariyanayagam money and taking classes with Ariyanayagam. While Ariyanayagam admits to borrowing money from S.112.3188(1),FS and taking classes with s. 112.3188(1), F.S., Ariyanayagam asserts that S.112.3188(1),FS voluntarily took these actions. Ariyanayagam writes that ever since S.112.3188(1),FS made allegations to Delaney (see Exhibit 25), the majority of her interactions with S.112.3188(1),FS have been work-related.

**Exhibit #27:** Emails Between Ariyanayagam and District 2 Employees on Various Dates

This exhibit contains a chain of emails between Ariyanayagam and numerous District 2 (West Palm Beach) employees concerning office coverage. All emails are dated between August 3 and 9, 2016. On August 3, Workers' Compensation Administrator Jose Lopez sends an email to Cicio and Senfeld advising them that there are five dates in August for which one of them will need to provide office coverage. On August 4, Senfeld responds with a list of the five dates, as well as who will provide the coverage on each. On August 9, Ariyanayagam responds, thanking Cicio and Senfeld for "stepping up and assisting."

**Exhibit #28:** Email from Ariyanayagam to Blimes dated January 30, 2018

This exhibit contains follow-up between Blimes and Ariyanayagam after Ariyanayagam's sworn statement to the OIG. Ariyanayagam provided Blimes with a voicemail that Workers' Compensation Administrator Michelle Loy received from former Investigations Manager Patty Krossman alleging that Ariyanayagam has a "list," and Loy's name is allegedly on it. No further detail regarding the list was given. Ariyanayagam also provided the documents found in Exhibits 23 and 27 and writes that she contacted Lopez, who is Cicio's supervisor, and confirmed that Cicio's schedule is 7:30 AM to 4:00 PM. Blimes responds by asking Ariyanayagam when she contacted Lopez, and informing Ariyanayagam that he still cannot come up with 292 case reviews for Powell, and at most there should be 291 case reviews. Ariyanayagam responds that she contacted Lopez on January 30, 2018, and asked about Cicio's schedule. Ariyanayagam also admits that she did not initially "do a detail [sic] review of this spreadsheet" before using it for Powell's performance evaluation. Ariyanayagam admits that the numbers are off by at least one, and writes "there was no malicious or willful intent to falsify" the performance evaluation.

**Exhibit #29:** S.112.3188(1),FS's People First Timesheets

This exhibit contains S.112.3188(1),FS's submitted and approved timesheets from June 9, 2014, through August 24, 2017. This represents S.112.3188(1),FS's entire tenure with DFS. A review of this exhibit shows that S.112.3188(1),FS claimed work time on one Saturday (September 5, 2015) and one Sunday (January 24, 2016) during this period.

**Exhibit #30: Response to S.112.3188(1),FS's FCHR Complaint**

On October 1, 2017, S.112.3188(1),FS filed a retaliation complaint with the Florida Commission on Human Relations (FCHR). This exhibit contains the Department's response to that complaint. Specifically, DFS responds to the following 13 allegations made by S.112.3188(1),FS:

- 1) S.112.3188(1),FS was retaliated against due to filing a complaint against Powell. The Department denies this allegation.
- 2) S.112.3188(1),FS's concerns were ignored by Macon and Ariyanayagam. Macon and Ariyanayagam deny the allegation.
- 3) Powell's harassment of Hispanic females increased after she was visited by Sabolic on June 29, 2017, while S.112.3188(1),FS was on leave. The Department denies that S.112.3188(1),FS was on leave on June 29, and admits that Sabolic spoke with Powell on June 30. The Department denies the allegation of harassment.
- 4) Sabolic spoke to S.112.3188(1),FS on July 3, 2017, and demanded to know if S.112.3188(1),FS had made an anonymous complaint to the OIG. The Department admits that Sabolic and S.112.3188(1),FS met on July 3, but the Department denies that Sabolic demanded to know if S.112.3188(1),FS made the anonymous complaint.
- 5) Powell increased her harassment of Hispanic females during July 2017. The department denies the allegation of harassment.
- 6) S.112.3188(1),FS was presented with a termination letter on July 26, 2017. The Department admits that it provided S.112.3188(1),FS with a termination letter but adds that S.112.3188(1),FS was offered, and accepted, the opportunity to resign in lieu of termination.
- 7) S.112.3188(1),FS was allowed to resign, but Holloman refused to provide s. 112.3188(1), F.S. with a reason why s. 112.3188(1), F.S. was being terminated or forced to resign. The Department denies that S.112.3188(1),FS was forced to resign. Holloman did not discuss the reason for S.112.3188(1),FS's termination because, as a matter of practice, he does not discuss the specifics of employment actions with Select Exempt Services employees.
- 8) Rodriguez was also presented with a termination letter, but there was no documentation to support her termination. The Department admits to presenting Rodriguez with a termination letter, but denies that it lacked supporting documentation. Ultimately, Rodriguez's probationary period was extended.
- 9) Powell had previously been investigated for accusations of discrimination while she worked in Dade County. The Department denies this allegation.
- 10) Powell's coworkers in Miami have witnessed Powell's discrimination of Hispanic employers. The Department denies this allegation.
- 11) Powell and Ariyanayagam had both been the subject of an EEO complaint made by Jimerson. The Department admits that Jimerson filed a complaint with the FCHR on October 23, 2015. Ultimately, the EEOC was unable to conclude that there was a violation of anti-discrimination laws.
- 12) After the anonymous OIG complaint, all Hispanics in the district were harassed or terminated without cause. The Department denies this allegation.
- 13) S.112.3188(1),FS's termination and the termination of other employees was in retaliation for filing a complaint with the OIG. The Department denies this allegation.



The Department's position in response to S.112.3188(1), FS's allegations is that S.112.3188(1), FS fails to make a *prima facie* case of retaliation or discrimination.

**Exhibit #31:** Email from Lopez to Blimes dated February 21, 2018

This exhibit contains a summary of a telephone conversation between Blimes and Lopez that took place on February 19, 2018. Lopez confirms that Cicio's schedule was 7:30 AM to 4:00 PM when Lopez became the district supervisor in July or August 2017. Lopez also writes that Cicio's schedule was changed as of February 1, 2018, to provide office coverage following the departure of an Insurance Analyst II. Cicio's current schedule is 8:00 AM to 5:00 PM. On February 21, 2018, Lopez confirms that Ariyanayagam contacted him and asked what Cicio's schedule is; however, Lopez could not recall the date that Ariyanayagam contacted him.

**Exhibit #32:** Email from Moye to Blimes dated February 21, 2018

During the course of this investigation, the OIG requested from HR all disciplinary action taken against Rodriguez during her employment with DFS. Senior Management Analyst Supervisor Kenyetta Moye responded that there was no disciplinary action on file other than a rescinded termination letter, and Moye provided a copy of the letter attached to her response.

**Exhibit #33:** AP&P 4-04, Information Technology Resources Acceptable Use Policy

Section VII.A. of this policy states, "Limited access to and use of the Internet and e-mail by users for non-business purposes shall not, in the judgment of the worker's supervisor or DFS, OFR, or OIR management: 1. Interfere with DFS, OFR, or OIR business operations; 2. Interfere with a user's ability to perform his job." Section VII.E.1. of this policy states, "No user shall make personal calls on DFS-issued cellular telephone devices or long distance landline telephone calls on DFS issued telephone devices unless an emergency situation arises."

**Exhibit #34:** AP&P 6-01, Inspector General Investigations

Section VI of this policy states, in part, "Any Adverse Personnel Action taken against an employee for reporting acts of known or suspected incidents of fraud, waste, mismanagement, misconduct, or other abuse in violations of law, rule or policy, or making allegations of same to a supervisor or to the OIG, is prohibited."

**Exhibit #35:** Jimerson Termination Letter

This exhibit contains Jimerson's final termination letter dated September 28, 2015. According to the letter, Jimerson was dismissed from employment from DWC for violating Rule 60L-36.005(3), Florida Administrative Code (F.A.C.), (a) - Poor Performance, (b) - Negligence, (c) - Inefficiency or Inability to Perform Assigned Duties, (d) - Insubordination, (e) - Violation of Law or Agency Rules and (f) - Conduct Unbecoming a Public Employee; the Department's AP&P 5-26 IX (A) - Poor Performance, (B) - Negligence, (C) - Inefficiency or Inability to Perform Assigned Duties, (D) - Insubordination, (E) - Violation of Law or Agency Rules and (F) - Conduct Unbecoming a Public Employee; the Department's AP&P 1-15 - Ethics Policy; the Division's Training Memorandum 08-002 and the Division's Memorandum 05-003.

**Exhibit #36:** Photo of Ariyanayagam Wearing Combat Gear

This exhibit contains a photo that Ariyanayagam posted to Facebook on July 4, 2016. Ariyanayagam appears to be wearing a camouflage vest and helmet while holding a large gun. Ariyanayagam is also wearing a bandolier and has a grenade affixed to her vest.

## ALLEGATION 1

**Powell bullies and makes discriminatory and/or rude remarks to and about her coworkers, and Ariyanayagam and Macon failed to take corrective action.**

### Complainant Statement

In s. 112.3188(1), F.S. written complaint, **S.112.3188(1),FS** () writes that Government Analyst I Cheryl Powell (Black/Female) is "extremely disrespectful to her peers, that she is a BULLY" (Exhibit 2). When asked for specific details during s. 112.3188(1), F.S. statement to the OIG, S.112.3188(1),FS stated that Powell has made inappropriate and/or racial comments to s. 112.3188(1), F.S.. For example, Powell made a joke about S.112.3188(1),FS practicing *brujeria*, which is the Spanish word for witchcraft. When S.112.3188(1),FS told Powell that was offensive, Powell responded, "OK Chica Chica, blah blah blah." S.112.3188(1),FS also stated that Powell has commented that Insurance Analyst II Yailen Rodriguez (H/F) "shouldn't have an ass like that. That's a black ass." S.112.3188(1),FS stated that s. 112.3188(1), F.S. is unsure if anyone else overheard these comments, but Insurance Specialist I Maria Ledwell (H/F) might have heard some racial comments. S.112.3188(1),FS stated s. 112.3188(1), F.S. reported Powell's inappropriate comments to Ariyanayagam (Asian/F) and Macon (B/F), but they failed to take any corrective action. S.112.3188(1),FS stated that Macon told s. 112.3188(1), F.S. that nothing would be done and s. 112.3188(1), F.S. would "just have to learn to work with" Powell.

### Witness Statements

**J. Casal** (H/F) stated that the atmosphere in the office was "toxic." When asked to explain, she stated, "It was, you know, the way some people were. It was like, like some people were like watching any single thing that you were doing. I was like so new in there, and I was like, I was really, it was very uncomfortable." Casal went on to state that sometimes when Casal was eating her lunch outside, Powell and another unknown woman would come and sit in the same area and stare at Casal. Casal stated that the staring made Casal feel like she needed to move away from the area. Casal stated that the staring "made the whole situation very uncomfortable" for her, and she felt like Powell was a "bully." When Casal was asked if she felt bullied in any other way by Powell, she stated that Powell would constantly come and check on her to see what she was doing. Casal stated that Powell also was "very clear that she [Powell] was in very good standing" with DWC upper management and was "untouchable."

**M. Cicio** (White/Male) stated he could not recall Powell making any rude or inappropriate comments. Cicio stated that Powell was previously the lead investigator in the office, but she was recently moved to a new position in the Miami Field Office. Cicio stated that he feels like Powell and Ariyanayagam have tried to bully him. When asked how Powell bullied him, Cicio responded that Powell had a pattern of "coming down on people kind of in a cycle...it seemed like everybody was on a rotation of when they would get picked on by her." As a specific example of how he was picked on, Cicio stated that Ariyanayagam called him while Powell was in the office and told Cicio that he could not have S.112.3188(1),FS translate for him anymore when he was dealing with Hispanic business owners.

Cicio stated this left him no way to communicate with Spanish speakers. Cicio stated he felt like Powell and Ariyanayagam were trying to break down his communication with his supervisor (S.112.3188(1),FS). Cicio stated he continued to use S.112.3188(1),FS as a translator, as did Powell. Cicio stated he was never given a reason why Powell and Ariyanayagam did not want him to use S.112.3188(1),FS as a translator.

When asked if he felt Powell's behavior rose to the level of a policy violation, Cicio responded, "if they [Powell and Ariyanayagam] didn't violate it completely, they were definitely walking a fine line." Cicio stated Powell also bullied former Insurance Analyst IIs Yailen Rodriguez (H/F), Jacqueline Casal (H/F), Nadine Francois (B/F), and Daniel Clark (W/M). Cicio stated that Powell used to "get on" Rodriguez about her clothing. For example, Powell would tell Rodriguez not to wear flip flops, but then Powell would wear them. Cicio stated that Powell was "getting on" Casal about her Daily Activity Reports (DAR), but Casal was brand new and "barely even knew what a DAR was." Cicio also stated that Powell made comments that Francois "stunk" and had bad body odor. Cicio stated Powell also made comments like this about Francois to S.112.3188(1),FS and "a lot of people." However, he could not identify anyone else specifically that heard Powell make these comments.

Cicio stated that S.112.3188(1),FS's termination is a regular topic of conversation among the employees in the West Palm Beach office, and the general feeling is that S.112.3188(1),FS was fired as a result of Powell's manipulation. Cicio stated that the investigators were told that S.112.3188(1),FS was let go because of complaints received about s. 112.3188(1), F.S. from the investigators, s. 112.3188(1), F.S. inability to lead, and the low morale in the office. However, Cicio stated none of the investigators complained about S.112.3188(1),FS. Throughout the course of his interview, Cicio also praised S.112.3188(1),FS for s. 112.3188(1), F.S. leadership skills. Cicio went on to state that when DWC management (e.g. Holloman, Macon, and Ariyanayagam) would visit the office, they would not talk to S.112.3188(1),FS. Instead, they would go into Powell's office and shut the door to talk to Powell about the office. Cicio stated that S.112.3188(1),FS was let go because Powell "gets people in trouble." However, Cicio was not privy to conversations that Powell had with DWC management behind closed doors, but he did state that it is "well-known" that Powell is "good friends with the Bureau Chief [Macon] and that they text and talk on the weekends." When asked how Powell "gets people in trouble," Cicio responded that Powell specifically mentioned to him that she "wanted Bob Feehrer and Shelley Senfeld written up" for unspecified issues. Cicio also stated that Powell notes when people are late and then emails the supervisor about the tardiness.

**M. Ledwell** stated that she sits in a common area in the office and can regularly hear conversations that are taking place in the office. Ledwell stated that she has never heard anyone make any comments that she would consider racist. Specifically, Ledwell stated she has not heard Powell make any statements that would be considered racist. Ledwell also stated that she has not heard anyone make any comments that she would consider bullying or intimidating.

**A. Mickens** (B/F) stated that the office layout is open, and she can sometimes hear other people's conversations. Mickens stated she could not recall anyone in the office making any inappropriate or racial remarks. Mickens stated that she has heard that Powell tried to get her fired because Powell believed Mickens was eavesdropping on conversations. Mickens stated she heard this from S.112.3188(1),FS. Mickens stated she has not heard any other comments that she would consider "bullying" or "intimidating."

Mickens stated that she has not heard Powell make any inappropriate or rude comments. However, Powell does tell them that they can't wear certain types of clothes, and then Powell wears them.

Mickens stated Powell tells them they can't wear sleeveless clothes or flip flips, but Powell wears these types of clothes.

When Mickens was asked if she feels Powell has ever bullied her, she replied, "I feel like she gets close to you and then tells on you. Like you could have a conversation with her and then all of a sudden word gets around that you said something, but it was actually her saying something. She's telling what you said but she's not telling what she said." Mickens described Powell as a "shit starter." Mickens stated that a lot of people have gotten fired for what Powell tells Ariyanayagam. When asked how she knows that people are fired because of what Powell says, she replied, "Because one [person fired] was my friend Michele Jimerson, and I seen [sic] it happen." Mickens stated that Jimerson was fired for "petty things," such as not wearing "closed in shoes out in the field." (NOTE: Based on Jimerson's termination letter, she was dismissed for numerous policy violations. See Exhibit 35.)

Mickens stated that Powell was transferred to the Miami office after S.112.3188(1),FS's departure because "a lot of people couldn't get along with her." (NOTE: According to Holloman, Powell was transferred and demoted to a position that is not a lead position because other employees felt that Powell "talked down" to them.)

**Y. Rodriguez (H/F)** stated that Powell has never made racial comments to her. When asked if she had ever heard Powell make any inappropriate comments, Rodriguez stated that Powell told her she needs to "save her ass," meaning that Rodriguez needed to do her job thoroughly. Rodriguez also stated that she speaks Spanish, and she and Powell would regularly work with employers who only spoke Spanish. During these occasions, Powell would regularly require Rodriguez and the employer to speak English so that Powell could understand the conversation. Rodriguez stated that many employers could not speak English, and she thought it was "racist" for Powell to try to make them speak English.

Rodriguez stated she has never heard Powell say that Rodriguez "shouldn't have an ass like that. That's a black ass." However, Rodriguez stated that Powell did comment about Rodriguez having a "big butt," but Rodriguez couldn't remember the exact words used by Powell. Rodriguez stated she did not like the comment, but she didn't take offense to it or take it as an insult.

**L. Tigner-Lofton (B/F)** stated that she could not recall anyone in the office making inappropriate or racial remarks, and she could not recall anyone stating anything that she would consider a policy violation.

Tigner-Lofton stated she does not feel like any of her co-workers have bullied or intimidated her.

Tigner-Lofton stated she only worked in the office with Powell for approximately a month, but during that time she did not witness Powell make any inappropriate or racial remarks, bully anyone, or violate any DFS policy.

**E. Wilson (B/M)** stated that Powell "made derogatory comments about S.112.3188(1),FS." Wilson stated that Powell made comments that S.112.3188(1),FS did not know what s. 112.3188(1), F.S. was doing and that Powell had "friends in high places" within DWC and " [S.112.3188(1),FS] better not mess with me [Powell]." Wilson went on to state that he believes S.112.3188(1),FS was "treated unfairly, and Cheryl [Powell] had a lot to do with that." Wilson stated that the "friends in high places" comment referred to Powell being close friends with Macon. Wilson stated that he heard Powell state

multiple times that she was good friends with Macon and that S.112.3188(1),FS “better not mess with” Powell.

**T. Holloman** (B/M) stated that it is not a dress code violation to wear open-toed shoes in the office. However, it is a violation to go to a construction site in open-toed shoes. Holloman stated that due to the nature of Powell’s position, she would not regularly be visiting work sites. Therefore, it is not concerning that she would tell investigators to not wear open-toed shoes and then wear them herself.

### Subject Statements

**P. Macon** (B/F) stated that her relationship with Powell is “normal,” and they do not communicate in the evenings or on weekends as had been reported by witnesses. Macon stated that she has heard that Powell makes comments to co-workers stating that she and Macon are good friends and that no one can “mess with” Powell because of her relationship with Macon. Macon stated she heard this from S.112.3188(1),FS or Cicio. However, Macon stated that if Powell makes these types of comments, they are not true. When asked if she has done anything to correct the behavior of spreading these rumors, Macon stated that she had not done anything to address this issue because she had only heard from one person that Powell made these types of comments. Macon stated that she told the person (S.112.3188(1),FS or Cicio) that the comments weren’t true, but she did not take any further action or discuss it with Powell.

Macon stated that S.112.3188(1),FS reported concerns about Powell not following directives, that other employees had complained about Powell’s demeanor toward them, and that Powell had a tardiness issue. Macon stated that she and Ariyanayagam met with Powell the same day that S.112.3188(1),FS reported s. 112.3188(1), F.S. concerns, and that all of these issues were addressed with Powell during that meeting.

**S. Ariyanayagam** (A/F) stated that S.112.3188(1),FS reported concerns to her about Powell. Ariyanayagam stated S.112.3188(1),FS reported that Powell was often late to work and took leave on short notice, and other employees did not like it when Powell gave them feedback. Ariyanayagam stated that when S.112.3188(1),FS reported Powell’s tardiness, Sabolic was the interim supervisor, and Ariyanayagam and Sabolic arranged for Powell to work in the Ft. Lauderdale Office more often so that Powell did not have to commute from Miami to West Palm Beach every day.

Ariyanayagam stated that S.112.3188(1),FS never raised concerns about Powell making inappropriate or racial comments to anyone in the office. Specifically, Ariyanayagam denied that S.112.3188(1),FS ever reported that Powell accused S.112.3188(1),FS of practicing *brujeria* or stated that Rodriguez “shouldn’t have an ass like that. That’s a black ass.”

**C. Powell** (B/F) stated that she and Ariyanayagam did not tell Cicio that he could not have S.112.3188(1),FS translate for him. Powell stated that, on the contrary, she believes that Cicio should have used S.112.3188(1),FS as a translator whenever needed because S.112.3188(1),FS was Cicio’s immediate supervisor. *(NOTE: Ariyanayagam also stated that she could not remember telling Cicio that he could not have S.112.3188(1),FS translate for him. Ariyanayagam could recall a conversation in a group setting in which she instructed S.112.3188(1),FS to let other people who spoke Spanish translate. Ariyanayagam stated she gave this instruction because S.112.3188(1),FS “tended to go out with Mike [Cicio] and take over Mike’s case and do all of that stuff.” So Ariyanayagam recommended that Cicio take Valdivia or Senfeld with him to translate. Ariyanayagam stated as a supervisor, S.112.3188(1),FS*

*could not always be the one to translate for Cicio, and Ariyanayagam wanted him to utilize the other Spanish speakers in the office as well.)*

Powell stated she has never made a comment to anyone that she was told was inappropriate or offensive. When asked about any comment she might have made about Francois, Powell stated that she might have said that Francois didn't have the right personality for the job. When asked if she ever made any comments about the way Francois smelled, Powell stated that she and S.112.3188(1),FS did talk about that, but no one ever said they felt the comments were inappropriate. Powell stated she did not state that Francois "stunk," but did address Francois' odor from the standpoint of the professional appearance policy. Powell stated Insurance Analyst II Xotchi Valdivia also raised concerns about the way Francois smelled.

When asked if she ever made a comment about S.112.3188(1),FS practicing *brujeria*, Powell responded, "I don't even know what that is." Powell stated that the allegation made by S.112.3188(1),FS is "absurd," and stated she and S.112.3188(1),FS had a conversation about the toilet paper in S.112.3188(1),FS's office, but Powell again denied ever making any comment about S.112.3188(1),FS practicing *brujeria* and denied stating, "OK chica, blah blah blah."

Powell denied ever making any comments about Rodriguez. When asked if she ever made comments about Rodriguez's physique, Powell stated that Wilson once made a comment about Rodriguez not being able to "get her big butt in a chair." Powell stated Wilson made this comment in the presence of Rodriguez and S.112.3188(1),FS, and Powell thought that the comment was sexual harassment and that S.112.3188(1),FS should have taken corrective action against Wilson for the comment. Powell denied stating that Rodriguez "shouldn't have an ass like that. That's a black ass," and stated that she didn't ever curse in front of her coworkers.

Powell stated that she didn't know former Insurance Analyst II Jacqueline Casal very well because Casal did not work in DWC very long. When asked if she ever had a problem with Casal, Powell stated there was one instance in which Casal wanted to leave work early to put gas in her car, and Powell told her she couldn't leave early for that purpose. Powell stated she never had to talk to Casal about the way she dressed or the shoes she wore. Powell stated that she has never bullied Casal and stated they never sat near each other at lunch during the time Casal worked for DWC. However, Powell stated there was one time when she and Insurance Specialist II Alexia Mickens went to eat in the courtyard, and Casal got up and left when Powell and Mickens arrived. Powell stated she did not believe Casal was eating prior to getting up and leaving; Powell stated she believed Casal was on the phone. Powell stated this incident sticks out in her mind because it was the first time she ever sat with Casal.

Powell stated that her relationship with Macon is "strictly business," and they do not communicate in the evenings or on weekends. Powell denied ever telling anyone that she and Macon are friends. Powell denied ever telling anyone that S.112.3188(1),FS better not "mess with" her or that she is "untouchable" because she is close friends with Macon.

## Findings

It is alleged that Powell violated AP&Ps 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination, and 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by making discriminatory and/or rude remarks to and about her coworkers. – **NOT SUSTAINED/INCONCLUSIVE**



It is alleged that Ariyanayagam and Macon violated AP&Ps 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination, and 5-26, Standards and Procedures of Discipline Section IX.B. NEGLIGENCE and Section IX.C. INEFFICIENCY OR INABILITY TO PERFORM ASSIGNED DUTIES, by failing to take corrective action after being notified of Powell's inappropriate behavior. – **NOT SUSTAINED/INCONCLUSIVE**

## ALLEGATION 2

**Powell has committed timesheet fraud by excessively using Facebook, making personal calls, and browsing online while claiming State time.**

### Complainant Statement

**S.112.3188(1),FS** writes that Powell is constantly on Facebook, making personal calls, and shopping online during work hours. In s. 112.3188(1), F.S. written complaint, S.112.3188(1),FS alleges that Powell goes on Facebook at "all time [sic] of the day" and that Powell "is posting [on Facebook] and answering posts" during work hours. S.112.3188(1),FS claims that Powell "is constantly either on Facebook or the office phone" (Exhibit 1). S.112.3188(1),FS further alleges that Powell is "continuously on the office phone with her boyfriend, son, friends, [and/or] sisters" (Exhibit 2). S.112.3188(1),FS reiterated this allegation during her statement to the OIG.

### Witness Statement

During **T. Holloman's** (B/M) interview, the OIG reviewed Powell's telephone, Internet, and Facebook activity that occurred during work hours. While reviewing Powell's telephone records (Exhibit 12), Holloman stated that he did not recognize the telephone number 773-426-2322, and he was not aware of any reason why Powell would need to make and/or receive 71 calls to/from a Chicago number over a two-month period for work. Holloman stated that he does not believe any of Powell's work responsibilities would require her to have 71 conversations totaling over nine hours in length with anyone over a two-month period.

Holloman stated that he did not recognize the telephone number 786-454-0610, and he is not aware of any reason for Powell to make 31 calls and receive 10 calls from this number over a two-month period. Holloman stated he did not recognize the name Antonio Lawson. *(NOTE: A Google search indicated that this telephone number was associated to someone named Antonio Lawson.)*

Holloman stated that he would not consider 10 calls to a medical provider over a two-month period to be excessive, and he stated he does not believe Powell would be required to reimburse the state the \$0.50 charged for her to make these calls.

Holloman stated that he did not recognize the telephone number 954-275-0868, but stated that it was possibly the number to the Ft. Lauderdale DWC office. *(NOTE: During Powell's sworn interview, it was discovered that this is the telephone number for Insurance Analyst II Shelley Senfeld.)*

Holloman stated that when Powell's phone usage is viewed in totality, it appears to be excessive. Holloman stated that he is not aware of Powell ever reimbursing that State for phone charges accrued during non-work-related calls.

After reviewing Powell's Internet activity (Exhibit 17), Holloman stated that the activity does not appear to be work related. Holloman stated that Powell's Internet usage for non-business-related purposes appears to be excessive.

After reviewing Powell's Facebook activity (Exhibit 15) in conjunction with her Internet and phone usage, Holloman stated that DWC employees "don't have time for this during the workday."

### Subject Statement

When **Powell** was asked how much time she spends on the phone on personal calls during the day, she responded, "No more than anybody else in the office." Powell stated that she uses both her work phone and her personal cell phone to make personal calls, but she uses her personal phone for the majority of the personal calls. Powell stated that she uses her phone to check on her mom and her kids. Powell stated that she is not aware of what the DFS policy is regarding using her work phone for personal use, and she was told that employees are permitted limited personal use of DFS IT resources. When Powell was asked why she makes personal calls on her work phone instead of her cell phone, she responded that her cell phone might be dead or she might be multi-tasking by talking on her work phone while she works. Powell stated that it is more convenient for her to use her state phone to make calls while working.

When Powell was asked whose phone number is 773-426-2322, she replied that it is "Frank's" number. Powell explained that Frank was a man that she used to date. When told that she called that number 67 times over a two-month period, Powell responded, "Probably. Or checking voicemail. Yeah." Powell stated that none of these calls were work-related. *(NOTE: These calls totaled eight hours and 13 minutes and cost the state \$15.01. There were also four inbound calls from this number totaling one hour and 20 minutes.)*

Powell stated that the phone number 786-454-0610 belongs to another man she dated. Powell stated that none of the calls to this number were for work-related purposes. *(NOTE: Calls to and from this number totaled two hours and 36 minutes and cost the state \$3.33.)*

Powell stated that the phone number 954-275-0868 belongs to Insurance Analyst II Shelley Senfeld, and that calls made to this number are work-related. *(NOTE: A search of DFS Outlook records confirmed that this number is assigned to Senfeld.)*

Powell stated that 954-483-3742 is her sister's number, and all calls to this number would be non-work-related. *(NOTE: Calls to this number totaled 50 minutes and cost the state \$1.55.)*

Powell was told that she made approximately 130 non-work-related calls over the two-month period, totaling over 13 hours, and was asked if she would consider this to be "limited personal use." She responded, "I would because I'm always working when I'm on the phone...I think it's limited." Powell was then told that the OIG reviewed approximately 130 non-work-related calls over a 60-day period and that review only focused on phone numbers she called more than 10 times, and in total, she made or received 433 calls in the two months. Powell was then asked again if she felt her personal use of the phone was limited, and she responded, "Hindsight, no." Powell again stated that she works while she is on the phone and that everyone in the office regularly makes personal calls during work time. When asked if she believes everyone is on the phone as much as she is, Powell responded, "I don't know because I don't monitor and I don't look." Powell also stated that she did not know that there would be a related expense attached to the long-distance calls that she made.

When asked how much time she spends on the Internet each day, Powell responded, "I don't know. I just think of something and peruse and go on the Internet." Powell stated that she visits the Boost Mobile web site to check her personal cell phone account information. Powell stated that she visited Southwest's and Jet Blue's web sites because she flew for a personal trip in July. After reviewing her Internet activity for July 6, 2017, and being told that it appeared she was actively using the Internet for one hour and 27 minutes that day, Powell responded, "I can't see that. I mean, I can see what you have there, but, um, I'm thinking it [the open web page] was probably just left on." Powell stated she does not believe she is on the Internet for approximately two hours each day, but also stated, "You have the stats there." When asked if she would consider her Internet use to be limited, Powell responded, "No, sir. In hindsight, no." However, Powell then stated that S.112.3188(1),FS would also regularly use the Internet for personal use.

Powell's Facebook activity was then reviewed with her. Powell stated that the selfies of her in her office are pictures that she takes early in the morning and then posts on break time. When Powell was shown that she would post and then comment on the posts during various hours of the day, she again maintained that she uses Facebook during her breaks at work. (NOTE: As an example, Powell made a post at 9:49 AM on Tuesday, July 25, 2017. She then commented on the post at 11:39 AM on the same date. Powell also posted at 10:36 AM on Monday July 24, 2017, and then commented on her post at 2:06 PM, 2:07 PM, 2:11 PM, 2:12 PM, 2:13 PM, and 2:15 PM. This type of posting and commenting occurred numerous times throughout the month of July 2017.) Powell stated that S.112.3188(1),FS would also use Facebook during work time.

### Findings

It is alleged that Powell violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, and AP&P 4-04, Information Technology Resources Acceptable Use Policy, by excessively using her telephone and computer for personal use. – **SUSTAINED**

It is alleged that Powell violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by excessively using her telephone and computer for personal use while claiming State time on her timesheets. – **SUSTAINED**

Due to the amount of time Powell spent making personal calls while claiming State time, it is recommended that DWC attempt to recover any long-distance charges and wages that were incurred by the State during these calls.

### ALLEGATION 3

**Ariyanayagam falsified Powell's performance evaluation, and Macon then approved a performance evaluation she knew to be false.**

### Complainant Statement

S.112.3188(1),FS stated that Ariyanayagam changed and falsified Powell's most recent performance evaluation. S.112.3188(1),FS was Powell's immediate supervisor prior to S.112.3188(1),FS's separation from the Department. S.112.3188(1),FS provided a copy of Powell's annual performance evaluation completed by S.112.3188(1),FS prior to s. 112.3188(1), F.S. separation and a copy of

Powell's final performance evaluation completed by Ariyanayagam after S.112.3188(1),FS's separation (Exhibits 7 and 10). S.112.3188(1),FS stated s. 112.3188(1), F.S. obtained the final performance evaluation via a public records request. S.112.3188(1),FS also provided emails and documentation s. 112.3188(1), F.S. had provided to Powell throughout the review period discussing Powell's need to improve in certain areas. S.112.3188(1),FS also provided quarterly performance evaluations that s. 112.3188(1), F.S. conducted with Powell (Exhibit 8). S.112.3188(1),FS stated s. 112.3188(1), F.S. believed Ariyanayagam changed Powell's evaluation in exchange for Powell doing favors for Ariyanayagam, such as reporting that Jimerson left work 11 minutes early (see Allegations 6 and 8).

### Witness Statement

After **T. Holloman** (B/M) reviewed Powell's performance evaluations completed by S.112.3188(1),FS and Ariyanayagam (Exhibits 7, 8, and 10), he stated that the only reason he could think of that the evaluations would be different is if Ariyanayagam discovered an error in S.112.3188(1),FS's review. Holloman stated that he would provide the number of Case Closure Reviews completed by Powell during the period from July 1, 2016, through June 30, 2017. *(NOTE: Holloman provided Powell's case closures maintained by CCAS, which is included as Exhibit 21. This exhibit shows that Powell completed 208 case reviews. Holloman also provided Powell's case closures as they were maintained by Powell throughout the review period. See Exhibit 22. This exhibit shows that Powell completed 313 case reviews, though some of these appear to be duplicate entries. The exhibit contains 251 unique entries.)*

Holloman stated that based on the rating scale presented in Powell's performance evaluation, she should have received a score of 4 for Performance Expectation 1.2 (Exhibits 7 and 10), not a 5. *(NOTE The rating scale defines a score of 4 as having completed eight or nine employer investigations during the period. A score of 5 is defined as having completed more than nine investigations. According to the evaluations completed by S.112.3188(1),FS and Ariyanayagam, Powell completed nine investigations during the period.)*

**C. Powell** (B/F) stated that she was aware that S.112.3188(1),FS had initially completed her performance evaluation, but Ariyanayagam changed it. However, Powell stated that Ariyanayagam did not tell her what she changed or why she changed it other than that Ariyanayagam and Macon had to redo the evaluation and make some modifications. Powell stated that she keeps track of her case closure reviews in Excel (Exhibit 22). Powell was not sure how many case closure reviews she completed during the evaluation period, but stated that any employer that lists "corrections" in the results column of Exhibit 22 should count as a case closure review. *(NOTE: Using this method, Powell completed 173 case closure reviews using the numbers provided by Ariyanayagam in Exhibit 23 and 176 case closure reviews using the numbers provided by Holloman in Exhibit 22. Powell was credited with 292 case reviews on her performance evaluation.)*

### Subject Statements

**S. Ariyanayagam** (A/F) stated that the report provided by S.112.3188(1),FS regarding Powell's case closure reviews (see Exhibit 7) was printed directly from CCAS. When asked if reports printed from CCAS are accurate, Ariyanayagam replied, "somewhat accurate. I wouldn't call it 100% accurate, because it depends on what you put in." Ariyanayagam stated that for the Case Review Report to be accurate, the investigator has to click a button in the system saying the case has been reviewed. If the button is not clicked, the system will not count the case as being reviewed. When asked if there was

any other way to track case closure reviews, Ariyanayagam responded that some employees keep track of it on a spreadsheet, and this is how Powell tracked her case reviews. Ariyanayagam stated that she took a copy of Powell's spreadsheet and used the information in it to prepare Powell's performance evaluation (Exhibit 23).

When Ariyanayagam was asked why Powell's case closure reviews jumped from 195 in the evaluation done by S.112.3188(1),FS (Exhibit 7) to 292 in the evaluation done by Ariyanayagam (Exhibit 10), Ariyanayagam responded that she didn't look at the CCAS report when scoring this measure, she looked at the spreadsheet maintained by Powell (Exhibit 23). *(NOTE: Holloman stated that he would like to have a method for Ariyanayagam to verify the numbers maintained by Powell. However, he stated he is not certain that there was a way for Ariyanayagam to verify Powell's numbers in this instance.)* Ariyanayagam did not have an explanation for why the spreadsheet she used to calculate Powell's evaluation (Exhibit 23) did not match the numbers on the spreadsheet provided to the OIG by Holloman (Exhibit 22). Ariyanayagam stated that there are some numbers like this that the CCAS system does not accurately reflect, and for those numbers, DWC management relies on employees to accurately and honestly account for the work that they have completed. Ariyanayagam stated that there is no quick, reliable way to verify the numbers maintained by the GOCs, and in order to verify the numbers, a supervisor would have to review each case individually. Ariyanayagam stated that since it is not an easy process to review each individual case to verify the GOCs' numbers, this type of review is not being regularly conducted. However, Ariyanayagam stated that supervisors "should be aware of what's going on," so they should be able to recognize if the GOC is keeping inaccurate numbers. *(NOTE: The OIG could not replicate the 292 case reviews reported by Ariyanayagam in Powell's performance evaluation, even when using the numbers provided by Ariyanayagam in Exhibit 23. In a follow-up email, Ariyanayagam admitted that she did not do a "detail [sic] review of this spreadsheet," and that 292 was not the correct number, and that, at most, Powell should have gotten credit for 291 case reviews. This would have still given Powell a score of four on her evaluation. Ariyanayagam stated, "I took this spreadsheet at its face value and there was not malicious or willful intent to falsify any part of the performance evaluation or this specific measurement within." See Exhibit 28. Based on Powell's method of recording case closure reviews, Ariyanayagam should have counted 173 case reviews in Exhibit 23. This would have given Powell a score of two on her evaluation.)*

**P. Macon** (B/F) stated that she was the second-level approver on Powell's FY 2016-17 performance evaluation. Macon stated she is aware that Ariyanayagam changed the numbers on the performance evaluation after S.112.3188(1),FS separated from the Department (Exhibits 7 and 10). Macon stated that the numbers were changed because of a spreadsheet maintained by Powell throughout the year that showed more case closures than what the case management system (CCAS) showed (Exhibit 22). Macon went on to state that the numbers on Powell's spreadsheet were even higher than the number used on her final performance evaluation. Macon stated that when Ariyanayagam changed the numbers, Ariyanayagam explained the reasoning to Macon, but Macon was not sure why the number on Powell's final performance evaluation was not the number calculated by S.112.3188(1),FS (Exhibit 7) or the number maintained by Powell (Exhibit 22). Macon stated that Ariyanayagam would be able to explain the discrepancy. When Macon was asked why the report from CCAS didn't match the numbers maintained in Powell's spreadsheet, she responded, "Yeah, that's true." The only further explanation provided by Macon is that it is possible that Powell did not input all of her case closure reviews into CCAS. Macon stated she does not know whether it is standard practice for employees to not input all relevant information into CCAS or if this was a performance issue on the part of Powell. *(NOTE: Holloman stated that he would ideally want Macon to be able to answer this question. However, he also stated that Macon had only been in her position for a year at the time and was still learning how the division operates.)* It was then pointed out that there are duplicate employers in Exhibit 22, and Macon stated that would occur if the investigator completed the case, submitted it for review, Powell

sent it back for correction, and then the investigator made the corrections and submitted it again. Macon was asked if that would count as one case closure or two, and she responded, "I don't know. That's a good question. And the person that could probably better answer that would be Swendy [Ariyanayagam]." (NOTE: Holloman again stated that ideally, Macon should know the answer to this question, but stated that he did not know the answer himself and that this is something DWC might need to review to ensure that numbers are counted uniformly across the division.) Macon stated that Powell's performance evaluation was not the only one that was changed after S.112.3188(1),FS left. She could not remember specifics about whose evaluation was changed or what was changed on it.

## Findings

It is alleged that Ariyanayagam and Macon violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by intentionally submitting a falsified performance evaluation for Powell. – **NOT SUSTAINED/INCONCLUSIVE**

Based on statements made by Ariyanayagam and Powell, Ariyanayagam reported an incorrect number of case closure reviews completed by Powell during the evaluation period. This behavior constitutes poor performance on the part of Ariyanayagam, and is in violation of AP&P 5-26, Standards and Procedures of Discipline Section IX.C INEFFICIENCY OR INABILITY TO PERFORM ASSIGNED DUTIES. – **SUSTAINED**

Based on witness and subject statements, the DWC does not currently have a standard method of calculating case closure reviews because CCAS is not always accurate. Also, although some employees track their case closure reviews in Excel, it does not appear that supervisors understand the methodology used by employees to track the numbers; therefore, supervisors cannot accurately calculate or replicate case closure reviews tracked by employees. Because this number is used as a performance measure, which in turn is used to make vital employment decisions, the OIG recommends that DWC devise a standardized method to accurately and efficiently track case closure reviews.

## ALLEGATION 4

**Ariyanayagam utilizes her position in State Government for personal gain.**

### Complainant Statement

S.112.3188(1),FS writes that Ariyanayagam has "always utilized her position in State Government as a manager and Investigations Manager for personal gains through money (lending, gifting), favors owed or personal services to her!" (Exhibit 2) During s. 112.3188(1), F.S. statement to the OIG, S.112.3188(1),FS stated that s. 112.3188(1), F.S. started at DFS as an s. 112.3188(1), F.S., and s.112.3188(1),FS was befriended by Ariyanayagam. S.112.3188(1),FS stated that as S.112.3188(1),FS continued to work under Ariyanayagam, Ariyanayagam began texting s.112.3188(1),FS more and more frequently asking for favors, such as going to the gym or driving Ariyanayagam to the airport at 4:30 AM. S.112.3188(1),FS stated S.112.3188(1),FS agreed to do these favors because Ariyanayagam was her supervisor, and S.112.3188(1),FS didn't want to "ruin the rapport." (NOTE: During S.112.3188(1),FS statement, S.112.3188(1),FS stated S.112.3188(1),FS would provide relevant text messages. However, as of the date of this report, S.112.3188(1),FS has not provided them.)



S.112.3188(1),FS stated Ariyanayagam signed up for a public speaking class in the evenings and asked S.112.3188(1),FS to enroll as well. S.112.3188(1),FS declined because S.112.3188(1),FS wanted to be home with S.112.3188(1),FS family in the evenings; however, Ariyanayagam told S.112.3188(1),FS that S.112.3188(1),FS needs to make these kinds of sacrifices if S.112.3188(1),FS wanted to progress in the Division. S.112.3188(1),FS stated Ariyanayagam told s.112.3188(1),FS again that S.112.3188(1),FS needed to make these sacrifices to succeed in the Division, and S.112.3188(1),FS enrolled in the class. S.112.3188(1),FS stated that S.112.3188(1),FS felt S.112.3188(1),FS continued success with the Department was contingent upon S.112.3188(1),FS being Ariyanayagam's friend and continuing to do things with/for Ariyanayagam. S.112.3188(1),FS stated that S.112.3188(1),FS is not sure if anyone ever heard Ariyanayagam telling S.112.3188(1),FS that S.112.3188(1),FS success with the Division would take sacrifices.

S.112.3188(1),FS stated that Ariyanayagam constantly told S.112.3188(1),FS that DWC did not want to hire S.112.3188(1),FS and that Ariyanayagam was the only reason S.112.3188(1),FS had a job, so S.112.3188(1),FS "owed her." S.112.3188(1),FS stated that S.112.3188(1),FS is not sure if anyone ever heard Ariyanayagam make these comments, but S.112.3188(1),FS believes Ariyanayagam made the same type of comments to Aldana. (NOTE: Aldana denied that Ariyanayagam ever made these types of comments to her.)

S.112.3188(1),FS stated that Ariyanayagam's car broke down once and Ariyanayagam told S.112.3188(1),FS that S.112.3188(1),FS needed to help her sell the car because Ariyanayagam "couldn't deal with people." S.112.3188(1),FS went to the dealership with Ariyanayagam and sold Ariyanayagam's car for \$700. Ariyanayagam then asked to borrow \$500 from S.112.3188(1),FS for the down payment of her new car. S.112.3188(1),FS stated that Ariyanayagam also told S.112.3188(1),FS during this conversation that Ariyanayagam had spoken with Assistant Division Director Andrew Sabolic and had gotten S.112.3188(1),FS a raise. However, S.112.3188(1),FS stated S.112.3188(1),FS did not get a raise. S.112.3188(1),FS stated Ariyanayagam bought her new car on November 20, 2015, and Ariyanayagam paid S.112.3188(1),FS back the \$500 in March 2016. S.112.3188(1),FS again stated that S.112.3188(1),FS felt like S.112.3188(1),FS success with the Department was contingent upon loaning Ariyanayagam the money. S.112.3188(1),FS stated S.112.3188(1),FS would provide a copy of the check and bank statements showing S.112.3188(1),FS loaned Ariyanayagam \$500. (NOTE: As of the date of this report, S.112.3188(1),FS has not provided the requested documentation.)

### Witness Statements

**S. Aldana** (H/F) stated she has never witnessed Ariyanayagam using her position for personal gain. However, Aldana stated that S.112.3188(1),FS told Aldana that [S.112.3188(1),FS] loaned Ariyanayagam money for a car purchase. Aldana stated that when S.112.3188(1),FS told her this, she just assumed S.112.3188(1),FS and Ariyanayagam had a more personal relationship than Aldana had with Ariyanayagam because Ariyanayagam has never asked Aldana for any money. Aldana then stated that S.112.3188(1),FS "was not happy" about loaning Ariyanayagam money, and Aldana asked S.112.3188(1),FS why S.112.3188(1),FS loaned Ariyanayagam money. According to Aldana, S.112.3188(1),FS responded, "because Swendy's [Ariyanayagam] my boss."

**B. Cerrone** (W/M) stated he has no firsthand knowledge of Ariyanayagam using her position for personal gain, but he has heard that she made her subordinates in Miami and West Palm Beach buy her lunch. Cerrone stated that Ariyanayagam did make Insurance Analyst II Kirk Glover go to lunch

with her one day, but he is not sure if Ariyanayagam made Glover pay. *(NOTE: All witnesses, including Glover, denied that Ariyanayagam had forced them to take Ariyanayagam to lunch.)*

**P. Krossman** (W/F) stated that she never witnessed Ariyanayagam using her position for any kind of personal gain, but she did hear that Ariyanayagam used her position to gain favors from Aldana and Workers Compensation Administrator Wanda Rivera. However, Krossman could not think of any specific examples. Krossman stated she has heard that Ariyanayagam made S.112.3188(1),FS loan her [Ariyanayagam] money. Krossman stated she is also aware of Ariyanayagam making S.112.3188(1),FS take public speaking classes. Krossman stated that Ariyanayagam told her that she [Ariyanayagam] was having S.112.3188(1),FS take a class because Ariyanayagam did not believe that S.112.3188(1),FS was a good public speaker. Krossman also stated that S.112.3188(1),FS told her that Ariyanayagam forced S.112.3188(1),FS to take Ariyanayagam to the airport at 4:30 in the morning once.

**C. Powell** (B/F) stated that she has never witnessed Ariyanayagam use her position for personal gain. However, Powell stated that S.112.3188(1),FS told Powell that S.112.3188(1),FS felt Ariyanayagam used her position to coerce S.112.3188(1),FS into spending time with Ariyanayagam after work hours. Powell stated that S.112.3188(1),FS brought up a “number” of concerns to her about Ariyanayagam. These included S.112.3188(1),FS alleging that Ariyanayagam forced S.112.3188(1),FS to take a public speaking class, Ariyanayagam would curse at S.112.3188(1),FS if s.112.3188(1),FS missed the public speaking class, Ariyanayagam borrowed money from S.112.3188(1),FS, Ariyanayagam would pressure S.112.3188(1),FS into buying snacks for meetings, and Ariyanayagam told S.112.3188(1),FS that S.112.3188(1),FS owed Ariyanayagam for getting S.112.3188(1),FS the district supervisor position. Powell stated that she only knows of these occurrences from S.112.3188(1),FS telling her about them, and Powell never witnessed any of them.

**M. Victores** (H/F) stated that she never witnessed Ariyanayagam use her position for personal gain. However, Victores stated that everyone would try to get on Ariyanayagam’s good side, and sometimes that involved giving Ariyanayagam gifts. For example, Victores stated that she bought Ariyanayagam a dessert for her birthday in an attempt to “go above and beyond” for Ariyanayagam.

**P. Macon** (B/F) stated that just prior to her becoming the BOC Chief, Ariyanayagam had borrowed some money from S.112.3188(1),FS and S.112.3188(1),FS felt like Ariyanayagam was “taking advantage of s.112.3188(1),FS.” Macon stated that before she was officially the Bureau Chief, she met with Holloman and Sabolic about Ariyanayagam borrowing the money. She stated she had “never seen anything like this [a supervisor borrowing \$500 from a subordinate].” Macon stated that Holloman and Sabolic discussed other issues about Ariyanayagam in the meeting, but Macon could not remember what they were. Macon stated that she believes Holloman and Sabolic also followed up with district staff regarding their working relationship with Ariyanayagam.

Beckstrom, Cabrera, Carlin, Fluriach, Glover, Gumph, Ledwell, Loy, Proano, Rivera, Rodriguez, Seidler, and Valdivia all stated that they had no knowledge of Ariyanayagam attempting to utilize her position with the State for personal gain.

### Subject Statement

Ariyanayagam stated that she and S.112.3188(1),FS became friends shortly after working together because of some similar past personal experiences. Ariyanayagam stated she and S.112.3188(1),FS would not go out together after work, but they did take public speaking and kickboxing classes

together. Ariyanayagam stated that she signed up for these classes, and then S.112.3188(1),FS showed interest in taking them as well. Ariyanayagam stated she did not pressure S.112.3188(1),FS to take the classes.

Ariyanayagam stated that S.112.3188(1),FS would miss a class "from time to time," and that Ariyanayagam would "tease" S.112.3188(1),FS about missing class. Ariyanayagam stated that she did not know the teasing bothered S.112.3188(1),FS until S.112.3188(1),FS filed a complaint with Holloman and Sabolic. When Ariyanayagam was asked how she teased S.112.3188(1),FS, she responded that it was "nothing major," and it was just her mentioning to S.112.3188(1),FS that S.112.3188(1),FS had missed some classes. Ariyanayagam denied ever "throwing a tantrum" after S.112.3188(1),FS missed a class. Ariyanayagam stated that she might have "shared her disappointment" with S.112.3188(1),FS because Ariyanayagam and S.112.3188(1),FS were partners in the kickboxing class and Ariyanayagam relied on S.112.3188(1),FS to be there. Ariyanayagam stated that S.112.3188(1),FS told her once that it seemed like Ariyanayagam wasn't happy with S.112.3188(1),FS when S.112.3188(1),FS would miss a class, but Ariyanayagam stated that she understood that S.112.3188(1),FS missed classes sometimes because S.112.3188(1),FS's S.112.3188(1),FS wanted S.112.3188(1),FS to be home in the evenings.

Ariyanayagam stated that S.112.3188(1),FS loaned her \$500 for the down payment on Ariyanayagam's car. However, Ariyanayagam stated that she did not ask S.112.3188(1),FS for the loan. Ariyanayagam stated that her car caught on fire, and when she told S.112.3188(1),FS, S.112.3188(1),FS "showed up" and arranged for Ariyanayagam's car to be towed to S.112.3188(1),FS's mechanic, and the mechanic stated that Ariyanayagam's car was no longer functional. Ariyanayagam stated that she was planning on renting a car, but S.112.3188(1),FS volunteered to take Ariyanayagam to the car dealership instead. Ariyanayagam stated that the car salesman spoke Spanish, so S.112.3188(1),FS negotiated with him. Ariyanayagam stated that she was planning on talking to her parents the next day about getting money for the down payment, but S.112.3188(1),FS stated that S.112.3188(1),FS would loan Ariyanayagam the money for the down payment. Ariyanayagam stated that she told S.112.3188(1),FS that S.112.3188(1),FS did not need to loan her the money, but S.112.3188(1),FS insisted. Ariyanayagam stated that she never made S.112.3188(1),FS feel like her job was dependent on loaning Ariyanayagam the money, and Ariyanayagam denied telling S.112.3188(1),FS that she had spoken with Sabolic and gotten S.112.3188(1),FS a raise. Ariyanayagam was adamant that she did not ask S.112.3188(1),FS for the money and stated, "I did not ask S.112.3188(1),FS for this money. I did not even anticipate to get the car that night. I didn't anticipate any of this. It just happened so quickly, and I have really—That's my error in judgment. I regret it. But, no, I did not pressure S.112.3188(1),FS. I did not ask for the money." Ariyanayagam stated that it is "absolutely not" a good idea for a supervisor to borrow \$500 from a subordinate.

Ariyanayagam stated that she does not know why S.112.3188(1),FS told Holloman, Sabolic, and the OIG that Ariyanayagam pressured S.112.3188(1),FS into loaning Ariyanayagam money. Ariyanayagam stated that after S.112.3188(1),FS reported the loan to DWC management, Ariyanayagam felt "very guarded" around S.112.3188(1),FS. Ariyanayagam stated, "I had a tough time going into the office because I felt like everything I say [*sic*] and did was being watched and twisted and turned. So I think my guard was up." Ariyanayagam stated that after S.112.3188(1),FS made S.112.3188(1),FS complaint to DWC management about Ariyanayagam pressuring S.112.3188(1),FS to attend classes and loan Ariyanayagam money, Ariyanayagam did not feel like S.112.3188(1),FS was an honest person anymore. Ariyanayagam believed this occurred sometime in 2016. Ariyanayagam stated that after Holloman and Sabolic spoke to her, she sent them an email to follow up on their conversation (Exhibit 26). Ariyanayagam stated that after Holloman and Sabolic

spoke to her about S.112.3188(1),FS, she no longer wanted any type of friendship with S.112.3188(1),FS, and their relationship was strictly professional. Ariyanayagam stated that she felt like she was being set up by S.112.3188(1),FS and that S.112.3188(1),FS was trying to hurt her on a personal level; however, Ariyanayagam stated, "to this day, I don't know what I ever did to offend her or upset her."

Ariyanayagam recalled one time in which she went to lunch with S.112.3188(1),FS and S.112.3188(1),FS paid. Ariyanayagam stated that she told S.112.3188(1),FS before they ate that Ariyanayagam was going to pay for lunch as a token of her appreciation for S.112.3188(1),FS. However, while Ariyanayagam was away from the table getting dessert, S.112.3188(1),FS paid for the meal. Ariyanayagam stated that she never went to lunch with S.112.3188(1),FS and pressured S.112.3188(1),FS to pay for the meal. Ariyanayagam stated that it is "very seldom" that her subordinates pay for her lunch and that usually when she goes out to eat with subordinates, she pays. Ariyanayagam denied ever pressuring any subordinate to pay for lunch.

Ariyanayagam stated that she never told S.112.3188(1),FS that S.112.3188(1),FS needs to make sacrifices in order to advance in the division. Ariyanayagam denied making any comment to S.112.3188(1),FS that could be interpreted in this manner. Ariyanayagam stated that she has never had any conversation with S.112.3188(1),FS about S.112.3188(1),FS advancing within the division.

Ariyanayagam stated that she never told S.112.3188(1),FS that DWC management wanted to fire S.112.3188(1),FS but Ariyanayagam was protecting S.112.3188(1),FS. Ariyanayagam denied making any comment to S.112.3188(1),FS that could be interpreted in this manner. *(NOTE: Based on an email from Ariyanayagam to former Bureau Chief Robin Delaney, Ariyanayagam told Delaney, "When [S.112.3188(1),FS] was appointed I said to S.112.3188(1),FS that I did have to convince Tanner [Holloman] and Andrew [Sabolic] because of the short period S.112.3188(1),FS was with us they were a little reluctant." See Exhibit 25.)*

## Findings

*(NOTE: The claim that Ariyanayagam borrowed money from S.112.3188(1),FS and took classes with s.112.3188(1),FS are not being disputed. However, these issues have already been addressed by management. See Allegation 10. Therefore, the OIG will only be making a determination as to whether or not Ariyanayagam utilized her position in order to coerce S.112.3188(1),FS to participate in these acts.)*

It is alleged that Ariyanayagam violated AP&P 1-15, Code of Ethics, and AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by using her position in state government for personal gain. – **NOT SUSTAINED/INCONCLUSIVE**

## ALLEGATION 5

**Ariyanayagam has committed timesheet fraud by not allowing employees to claim time worked and by going to salons during work hours and claiming work time.**

### Complainant Statement

S.112.3188(1),FS stated that Ariyanayagam made S.112.3188(1),FS work on approximately three Saturdays without claiming the time on s.112.3188(1),FS timesheet. S.112.3188(1),FS stated s.112.3188(1),FS was an SES employee, who would not be paid overtime for working extra hours,

but Ariyanayagam still did not let s.112.3188(1),FS claim the hours on her timesheet. S.112.3188(1),FS stated that former Government Analyst II Mark Carlin witnessed S.112.3188(1),FS working on one Saturday. S.112.3188(1),FS stated that Ariyanayagam does not let any employee claim extra time. *(NOTE: OIG staff attempted to access entry swipe and computer log on/off information to corroborate S.112.3188(1),FS's claim that s.112.3188(1),FS worked on some Saturdays. However, according to Holloman, the building where the DWC offices are located uses physical keys for entry, not electronic badges. Therefore, card swipe data is not available. According to OIT, there is no reliable log on/off information from three years ago. Therefore, this data was not available either.)*

S.112.3188(1),FS also made allegations that Ariyanayagam goes to hair salons while on state time. S.112.3188(1),FS stated that this occurred while Ariyanayagam was on a ride along with Valdivia.

### Witness Statements

**T. Holloman** (B/M) stated that employees should record time according to “exactly what you work” on any given day.

**M. Carlin** (W/M) stated that he remembers one instance in which he went into the office on a weekend and saw S.112.3188(1),FS in the office. Carlin stated that he is not sure how long S.112.3188(1),FS had been there or what s.112.3188(1),FS was doing, and he did not remember whether he also saw Ariyanayagam in the office that day. Carlin stated he believes this occurred approximately three years ago, and he did not know if S.112.3188(1),FS claimed the time on her timesheet. *(NOTE: A review of S.112.3188(1),FS's timesheet showed that s.112.3188(1),FS claimed time on one Saturday, September 5, 2015, and one Sunday, January 24, 2016, during s.112.3188(1),FS employment with DFS. See Exhibit 29.)*

**X. Valdivia** (H/F) stated she could not recall ever dropping Ariyanayagam off at a salon, and she has no knowledge of Ariyanayagam ever going to a salon during work hours.

**H. Fluriach** (H/M) stated he has never been instructed to falsify a timesheet. However, he stated that investigators are required to work until their shift ends, and sometimes when he has to do a stop work order near the end of his shift, he runs over on time. Fluriach stated that employees are discouraged from working overtime, so when this happens, he will typically not claim any extra time worked.

**P. Krossman** (W/F) stated she believes Rivera and S.112.3188(1),FS were both forced to work extra hours and not claim the time on their timesheets. Krossman stated S.112.3188(1),FS and Rivera have told her that Ariyanayagam has made them work without claiming the time.

**S. Aldana** (H/F) stated that S.112.3188(1),FS told her that Ariyanayagam would go to hair salons for hours at a time during work hours, but Aldana has no firsthand knowledge of it.

**M. Victores** (H/F) stated she could not recall ever being instructed to falsify a timesheet; however, Victores believes Ariyanayagam changed her timesheets around the time that Victores got into a traffic accident *(NOTE: Victores' accident happened in or around February 2015. See OIG Case 15023)*. Victores stated she did not understand why Ariyanayagam made the changes and could not elaborate any further, but stated it would probably be reflected in her timesheet. *(NOTE: Because of the length of time following Victores' separation from DFS, her timesheets were not available to review in People*

*First. Due to this and the fact that she was unable to provide any additional information, the OIG did not pursue this matter further.)*

**P. Macon** (B/F) stated that S.112.3188(1),FS never reported that Ariyanayagam did not allow S.112.3188(1),FS to claim work hours on s.112.3188(1),FS timesheet. Macon stated that she knows Ariyanayagam works on Saturdays sometimes; however, Macon stated that Ariyanayagam does not record work time on Saturdays when she comes in to work. Macon stated that she approves Ariyanayagam's timesheets. Macon stated, "Usually, she [Ariyanayagam] would balance it out during the month. So, for instance, if she worked tomorrow [Saturday], let's say she worked tomorrow six hours...during the month, she'll take extended lunches or whatever. It just depends, and she'll let me know when she needs to do that." Macon then again affirmed that if Ariyanayagam works on a weekend, she does not record the time worked; however, Ariyanayagam will offset the time later in the pay period, but will not accurately record when she offsets the time. Macon was then asked if this is how Ariyanayagam is supposed to record time worked on a weekend based on policy. Macon responded, "I would think that you would show the time worked Saturday...If she works two hours tomorrow [Saturday], then I would think that it would show two hours, and then in the middle of the week, it would show the hours where they were offsetting. I would think that would be more accurate." Macon then stated that she also believes that Ariyanayagam fails to report travel time as time worked. When Macon was asked why she approves timesheets if she knows Ariyanayagam is not claiming time worked on the weekend, she responded, "That's a good question...I don't know the answer to that. I just didn't think about it as work."

Aldana, Beckstrom, Cabrera, Carlin, Ledwell, Loy, Proano, Rivera, Rodriguez, Seidler, Valdivia, and Wilson all stated that they have never been asked to falsify a timesheet.

### Subject Statement

Ariyanayagam stated that she works on weekends "a lot of time." However, she stated that she does not claim the time worked on her timesheet. When asked why she doesn't record her time worked on weekends, Ariyanayagam responded that she does not believe the system allows her to claim the time and she does not claim the time because no one is forcing her to come in on the weekend. Ariyanayagam stated that she has worked on the weekend approximately 20-25 times over the last three years. Ariyanayagam was then shown a copy of her timesheets for the last three years (Exhibit 24), which shows that she has only claimed time on a weekend once during that period. Ariyanayagam confirmed that she has "absolutely" worked more than one weekend in the past three years. Ariyanayagam stated that if she works on a weekend, she does not offset that time by working less on another day in the pay period. Ariyanayagam was asked if she would expect her subordinates to claim time worked on a Saturday, and she responded, "Yes." Ariyanayagam stated that Macon is aware that she works on the weekends regularly.

Ariyanayagam stated that she does not believe S.112.3188(1),FS ever worked on a Saturday. Ariyanayagam denied ever forcing S.112.3188(1),FS to work on a Saturday and then not claim the time. When told that S.112.3188(1),FS had alleged that this occurred, Ariyanayagam responded, "That's not true."

Ariyanayagam stated that she has never gone to a salon for personal reasons and then claimed work time while she was on a ride along with anyone. Ariyanayagam stated that she does think she went into a salon once during a lunch break to ask a question.



## Findings

It is alleged that Ariyanayagam violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by not allowing S.112.3188(1),FS to claim time worked on a weekend. – **NOT SUSTAINED/INCONCLUSIVE**

It is alleged that Ariyanayagam violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by going to salons during work hours and claiming work time. – **UNFOUNDED**

During the course of the investigation, it was discovered that Ariyanayagam regularly works on weekends, but does not claim the time on her timesheet. This behavior is in violation of AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE. – **SUSTAINED**

During the course of the investigation, it was discovered that Macon approves timesheets that she knows to be false. This behavior is in violation of AP&P 5-26, Standards and Procedures of Discipline Section IX.B. NEGLIGENCE, Section IX.C. INEFFICIENCY OR INABILITY TO PERFORM ASSIGNED DUTIES, and Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE. – **SUSTAINED**

## ALLEGATION 6

**Ariyanayagam targets employees based on bias and personal agendas.**

### Complainant Statement

In S.112.3188(1),FS written complaint, S.112.3188(1),FS wrote, “Swendy [Ariyanayagam] told me before I went to HR in January of 2016, that she was going to get rid of the following people for challenging her, Patricia Krossman [W/F], Robert Cerrone [W/M], Scarlett Aldana [H/F], Anita Proano [W/F] and Greg Mills [B/M]. According to Swendy that anyone who challenged her was a goner and especially since she was going to become the Investigations Manager” (Exhibit 2).

During s.112.3188(1),FS interview, S.112.3188(1),FS stated that Ariyanayagam keeps a list of people that she is trying to get fired. S.112.3188(1),FS stated that whoever questions Ariyanayagam gets put on the list. When asked for specific details, S.112.3188(1),FS stated that Ariyanayagam offered her and Powell “a day at the spa” if they could get Jimerson fired. S.112.3188(1),FS stated that Jimerson was on Ariyanayagam’s list because Jimerson had filed an EEO complaint against Ariyanayagam. S.112.3188(1),FS also stated that Ariyanayagam coached S.112.3188(1),FS in what S.112.3188(1),FS should say in s.112.3188(1),FS interview during the EEO investigation of Jimerson’s complaint against Ariyanayagam. S.112.3188(1),FS stated that s.112.3188(1),FS had to cooperate with Ariyanayagam to keep her job. S.112.3188(1),FS also stated that Ariyanayagam once attempted to get s.112.3188(1),FS to document that Jimerson left work 11 minutes early (see Allegation 8).

### Witness Statements

**B. Cerrone (W/M)** stated that Ariyanayagam seemed to “favor some people and target or discipline other people for no reason other than that she just felt that way.” Cerrone stated that Ariyanayagam told him he just needed to get used to her “management style”, but Cerrone stated that her management style was “bullying and harassing.” When Cerrone was asked for a specific example of

how Ariyanayagam harassed him, he stated she approached him the day she was promoted to Investigations Manager and confronted him about thinking he should have gotten the job (See Allegation 7). Cerrone also stated that in meetings, “you could tell” that Ariyanayagam “didn’t like” S.112.3188(1), FS, Gumph, or Aldana by the way she treated them. (*NOTE: Ariyanayagam’s treatment of her employees is addressed in Allegation 7.*)

Cerrone also stated that Gumph told him that Ariyanayagam “had it out for” Cerrone, and Assistant Division Director Andrew Sabolic even called Cerrone to talk about Ariyanayagam “having it out for” Cerrone after that rumor spread throughout the state. Cerrone stated that the call caught him “completely off guard,” and he was about to go into a meeting, so he couldn’t elaborate on his concerns about Ariyanayagam. However, Cerrone told Sabolic that he felt Ariyanayagam “over supervised” him and was “on top of every little thing that he did.” However, Cerrone’s issues with Ariyanayagam only worsened after his conversation with Sabolic.

**H. Fluriach (H/M)** stated he has no knowledge of Ariyanayagam targeting certain individuals in an attempt to get them fired, and he does not feel Ariyanayagam has ever targeted him. However, Fluriach stated he feels that he is not liked by Ariyanayagam. Fluriach stated that Ariyanayagam has a group of people that are her favorites, and if employees are not in that group, they are at a disadvantage. Fluriach stated he did not know what Ariyanayagam based her favorites on, but it does not appear to be based on race. As an example of how Ariyanayagam treats her favorites, Fluriach stated when a new zone became available, Fluriach should have had it assigned to him based on seniority; however, Ariyanayagam assigned it to former Insurance Analyst II Eric Perez, who was a new investigator that she “seemed to like a lot.” Fluriach also stated that when the Government Operations Consultant (GOC) position became vacant, he applied for it. However, Ariyanayagam gave the position to Workers’ Compensation Administrator Jose Lopez, who is also liked by Ariyanayagam. Fluriach stated that he had more experience and education than Lopez, and he had even trained Lopez. Fluriach stated that he feels Ariyanayagam “made a fool out of me by making me apply for this when she had already decided who she was going to promote.” Fluriach stated that Lopez has since been promoted again to the Workers’ Compensation Administrator position in the West Palm Beach office. (*NOTE: Victores also stated that Ariyanayagam promoted Lopez without giving anyone else, specifically Fluriach, a fair chance at the position. Victores stated that Ariyanayagam announced in a meeting that the job was open to anyone that applied, and then immediately after the meeting, Victores heard Ariyanayagam tell Lopez that he was going to get the job.*)

Fluriach also stated that Valdivia, who is in Ariyanayagam’s preferred group according to Fluriach, moved from the Miami office to the West Palm Beach office, where she became a senior investigator. Fluriach stated that Valdivia decided she wanted to go back to Miami, so she took a job in the Miami office that was not a senior investigator position; however, Valdivia kept her senior investigator salary. (*NOTE: People First records show that Valdivia was demoted from a Regulatory Analyst II to an Insurance Analyst II on October 25, 2016; however, her salary remained the same. See Exhibit 16.*)

**P. Krossman (W/F)** stated that Ariyanayagam keeps a list of employees that she wants to have fired, and once Ariyanayagam has decided to have someone fired, “somehow she manages to make it happen.” When Krossman was asked why Ariyanayagam wants certain people fired, Krossman responded, “I’ll be honest. She’s nuts.” Krossman again stated that Ariyanayagam keeps a list of people that she wants to get fired, and then stated that Ariyanayagam “had it out for” Cerrone, and Krossman had to tell Ariyanayagam on two occasions to “stay away from Bob [Cerrone].” Krossman stated that Ariyanayagam told her that Cerrone was “ridiculous” for thinking he deserved the Investigations Manager position, and Ariyanayagam told Krossman that she was going to contact Cerrone to talk to him about it. Krossman stated that she asked Ariyanayagam not to confront

Cerrone about it, but Ariyanayagam ignored her and spoke to Cerrone about it. Krossman also stated that whenever Cerrone would say something in meetings, Ariyanayagam would “smile that big annoying smile” and make comments such as “how stupid is that?” Krossman then reiterated that Ariyanayagam told Krossman that Ariyanayagam has a list of people that she wants fired. Krossman stated she has never seen the list, and she does not know if Ariyanayagam keeps an actual, physical list.

When Krossman was asked if Ariyanayagam’s behavior was a policy violation or a poor management style, Krossman stated Ariyanayagam violates policy because “she lies. She sets people up to hopefully get them fired. I personally believe and personally know that she has lied to supervisors and other people in order to get what she wants. So yes, that’s a policy violation.” Krossman went on to state that Ariyanayagam lied to Krossman’s supervisor by saying that she [Ariyanayagam] had tried to call Krossman multiple times and couldn’t get ahold of Krossman. However, Ariyanayagam never called Krossman. Krossman stated this happened “many many times.” Krossman stated Ariyanayagam “blatantly lied regarding me at work and regarding phone calls made to me that never were made.”

Krossman stated that she believes Ariyanayagam has also lied about Investigations Manager Greg Mills. Krossman stated that Ariyanayagam told her that Mills is only keeping his job because he is “super close with Tanner [Holloman].” Ariyanayagam has claimed to see Mills sleeping in his office on several occasions, and Krossman believes these statements to be untruthful. When asked why Ariyanayagam would make up statements like this, Krossman replied, “She [Ariyanayagam] didn’t like Greg [Mills]. She didn’t believe that Greg was worthy of being a manager. She even stated that to me when they made him a manager.” *(NOTE: In a sworn statement, Mills stated that he does not feel like Ariyanayagam has ever targeted him or lied about him.)*

**P. Macon** (B/F) stated that she has no knowledge of Ariyanayagam targeting employees and trying to get them fired. However, she stated that Ariyanayagam has told her that Ariyanayagam believes she has a reputation for doing that.

**L. Morales** (H/F) said that Ariyanayagam creates a very stressful environment and “targets” anyone that questions or challenges her. Morales stated several times throughout the conversation that she felt “targeted.” Morales also stated that she felt Ariyanayagam was trying to “build a file” on her [Morales] so that Ariyanayagam could fire her. Morales could not provide any additional details regarding Ariyanayagam targeting her or anyone else.

**C. Powell** (B/F) stated that she does not believe Ariyanayagam targets people to get them fired. However, Powell stated that sometimes she feels like she was “used as a pawn in this position to get rid of certain people on the team.” When asked to explain how she was “used as a pawn,” Powell stated that Ariyanayagam had her handle some personnel issues that Powell feels should have been handled by the District Supervisor. For example, Ariyanayagam would instruct Powell to address issues that Ariyanayagam had with Former Insurance Analyst II Michelle Jimerson’s work, even though at the time Ariyanayagam was Jimerson’s immediate supervisor. Powell stated that she believed Ariyanayagam did this because Jimerson was “combative and confrontational,” and Ariyanayagam “didn’t want to face her [Jimerson].” Powell stated that Ariyanayagam did not ever offer her a day at the spa if she could get Jimerson fired, as was alleged by S.112.3188(1),FS.

Powell stated that she does not believe Ariyanayagam ever targeted her and tried to get her fired; however, Powell stated that she heard rumors around the office that Ariyanayagam did not want Powell to become a district supervisor. Powell stated she heard these rumors from S.112.3188(1),FS.

Powell stated that S.112.3188(1),FS told her that Ariyanayagam did not want Powell to become a district supervisor because Ariyanayagam believed “black girls are confrontational.”

**M. Victores** (H/F) stated that Ariyanayagam targets certain individuals and tries to get them fired. Victores stated, “She tried getting me fired.” When asked what Ariyanayagam did to try to get her fired, Victores responded, “She [Ariyanayagam] told somebody, ‘I’m pushing her [out]. It just takes time.’ Basically, ‘I’m getting there, and she’ll [Victores] leave on her own.’” Victores stated Ariyanayagam made these comments to former Regulatory Consultant Tanique Rose, and Victores overheard them as well. *(NOTE: The OIG attempted to contact Rose for a statement. However, as of the date of this report, no response has been received.)* Victores stated she believes Ariyanayagam made the same type of comments about her to Aldana. Victores also stated that Ariyanayagam would second guess her decisions, and this made the working environment “unpleasant.”

**E. Wilson** (B/M) stated he has no knowledge of Ariyanayagam targeting employees and attempting to get them fired. However, he did state that he had his one-year probationary period extended for two months, and Ariyanayagam did not explain why his probation was being extended. Wilson thought this was unfair because he was not provided with an explanation.

**S. Aldana** (H/F) stated that Ariyanayagam treats her employees in accordance with DFS policies and procedures. Aldana stated that Ariyanayagam’s management style is “very hands-on,” and Ariyanayagam has a good understanding of the operations in the Division.

**A. Proano** (H/F) stated that Ariyanayagam makes “sly remarks” about people in front of management. Proano stated these remarks are comments like “I’m [Ariyanayagam] doing that when you should be doing that job” or “We’re always waiting on him [unspecified] for the meeting.” Proano stated that she has heard that Ariyanayagam makes the same kind of “sly remarks” about her.

Cerrone, Proano, and **M. Seidler** (H/F) all stated that Ariyanayagam has managed multiple DWC offices throughout the state, and wherever she goes, people tend to get fired or resign. However, they did not know if this was because Ariyanayagam targets people or some other reason.

Beckstrom, Cabrera, Loy, and Valdivia all stated that they had no knowledge of Ariyanayagam targeting certain employees.

### Subject Statement

Ariyanayagam denied having a group of “favorite” employees that are given special treatment. Ariyanayagam stated that Valdivia was not demoted and moved from the West Palm Beach Office to the Miami Office. Ariyanayagam stated that Valdivia was a senior investigator in West Palm Beach, requested a transfer to Miami, and there were no senior positions vacant in the Miami Office. So Valdivia accepted an investigator position that was not a senior position. Ariyanayagam stated that this is a demotion in title, and she was not sure if Valdivia was given a pay cut to accompany the demotion in title. Ariyanayagam stated that she is not involved in employees’ salaries, but she believes when moves like this happen, the employee is allowed to keep their original salary. Ariyanayagam stated salary decisions are made by DWC’s Human Resources liaison, Macon, Sabolic, and Holloman.

Ariyanayagam stated that she did not have any say in Powell being transferred from West Palm Beach to Miami, and that the decision was “made above” her. Ariyanayagam stated that she believes it was

Macon that made the recommendation to move Powell because Macon believed Powell was a “better fit” in Miami. Ariyanayagam stated Powell is in a completely different role in Miami, and she was not sure if the move was a promotion, demotion, or transfer.

Ariyanayagam stated that Macon, Sabolic, and Holloman made the decision to promote Workers’ Compensation Administrator Jose Lopez from Insurance Analyst II to Government Operations Consultant II (GOC) and subsequently to his current position. Ariyanayagam stated that Macon asked her for her opinion on promoting Lopez, and Ariyanayagam had no objections. Ariyanayagam stated that she felt Lopez was the best qualified person to be promoted.

Ariyanayagam then stated that Workers’ Compensation Administrator Michelle Loy informed Ariyanayagam, Macon, Sabolic, and Holloman that Krossman had contacted Loy and told Loy that Ariyanayagam had a list of people that she was trying to get fired. Ariyanayagam denied keeping a list of people that she is attempting to have fired. Ariyanayagam denied ever targeting Krossman, Cerrone, Aldana, Proano, Mills, Morales, Jimerson, or Victores.

Ariyanayagam stated that Delaney would occasionally ask her if she knew where Krossman was. Ariyanayagam stated that she might have told Delaney “once or twice” that she had been trying to call Krossman and couldn’t get ahold of her. Ariyanayagam stated she never told Delaney this in an attempt to get Krossman in trouble.

Ariyanayagam denied ever offering Powell and S.112.3188(1),FS a day at the spa if they could get Jimerson fired.

Ariyanayagam stated that Jimerson filed an EEO complaint against Ariyanayagam alleging that Ariyanayagam had discriminated against Jimerson based on Jimerson’s race. Ariyanayagam denied coaching anyone, specifically S.112.3188(1),FS, on what to say during their interviews regarding the EEO complaint. Ariyanayagam stated that the complaint was handled through an affidavit, and she did not have conversations with anyone regarding the EEO complaint.

Ariyanayagam denied ever making a comment that she was “pushing out” Victores.

Ariyanayagam denied that she ever had a conversation with S.112.3188(1),FS in which she stated she did not want Powell to be a district supervisor. Ariyanayagam denied ever making the statement “black girls are confrontational.”

## Findings

It is alleged that Ariyanayagam violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by targeting specific employees based on personal bias and agendas. – **NOT SUSTAINED/INCONCLUSIVE**

## ALLEGATION 7

**Ariyanayagam bullies, intimidates, and verbally abuses her employees.**

### Complainant Statement

S.112.3188(1),FS stated that when S.112.3188(1),FS and Aldana were in Tallahassee in January 2016, they complained to HR and Delaney about Ariyanayagam. *(NOTE: The OIG followed up with Chief of Human Resource Management Liz Kelley to obtain a copy of the complaint. Kelley confirmed that S.112.3188(1),FS and Aldana approached her in or around January 2016 and made a verbal complaint regarding Ariyanayagam. However, there was no documentation of the complaint, which was referred to Division Management by HR.)* S.112.3188(1),FS stated that when S.112.3188(1),FS got back to West Palm Beach, Ariyanayagam “berated” S.112.3188(1),FS for speaking to HR and Delaney while in Tallahassee. S.112.3188(1),FS stated that after Ariyanayagam berated S.112.3188(1),FS, Ariyanayagam told S.112.3188(1),FS that Ariyanayagam was formerly part of a group that was responsible for assassinating the first female prime minister of India. S.112.3188(1),FS stated Ariyanayagam told her “sometimes violence is needed [to get what you want].” S.112.3188(1),FS stated S.112.3188(1),FS felt like this statement was made as a threat and was Ariyanayagam’s way of saying that Ariyanayagam would resort to violence if necessary to keep S.112.3188(1),FS submissive. S.112.3188(1),FS stated that there were no witnesses when Ariyanayagam made this comment. S.112.3188(1),FS also stated that Ariyanayagam intimidated S.112.3188(1),FS by having S.112.3188(1),FS look at a Facebook picture of Ariyanayagam wearing military gear (Exhibit 36).

When asked how Ariyanayagam verbally abused S.112.3188(1),FS, S.112.3188(1),FS stated that if S.112.3188(1),FS missed a public speaking class, Ariyanayagam would “throw a tantrum” and call S.112.3188(1),FS stupid for skipping a class S.112.3188(1),FS had paid for. S.112.3188(1),FS stated these tantrums occurred in the office, and is not sure if anyone else overheard them. S.112.3188(1),FS stated that S.112.3188(1),FS has saved text messages between S.112.3188(1),FS and Ariyanayagam after some of these tantrums. *(NOTE: S.112.3188(1),FS stated S.112.3188(1),FS would forward these messages to the OIG. However, as of the date of this report, S.112.3188(1),FS has not provided them.)*

S.112.3188(1),FS stated that Powell had regular attendance problems and is constantly on Facebook, making personal calls, and shopping online during work hours (See Exhibit 9 and Allegation 2). However, whenever she brought up issues about Powell to Ariyanayagam, Ariyanayagam would call S.112.3188(1),FS “anal retentive” and “stupid ass.” S.112.3188(1),FS stated S.112.3188(1),FS put up with Ariyanayagam’s abuse because S.112.3188(1),FS did not want to lose S.112.3188(1),FS job. S.112.3188(1),FS stated S.112.3188(1),FS is not sure if anyone ever overheard Ariyanayagam call S.112.3188(1),FS “anal retentive” or “stupid ass.”

## Witness Statements

**S. Aldana** (H/F) stated that she has been intimidated by Ariyanayagam because Ariyanayagam’s management style is “very abrasive.” Aldana stated she feels like she has to follow Ariyanayagam’s guidelines or Aldana will lose her job.

When Aldana was asked if she has ever seen Ariyanayagam “throw a tantrum,” she responded, “When she’s not happy, she’ll let you know.” Aldana went on to state that Ariyanayagam can sometimes be “loud” and “unprofessional” when she is unhappy. Aldana was asked if Ariyanayagam was ever demeaning when she was loud and upset, to which she replied, “sometimes.” Aldana stated that when she first started as a supervisor, Ariyanayagam would “use the word ‘duh’ a lot. Like, ‘You have to do it this way, duh.’ Or ‘How come you don’t know this? Duh.’ So that was condescending to me.” Aldana stated that these comments were made shortly after Aldana became a supervisor, and Ariyanayagam was “expecting a lot from me, and I wasn’t delivering.”

**L. Beckstrom** (W/F) stated that when Ariyanayagam first became the Investigations Manager, Beckstrom had “a little conflict” with Ariyanayagam. Beckstrom stated that Ariyanayagam could have been “a little bit nicer” in the way she spoke to people. However, Beckstrom stated that she just assumed the issue was “a cultural thing,” and Ariyanayagam has gotten softer in the way she speaks to people. Beckstrom stated that Ariyanayagam did not necessarily say anything that was not nice, but the tone that Ariyanayagam used was “authoritarian” and “speaking down to” Beckstrom.

Beckstrom stated she does not feel like she has ever been bullied or intimidated by Ariyanayagam, but again stated there was conflict when Ariyanayagam first became her manager because they were “not familiar” with each other. Beckstrom again stated that she no longer has any issues with Ariyanayagam. Beckstrom was asked if this was because Ariyanayagam’s behavior has changed or if she is simply used to Ariyanayagam’s behavior now. Beckstrom stated that she believes Ariyanayagam’s treatment of others has changed.

Beckstrom stated that Ariyanayagam has never subjected her to any type of verbal abuse. She stated the only knowledge she would have of employees being verbally abused is that Aldana and S.112.3188(1),FS talked to HR about Ariyanayagam. However, Beckstrom stated she could not remember anything specific that Aldana and S.112.3188(1),FS had said about Ariyanayagam.

**J. Cabrera** (H/M) stated that he never worked out of the same office building as Ariyanayagam. Cabrera stated that his relationship with Ariyanayagam was “amicable,” and he could only remember one instance in which there was any tension between them. Cabrera stated there was one time when he was instructed to stay in the office to get a new investigator settled in. Cabrera stated after he helped the new investigator settle in, he went out into the field to work. Ariyanayagam called him the next day and said, “What happened?” Cabrera stated that during this conversation, Ariyanayagam was very “brash,” and Cabrera thought he had done what he had been instructed to do. Cabrera stated, “She [Ariyanayagam] expects you to know what she’s talking about when she talks to you, even if it’s just out of the blue.” Cabrera stated that he did not feel Ariyanayagam crossed a line or violated policy during this interaction with him.

Cabrera stated that he has never been bullied or intimidated by Ariyanayagam, but he “could tell when she was upset.” Cabrera stated that Ariyanayagam has a “my way or the highway” attitude, and she could be hard to talk to at times because of it. Cabrera also stated that he has no knowledge of Ariyanayagam bullying or intimidating anyone else.

Cabrera stated that Ariyanayagam “throws tantrums,” but they do not rise to the level of policy violations. Cabrera stated that during tantrums, Ariyanayagam gets very upset and tells you “it’s her way or the highway, and this is the way it is, and that’s it. You can’t argue with her.”

Cabrera stated that he has never been verbally abused by Ariyanayagam, but he has “heard that it’s been done” to other people. Cabrera went on to state that he has heard from Aldana that Ariyanayagam verbally abuses her and S.112.3188(1),FS. Cabrera stated, “I know Scarlett [Aldana] has felt intimidated by Swendy [Ariyanayagam], and she’s had—Swendy’s had—her thumb on her [Aldana] the whole time that she’s been there, and she’s still intimidated by her.”

**M. Carlin** (W/M) stated he has never witnessed Ariyanayagam violate any DFS policy. Carlin stated that prior to becoming the Special Cases Coordinator, he was the District Supervisor, and Ariyanayagam replaced him as the District Supervisor when he became the Special Cases Coordinator. He stated their management styles were completely opposite, and it was difficult for



him to work in the same office as Ariyanayagam. Carlin stated Ariyanayagam was much more "authoritarian" with DWC employees than Carlin had been as the supervisor.

Carlin stated that he was the Special Cases Coordinator for approximately two years after being the District Supervisor, and during that time, Ariyanayagam's employees came to him with complaints. However, Carlin stated the complaints were about Ariyanayagam's management style, not any kind of policy violation. Specifically, Carlin stated that Ariyanayagam used the GPS in investigator's cars to "monitor that [investigators' activities] really really closely."

Carlin stated that he never felt bullied or intimidated by Ariyanayagam, and he never felt like Ariyanayagam was attempting to bully or intimidate him. Carlin again stated that Ariyanayagam had a different management style than he did, but he did not consider it to be bullying or intimidating to her employees.

Carlin stated he has never seen Ariyanayagam throw a tantrum, but he has heard her raise her voice. However, he did not hear Ariyanayagam say anything that he would consider inappropriate.

**B. Cerrone (W/M)** stated that his relationship with Ariyanayagam was "combative and stressful" because she "often found fault" in what Cerrone said or did. Cerrone stated Ariyanayagam frequently told or emailed him concerns in opposition to changes that Cerrone made in his region. Cerrone stated that he felt Ariyanayagam was disrespectful toward him because of the "commanding tone" she would use. Cerrone stated he was in the army and is former law enforcement, so he has been in military or paramilitary organizations for 30 years, but none of his superiors ever caused him the level of stress that Ariyanayagam did.

When Cerrone was asked for examples of his stressful interactions with Ariyanayagam, he recalled a time that the BOC was conducting a state-wide sweep, and he had two investigators that were retiring at the end of the week. Cerrone instructed the investigators to not go out on the sweep and to instead try and finish up the cases they were working, which required some fieldwork. Cerrone stated Ariyanayagam emailed him and stated that if the investigators were going to be finishing up cases, they needed to be in the office from eight to five, not driving around. Cerrone stated he tried to explain that the investigators were driving around for work purposes, and Ariyanayagam responded by sending him verbiage from policy stating that when investigators work in the office, they need to be in the office from eight to five. Cerrone stated, "I just didn't understand what she was so mad about."

Cerrone stated that the day Ariyanayagam got promoted to Investigations Manager, she came to his office and said, "I heard that you don't think I deserve this position and think you should have got it." Cerrone stated that Ariyanayagam's comments like this caused him to retire a year earlier than he planned, and Ariyanayagam's treatment forced him to take FMLA leave for three months to get his blood pressure under control. Cerrone stated that Ariyanayagam caused him to "stress over little tiny things that didn't really mean much." Cerrone stated that Ariyanayagam spent a few days at his office observing his district, and at the end of her visit, she sat down with him and only had negative things to say. For example, Ariyanayagam told him he was "running this thing like a police department" and "doing too much with his investigators".

Cerrone stated that Ariyanayagam has been a supervisor in multiple regions throughout the state, and everywhere she goes her investigators quit because they can't work for her. Cerrone stated that Ariyanayagam was given a manager position without ever being an investigator, which makes it more difficult for her to know how to get her investigators to work for her. Cerrone stated that Ariyanayagam "is applying Management 101 courses that she learned in college to actual situations

that are happening in the street or underneath her, and you can tell by her language and what she words things as [*sic*], that they're coming from a book." Cerrone went on to state, "You can definitely supervise without terrorizing. She terrorized me out of a job, period. That's all I can say."

Cerrone stated that he has seen Ariyanayagam "throw tantrums," and when she does so, she "stands up and walks out of the room real mad." Cerrone stated he could not remember anything specific that Ariyanayagam would do during her tantrums, but he stated he was "more afraid" of Ariyanayagam than he was of any supervisor he's ever had. Cerrone stated that during Ariyanayagam's tantrums, she would not shout, call him names, or curse.

When Cerrone was asked if he thought Ariyanayagam's behavior was poor management or a policy violation, he responded, "That's a good question." Cerrone stated that Ariyanayagam has one person in every district that she can call and get negative information about everyone else in the district. Cerrone stated that he feels this behavior is "very unprofessional."

**M. Cicio (W/M)** stated there was a time before S.112.3188(1),FS was his supervisor that he and S.112.3188(1),FS were called into Ariyanayagam's office and told to no longer work together. Cicio stated that he and S.112.3188(1),FS were told that they had to "sever their relationship" because "the assumption would be made around the office that they were more than friends." Cicio stated he thought this was a "bullying tactic" by Ariyanayagam so that he would not be working with another strong employee. Cicio stated that Powell was in Ariyanayagam's office prior to him and S.112.3188(1),FS being called in, but she was no longer present when the comment was made. Cicio stated he believes Powell was the "instigator" that led to Ariyanayagam telling him and S.112.3188(1),FS not to work together anymore.

**H. Fluriach (H/M)** stated that Ariyanayagam has a "very strong personality," and that makes her intimidating. However, he does not believe that Ariyanayagam has violated policy; she is just a "tough boss."

Fluriach stated that he has seen Ariyanayagam throw tantrums, and when she does so, she "is loud." Fluriach stated Ariyanayagam does not swear or insult people during tantrums, and he could not think of anything that Ariyanayagam did during a tantrum that he would consider a policy violation.

**K. Glover (B/M)** stated that he doesn't get the chance to work closely with Ariyanayagam since he works in Orlando and she is in Tallahassee. Glover stated that he has never had any problems with Ariyanayagam, but he tries to "stay clear of her as much as possible." Glover stated he stays clear of Ariyanayagam because "one minute you're doing something right, and the next minute something's coming down on you from her, something you did that you didn't think was a problem." Glover stated this never happened to him, but he witnessed it happen to Cerrone. However, Glover could not provide a specific example to illustrate his point other than to say that Ariyanayagam had a reputation as a "boogie man."

**J. Gumph (W/M)** stated, "To me, it was common knowledge within the entire state that Swendy's [Ariyanayagam] micromanagement style—that she ruled with fear and intimidation with everyone." When Gumph was asked to explain what he meant by "fear and intimidation," he stated that he was aware that Aldana and S.112.3188(1),FS had issues with Ariyanayagam and felt they were being intimidated by Ariyanayagam. However, Gumph could not provide specific examples of how Aldana, S.112.3188(1),FS, or the other district supervisors felt intimidated. Gumph went on to state, "Swendy [Ariyanayagam] micromanaged them quite a bit, and they basically were in fear of Swendy

[Ariyanayagam].” Gumph also stated that he does not believe any current district supervisors will report anything negative about Ariyanayagam for fear of retribution.

When Gumph was asked if he believed Ariyanayagam’s behavior rose to the level of a policy violation, he responded, “I really can’t think of anything that I knew about that Swendy [Ariyanayagam] did that was a policy violation. No.” Gumph stated he could not think of any behavior on the part of Ariyanayagam that he would consider “cruel or unfair” as written in S.112.3188(1),FS’s allegation (Exhibit 1).

**P. Krossman (W/F)** stated that Ariyanayagam is an “aggressive” manager, and her employees are in constant fear of losing their jobs if they don’t cooperate with whatever Ariyanayagam asks them to do. Krossman also stated that some of Ariyanayagam’s requests are “absolutely ridiculous.” When asked for an example of something that is “absolutely ridiculous,” Krossman stated that she and Ariyanayagam oversaw the revamping of the case review process. Krossman stated she did most of the work because Ariyanayagam was “constantly traveling for personal reasons.” Krossman also stated that Ariyanayagam had S.112.3188(1),FS do the work that Ariyanayagam was supposed to do.

Krossman stated that when Ariyanayagam was promoted to Investigations Manager, Ariyanayagam’s prior supervisor, former Investigations Manager Bill Dorney, warned Krossman that Ariyanayagam “was a backstabbing, conniving, evil person.” Krossman stated Dorney had issues with Ariyanayagam because he gave her an evaluation that was not a perfect score, and Ariyanayagam “pretty much went off on” Dorney on the phone and then went over Dorney’s head regarding the evaluation.

**M. Loy (W/F)** stated that when Ariyanayagam first took over as Investigations Manager, they had a “tense” relationship, and there was a “learning phase of getting to know each other and how each other operates.” Loy stated that she currently has a good working relationship with Ariyanayagam, and when they have issues, they can “talk through” them and come to an agreement. Loy stated she has never been bullied or intimidated by Ariyanayagam, and she has no knowledge of anyone being bullied or intimidated.

Loy stated Ariyanayagam has never subjected her to any type of verbal abuse. However, Loy stated S.112.3188(1),FS has told Loy that Ariyanayagam was verbally abusive to [S.112.3188(1),FS]. When asked what Ariyanayagam did that was abusive, Loy stated that S.112.3188(1),FS told her that Ariyanayagam would sometimes send S.112.3188(1),FS “mean text messages,” but Loy had no further information.

**P. Macon (B/F)** stated that she regularly works with Ariyanayagam, and she has not seen Ariyanayagam do or say anything that would lead to the allegations made against her. However, Macon stated that she does have to “reel her [Ariyanayagam] in” sometimes. When asked what Ariyanayagam does that needs to be “reeled in,” Macon provided an example of a meeting with an attorney when the attorney had failed to provide all of the relevant documents, and as a result the Division had to withdraw a stop work order. Macon stated everyone was upset, but Ariyanayagam “showed the most frustration” and made a comment to the attorney that his lack of preparation was affecting the Division’s operations.

Macon stated that Investigations Manager Greg Mills informed her that several of Ariyanayagam’s subordinates “didn’t like” Ariyanayagam. Macon stated that she also realized that Ariyanayagam’s subordinates had problems with her because S.112.3188(1),FS wanted to hold regular meetings for the District Supervisors and not invite Ariyanayagam, who is the immediate supervisor for all of the District Supervisors.

**A. Mickens** (W/F) stated that Ariyanayagam once commented on her clothes and told her it looks like she “shops at Walmart.” Mickens stated the comment “hurt her feelings,” and she believes Ariyanayagam was telling her that she needed to dress more professional. Mickens stated no one else heard Ariyanayagam make this comment.

**L. Morales** (H/F) stated that Ariyanayagam has a “condescending” personality and does not work as a team. Morales said Ariyanayagam’s attitude is “I’m the manager. Who are you to question me?” Morales stated that she has a Public Administration degree, and Ariyanayagam’s management style “doesn’t work.” Morales stated that Ariyanayagam is “vindictive” and “micromanages” her employees. When asked if Morales feels that Ariyanayagam’s behavior constitutes a violation of policy, Morales stated, “I don’t know if anything goes to the level of a violation, but it’s close.”

Morales stated she had two “encounters” with Ariyanayagam, both after submitting her resignation from DFS. First, Ariyanayagam took away her car, leaving Morales stuck doing work in the office. Second, Ariyanayagam told Morales that she didn’t like her shirt and that if Morales hadn’t already resigned, Ariyanayagam would make her go home and change. When Morales was asked if Ariyanayagam felt her shirt was inappropriate or if she just didn’t like it, Morales explained that Ariyanayagam thought it was inappropriate because it had the word “love” embroidered on it.

When **C. Powell** (B/F) was asked if Ariyanayagam has ever verbally abused her, Powell stated that she did have one issue with Ariyanayagam in which Ariyanayagam spoke to her in a rude manner, and Powell had to tell Ariyanayagam not to talk to her in that way. However, Powell could not remember what it was that Ariyanayagam had said because the incident occurred several years ago. Powell stated that ever since she told Ariyanayagam not to speak to her in a rude manner, she has not had problems with the way Ariyanayagam addresses her.

Powell believed Ariyanayagam had been “a little manipulative” with Powell in the past. When asked how Ariyanayagam was manipulative, Powell stated that she feels like Ariyanayagam “pits” employees against each other. When Powell was asked how she knew that Ariyanayagam “pits” employees against each other, she responded that sometimes employees would go to Ariyanayagam to complain about Powell, and Ariyanayagam would tell Powell who came to her and exactly what they said. Powell stated that this created a “not so pleasant environment.”

When Powell was asked to describe Ariyanayagam as a supervisor, Powell responded, “I’ve had better.” Powell went on to state that Ariyanayagam “pretends to be for the team but [is] a little selfish in her efforts to do whatever she wanted to do whether it’s her climbing the ladder or possibly appeasing upper management. Yeah, I’ve had better [supervisors]. She was good, but I’ve had better.”

**A. Proano** (H/F) stated, “Sometimes she [Ariyanayagam] feels like she can be a bully. She wants to get her way, but I don’t think I have [felt bullied or intimidated] because I don’t let it get to me.” Proano stated that she has never felt bullied or intimidated, but she has heard from Ariyanayagam’s subordinates that Ariyanayagam bullies and/or intimidates them. When asked whom she had heard that from, Proano named Cerrone and S.112.3188(1),FS. Proano stated that Ariyanayagam’s subordinates in District 2 (West Palm Beach) feel like they cannot contact Proano directly if they have a question about a penalty audit, and they have to go through Ariyanayagam to talk to Proano. Proano stated that it is Ariyanayagam’s management style to want to know everything that is going on in her section and the other sections.

Proano stated that Ariyanayagam throws tantrums. When she was asked to describe Ariyanayagam's tantrums, Proano stated that there are times in meetings when Ariyanayagam "gets loud and just keeps going and talking" and Division Director Tanner Holloman has to say "enough, alright? We heard you [Ariyanayagam], and we're going with this." (NOTE: Holloman stated he could not remember specifically saying this to Ariyanayagam, but stated he has had to say this or something similar numerous times to DWC employees in the past.) Proano stated Ariyanayagam does not violate any policies during her "tantrums." She just keeps trying to get her point across.

**M. Seidler** (H/F) stated that Ariyanayagam was very "aggressive" and "demanding" when she first became the Investigations Manager. However, Seidler stated that her relationship with Ariyanayagam has improved as they've worked together longer. Seidler stated she did not believe that Ariyanayagam's management style was a violation of any DFS policy.

Seidler stated that she is aware that S.112.3188(1),FS filed an HR complaint against Ariyanayagam. Seidler stated that S.112.3188(1),FS called her and said [S.112.3188(1),FS] had spoken to Human Resources Chief Liz Kelley, and Kelley had encouraged S.112.3188(1),FS to speak with Ariyanayagam's other direct reports to gather "strength in numbers." However, at the time S.112.3188(1),FS contacted Seidler, Seidler's issues with Ariyanayagam had been resolved. Seidler stated that S.112.3188(1),FS called her later and told her that someone had told Ariyanayagam that S.112.3188(1),FS had filed a complaint with HR, and Ariyanayagam "yelled at" S.112.3188(1),FS. Seidler stated she did not have any additional information regarding the HR complaint or Ariyanayagam yelling at S.112.3188(1),FS.

**X. Valdivia** (H/F) stated she has known Ariyanayagam for seven years, and Ariyanayagam has been "professional" and "cooperative." Valdivia described Ariyanayagam as "a very easy-going person to work with." Valdivia stated she has never had a problem with Ariyanayagam.

Valdivia stated she has never been bullied or intimidated by Ariyanayagam, and she has no knowledge of anyone else being bullied or intimidated. Valdivia stated Ariyanayagam is "very respectful to everybody." Valdivia stated that she would be surprised if anyone reported that Ariyanayagam is abrasive or a micromanager.

When **M. Victores** (H/F) was asked to describe her relationship with Ariyanayagam, Victores responded, "If I ever went into her office and didn't come out crying, it was—I won the lottery or something, because every single time I went into her office, she made me feel bad." When asked what Ariyanayagam would say or do to make her feel bad, Victores stated Ariyanayagam would tell her not to be so nice to the people she was investigating. Victores stated that Ariyanayagam told her that this job was "maybe not for" Victores because she was too nice. Victores stated that Ariyanayagam told her she needed to "not be herself" in order to succeed in the division. Victores stated she was "super intimidated" by Ariyanayagam because she felt she "was never good enough." Victores stated that Aldana and Fluriach also felt bullied by Ariyanayagam.

Victores also stated that Ariyanayagam made comments about the way Victores' uniform fit. Victores stated, "I'm not like a mannequin, so there were certain things that unfortunately were a little tight, some were not, and then she would make, like, adjusters and tell me that I need to do certain things, and I just didn't like that." When Victores was asked to explain what she meant by Ariyanayagam making adjusters and telling her to do certain things, Victores stated that she could provide an email displaying Ariyanayagam's behavior (Exhibit 18). (NOTE: While this exhibit does involve Ariyanayagam instructing Victores on her work attire, it does not provide additional insight on "adjusters.") Victores continued, "Whatever I would eat, you could tell, the way she would look at me,

it was just different. It was awkward being around her.” When Victores was asked if anyone else heard Ariyanayagam make comments to Victores regarding her body or the way her clothes fit, Victores stated that Aldana was in the office with her and Ariyanayagam on at least one occasion. Victores stated that she felt Ariyanayagam’s comments about her weight were “degrading,” and often made Victores cry. *(Note: Aldana stated that she has heard Ariyanayagam make comments to Victores about her clothes, but Aldana could not remember the specific comments. Aldana provided an email in which Ariyanayagam advised Victores to “maintain a professional work outlook” in her attire. See Exhibit 18. Aldana went on to state that Ariyanayagam has made comments to Aldana about the clothes she wore. Specifically, Ariyanayagam “expressed her discontent” when Aldana wore jeans to a job site.)*

Victores stated that Ariyanayagam throws tantrums, and when she is throwing a tantrum, “she scares you,” with her demeanor. Victores went on to state that Ariyanayagam “makes you feel stupid” by making comments like, “You don’t understand. How did you get this job?” Victores stated that she feels Ariyanayagam’s treatment of her constitutes verbal abuse because when Ariyanayagam would make comments like this, Victores would feel like she was going to lose her job.

**E. Wilson** (B/M) described Ariyanayagam as “standoff-ish” and stated that she did not interact much with lower-level employees. Wilson stated he has never witnessed Ariyanayagam do anything that he would consider to be a policy violation. Wilson stated that Ariyanayagam could be “abrupt,” but he did not consider her to be bullying or intimidating.

Casal, Fluriach, Glover, Ledwell, Proano, Rivera, Rodriguez, Seidler, Valdivia, and Wilson all stated they were never subjected to any verbal abuse by Ariyanayagam, and they had no knowledge of anyone else being subjected to anything they would consider verbal abuse.

## Subject Statement

**Ariyanayagam** (A/F) stated that she remembered S.112.3188(1),FS sending her some text messages about the way Ariyanayagam would respond when S.112.3188(1),FS missed a public speaking or kickboxing class. However, Ariyanayagam stated that she could not remember what the text messages said, and they are no longer on her phone.

Ariyanayagam stated that she has an open-door policy for her subordinates, but she is very “direct” with them and doesn’t “sugar coat” issues. Ariyanayagam stated that her subordinates have told her that they are not used to her management style; however, when she asks for clarification, no one can provide an example of how her management style differs from other supervisors. Ariyanayagam stated that other supervisors have a more “hands-off” approach to management and Ariyanayagam is a “hands-on manager, meaning I do review cases. I do put in a lot of hours at work. So if something needs to be corrected, I will tell them. I don’t hold back.” While Ariyanayagam described herself as “hands-on,” she denied being a “micromanager.” She stated that a micromanager would be more involved in employees’ day-to-day decision making process. Ariyanayagam stated she does not have the time to micromanage any of her district offices.

Ariyanayagam denied ever referring to S.112.3188(1),FS as “anal retentive” or “stupid ass,” and stated, “I don’t talk like that.”

Ariyanayagam denied confronting former Workers Compensation Administrator Bob Cerrone about Cerrone applying for the Investigations Manager position.

Ariyanayagam stated that she has addressed multiple employees' dress over her tenure as a supervisor. Ariyanayagam stated that she remembered telling Insurance Specialist II Alexia Mickens that she needs to "dress appropriately." However, Ariyanayagam could not recall the specific words used when addressing Mickens. When asked if she told Mickens that it looks like Mickens "shops at Walmart," Ariyanayagam responded, "Absolutely not. I would never say that."

Ariyanayagam stated she did not tell Morales, "If you hadn't already resigned, I would make you go home and change." Ariyanayagam stated she believes part of the DFS dress code speaks to clothing with words on it, and if employees wear words that are "outrageous big," she will address the issue. However, Ariyanayagam denied addressing it in the manner reported by Morales. Ariyanayagam stated that she will usually send an email to an employee if she needs to counsel them on their clothing.

Ariyanayagam stated she did not remember ever addressing Victores' clothing. When Ariyanayagam was told that Victores reported that Ariyanayagam made comments about the way Victores' clothes fit because Victores "isn't a mannequin," Ariyanayagam responded, "This is absolutely a—It's a lie. I don't talk like that, and I never address my employees like that."

Ariyanayagam stated that she remembered speaking to Aldana about wearing fishnet stockings. Ariyanayagam told Aldana that those type of stockings were not acceptable to wear to work. Ariyanayagam stated that S.112.3188(1),FS complained about Aldana wearing tight jeans, so Ariyanayagam also addressed that with Aldana. Ariyanayagam stated that employees are allowed to wear jeans to work sites, but the jeans need to be appropriate.

Ariyanayagam stated that she found out that S.112.3188(1),FS and Aldana spoke to HR shortly after they met because S.112.3188(1),FS was calling the other supervisors to see if anyone else wanted to make a complaint against Ariyanayagam, and it "got relayed back to" Ariyanayagam. Ariyanayagam stated that she spoke to Delaney after she found out that S.112.3188(1),FS and Aldana had made a complaint about her, and Ariyanayagam asked Delaney to provide her with the feedback from S.112.3188(1),FS and Aldana. Ariyanayagam stated she talked to S.112.3188(1),FS about her report to HR, and Ariyanayagam asked S.112.3188(1),FS why S.112.3188(1),FS didn't just go to Ariyanayagam with her complaint. Ariyanayagam stated that S.112.3188(1),FS told her that the whole situation "was just a big misunderstanding." Ariyanayagam stated that during this conversation, she never "berated" S.112.3188(1),FS, as S.112.3188(1),FS had alleged.

Ariyanayagam denied ever telling S.112.3188(1),FS that she was part of a group responsible for assassinating the first female Prime Minister of India. Ariyanayagam stated that she and S.112.3188(1),FS never talked about the first female Prime Minister of India. Ariyanayagam denied ever telling S.112.3188(1),FS that sometimes "violence in necessary." Ariyanayagam did not remember ever showing S.112.3188(1),FS a picture of her in combat gear on Facebook (Exhibit 36).

## Findings

It is alleged that Ariyanayagam violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by bullying, intimidating, and verbally abusing her employees. – **NOT SUSTAINED/INCONCLUSIVE**

## ALLEGATION 8



**Ariyanayagam has physically abused S.112.3188(1),FS.****Complainant Statement**

S.112.3188(1),FS stated Ariyanayagam called on an unknown date and asked to meet in a parking lot. When S.112.3188(1),FS arrived, Ariyanayagam got in S.112.3188(1),FS's car on the rear driver's side and told S.112.3188(1),FS to report that former Insurance Analyst II Michelle Jimerson had left work 11 minutes early. S.112.3188(1),FS stated s.112.3188(1),FS did not immediately reply, and Ariyanayagam put her hand up between S.112.3188(1),FS's head and the vehicle door, slapped S.112.3188(1),FS in the side of the head, and said, "I'm not asking, I'm telling you." (NOTE: S.112.3188(1),FS was told that the OIG is conducting an administrative investigation of Ariyanayagam's behavior and that if s.112.3188(1),FS wanted to file any type of criminal charges against Ariyanayagam, s.112.3188(1),FS would need to do so through the appropriate law enforcement agency.) S.112.3188(1),FS stated that Ariyanayagam reiterated that S.112.3188(1),FS would have to do this type of favor for Ariyanayagam to progress in the Department.

S.112.3188(1),FS stated that Ariyanayagam only slapped s.112.3188(1),FS once, but Ariyanayagam also used to "pet" s.112.3188(1),FS neck and head while attempting to comfort S.112.3188(1),FS if S.112.3188(1),FS was upset. S.112.3188(1),FS stated that S.112.3188(1),FS asked Ariyanayagam to stop petting her in December 2016; however, Ariyanayagam petted S.112.3188(1),FS again in June 2017 when S.112.3188(1),FS was upset about something. When S.112.3188(1),FS again asked Ariyanayagam to not touch S.112.3188(1),FS, Ariyanayagam responded, "Whatever [S.112.3188(1),FS], you're gonna lose your job."

**Witness Statements**

When asked if she was aware of anyone being physically abused by Ariyanayagam, **Aldana** stated that S.112.3188(1),FS once told her that Ariyanayagam "called [S.112.3188(1),FS] stupid and hit S.112.3188(1),FS on the head or smacked S.112.3188(1),FS on the head." Aldana stated she asked S.112.3188(1),FS what s.112.3188(1),FS did about it, and S.112.3188(1),FS replied "nothing." Aldana asked S.112.3188(1),FS if s.112.3188(1),FS thought that behavior was normal, and S.112.3188(1),FS replied, "no."

**Krossman** stated that she is aware of Ariyanayagam slapping S.112.3188(1),FS in the back of the head, and Krossman believes Ariyanayagam also hit a male investigator in the Miami office. She did not know the investigator's identity, but believes it may have been Fluriach. Krossman was not present for either of the alleged slaps, but has heard about them. (NOTE: Fluriach denied ever being slapped by Ariyanayagam.)

**Powell** stated Ariyanayagam has never subjected her to any type of physical abuse, and she was only aware of Ariyanayagam physically abusing anyone through hearsay. Powell stated that Aldana told her that S.112.3188(1),FS had told Aldana that Ariyanayagam slapped S.112.3188(1),FS in the head. However, Powell had no firsthand knowledge of Ariyanayagam physically abusing anyone.

Aldana, Beckstrom, Cabrera, Carlin, Casal, Fluriach, Glover, Gumph, Ledwell, Loy, Proano, Rivera, Rodriguez, Seidler, Valdivia, Victores, and Wilson all stated they have never been subjected to any type of physical abuse by Ariyanayagam, and they had no knowledge of anyone else being physically abused.

## Subject Statement

Ariyanayagam stated she did not remember meeting S.112.3188(1),FS in a car to discuss Jimerson leaving work early. When Ariyanayagam was told S.112.3188(1),FS's account of Ariyanayagam slapping her in the head, Ariyanayagam became emotional and replied, "This is not true." Ariyanayagam denied ever slapping S.112.3188(1),FS across the head even in a joking manner.

At this point in the interview, Ariyanayagam became very emotionally upset and asked to take a break.

After coming back from her break, Ariyanayagam stated, "I'm sorry. I don't think that—I'm just beyond myself. All these lies. I don't even know why people are saying these things, and it's complete lies."

Ariyanayagam again denied slapping S.112.3188(1),FS even in a joking manner. When asked why S.112.3188(1),FS would tell the OIG that Ariyanayagam slapped s.112.3188(1),FS if it never happened, Ariyanayagam responded, "I don't know half these things, or most of these things, why everybody is saying the things. I can't answer you. I don't know why they're telling you these things." Ariyanayagam stated there is no truth to S.112.3188(1),FS's statements that Ariyanayagam hit S.112.3188(1),FS in the head. Ariyanayagam stated that she did meet with S.112.3188(1),FS in cars to go on ride alongs, but she does not remember meeting S.112.3188(1),FS to talk about Jimerson.

When Ariyanayagam was asked why she reacted to this allegation in the manner she did, she responded, "It's outrageous. It's outrageous. I mean, everything, it's piling. You're saying that I said this and said that and it's not true. I don't treat my employees like that and it's upsetting me because I work too hard to make sure everybody's ok, and it's just—I don't even know. I feel like I'm being ganged up on. It's not right."

When Ariyanayagam was asked if she ever petted S.112.3188(1),FS, she responded, "I don't do that." Ariyanayagam admitted to hugging S.112.3188(1),FS when S.112.3188(1),FS was upset, but denied petting S.112.3188(1),FS. Ariyanayagam stated that S.112.3188(1),FS never spoke to her about Ariyanayagam petting s.112.3188(1),FS and denied ever saying, "Whatever [S.112.3188(1),FS], you're gonna lose your job." Ariyanayagam stated that this claim made by S.112.3188(1),FS is a "complete lie" because Ariyanayagam didn't even know what S.112.3188(1),FS was going to lose S.112.3188(1),FSjob.

## Findings

It is alleged that Ariyanayagam violated AP&P 5-23, Violence in the Workplace, and AP&P 5-26 Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by physically abusing S.112.3188(1),FS. – **NOT SUSTAINED/INCONCLUSIVE**

## ALLEGATION 9

**Ariyanayagam forced S.112.3188(1),FS to listen to stories about Ariyanayagam's ex-husband.**

## Complainant Statement

S.112.3188(1),FS stated that Ariyanayagam told S.112.3188(1),FS inappropriate stories<sup>6</sup> about Ariyanayagam's ex-husband despite S.112.3188(1),FS telling Ariyanayagam that S.112.3188(1),FS did not want to hear the stories. S.112.3188(1),FS stated these conversations took place during work hours, but did not know if anyone else overheard them.

### Subject Statement

Ariyanayagam stated that she and S.112.3188(1),FS only had one conversation in which they discussed Ariyanayagam's ex-husband; however, she stated that S.112.3188(1),FS did not ever express that s.112.3188(1),FS was uncomfortable or that S.112.3188(1),FS felt the conversation was inappropriate. Ariyanayagam did confirm that the substance of the conversation was similar to the allegation made by S.112.3188(1),FS.

### Findings

It is alleged that Ariyanayagam violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by sharing inappropriate personal stories with S.112.3188(1),FS after S.112.3188(1),FS stated S.112.3188(1),FS didn't want to hear them. Based on the nature of the conversation, Ariyanayagam's stance that S.112.3188(1),FS did not express that s.112.3188(1),FS was uncomfortable is not relevant. Because Ariyanayagam was S.112.3188(1),FS's supervisor, it was not appropriate for her to put S.112.3188(1),FS in a position where S.112.3188(1),FS had to listen to the stories shared by Ariyanayagam. – **SUSTAINED**

## ALLEGATION 10

**Holloman, Sabolic, Delaney, and Macon ignored Ariyanayagam's behavior and allowed S.112.3188(1),FS to be harassed and abused.**

### Complainant Statement

S.112.3188(1),FS stated that when she and Aldana were in Tallahassee in January 2016, they spoke to Assistant Director Robin Delaney about Ariyanayagam. Delaney told S.112.3188(1),FS and Aldana that she would follow-up with them, but never did. In s.112.3188(1),FS written complaint, S.112.3188(1),FS alleges that s.112.3188(1),FS went to HR "several times," as well as going to Delaney, Sabolic, and Macon to address issues with Ariyanayagam, but S.112.3188(1),FS feels like S.112.3188(1),FS was ignored (Exhibit 2). S.112.3188(1),FS writes, "no one ever bothered to follow up with me on a monthly basis, quarterly basis or even semi annual [*sic*] basis to see how things were going."

### Witness Statements

**L. Beckstrom** (W/F) stated that she attended the managers' training in January 2016 with Aldana and S.112.3188(1),FS. Beckstrom stated she heard Aldana and S.112.3188(1),FS "complaining about" Ariyanayagam to each other, but Beckstrom could not remember details of what they said. Beckstrom stated that while they were in Tallahassee for the training, S.112.3188(1),FS and Aldana spoke to HR about Ariyanayagam, but she did not know what the result was. Beckstrom stated that

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<sup>6</sup> Due to the nature of the alleged stories, the OIG will not elaborate on their content.

S.112.3188(1),FS and Aldana did not ask Beckstrom to go to HR with them. She stated that sometime after this she received a call from Sabolic inquiring about Ariyanayagam.

**A. Proano** (H/F) stated that after S.112.3188(1),FS made the complaint about Ariyanayagam, Sabolic called her and asked her if she had any problems with Ariyanayagam. Proano told Sabolic that she and Ariyanayagam had always “butted heads” because of the positions that they are in.

When **P. Krossman** (W/F) was asked if she felt management ever ignored any complaints, she responded, “Absolutely.” When asked for specific details about what has been ignored, Krossman only stated there have been several complaints about Ariyanayagam from several investigators and supervisors that have been ignored. Krossman did not elaborate on what the complaints were or who they were made to. However, she also stated that there have been complaints about Proano that have been ignored. Krossman stated that management’s lack of actions caused morale to go “down the tubes.”

**M. Seidler** (H/F) stated her issues with Ariyanayagam were resolved by speaking with Ariyanayagam and Delaney. Seidler stated that she has never brought an issue to management that she feels management ignored. On the contrary, Seidler stated that when she brought concerns about Ariyanayagam to management, the situation got better.

**S. Aldana** (H/F) stated she did not remember speaking to Delaney when she and S.112.3188(1),FS were in Tallahassee; she only remembered speaking to HR. She stated she has never reported an issue to DWC management that she feels management ignored.

Beckstrom, Carlin, Fluriach, Ledwell, Loy, Proano, Rodriguez, Valdivia, and Victores all stated they have never reported an issue to DWC management that they feel was ignored.

### Subject Statements

**Holloman** stated that he did not recall S.112.3188(1),FS bringing any concerns to him about Ariyanayagam. Holloman stated he did not recall S.112.3188(1),FS ever reporting anything about Ariyanayagam using her position for personal gain; committing timesheet fraud; targeting employees and trying to get them fired; bullying, intimidating, or verbally abusing her employees; or physically abusing anyone.

Holloman then stated that he remembered S.112.3188(1),FS reporting concerns about Ariyanayagam to Sabolic. Holloman stated that S.112.3188(1),FS reported that Ariyanayagam had asked S.112.3188(1),FS to loan Ariyanayagam money for a down payment on a car. Holloman stated that after S.112.3188(1),FS made the complaint, Sabolic interviewed Ariyanayagam, as well as the district supervisors. Holloman stated that it was determined that S.112.3188(1),FS had offered to loan Ariyanayagam the money, despite Ariyanayagam telling S.112.3188(1),FS that Ariyanayagam could get the money from her family. Holloman said that by the time he became aware of this incident, Ariyanayagam had already repaid S.112.3188(1),FS the money. However, Ariyanayagam was counseled that it is a “bad idea” to borrow money from a subordinate because it “upsets the employer/employee relationship.”

When asked, Holloman stated he recalled that S.112.3188(1),FS and Aldana made a complaint to HR about Ariyanayagam in January 2016. Holloman stated that he believed this complaint involved Ariyanayagam pressuring S.112.3188(1),FS to take some kind of class together. Holloman stated he

could not remember if anyone followed up with S.112.3188(1),FS or Aldana after this meeting. Holloman stated that he believed S.112.3188(1),FS and Aldana's meeting with HR was supposed to remain confidential, so there was no follow-up that needed to be done.

Holloman stated that he could not recall S.112.3188(1),FS reporting any issues to management that were not properly followed up on.

Holloman stated he could not recall any complaints regarding Senior Management Analyst Supervisor Anita Proano's conduct.

**Sabolic** stated that he met with Aldana and S.112.3188(1),FS regarding Ariyanayagam while Aldana and S.112.3188(1),FS were in Tallahassee attending management training. Sabolic stated he believed Holloman and possibly former Bureau Chief Robin Delaney were also present at the meeting. Sabolic stated that he believes S.112.3188(1),FS and Aldana voiced some general concerns with Ariyanayagam's management style, but there was nothing that gave Sabolic the impression that Ariyanayagam was bullying, harassing, or abusing employees. Sabolic stated he did not remember if any follow up was ever done with Ariyanayagam after his meeting with S.112.3188(1),FS and Aldana.

Sabolic stated he spoke with S.112.3188(1),FS again sometime after this meeting because there was some "unhappiness" among the district supervisors regarding Ariyanayagam's management. Sabolic stated that there had been discussion among the supervisors that Ariyanayagam was attempting to get one or more of them fired, so he contacted all of them to discuss Ariyanayagam. During his conversation with S.112.3188(1),FS, S.112.3188(1),FS brought up a loan that Ariyanayagam had asked S.112.3188(1),FS for. Sabolic stated that the loan was approximately \$500, and S.112.3188(1),FS told him that Ariyanayagam had asked or pressured S.112.3188(1),FS to make the loan, and S.112.3188(1),FS felt obligated to do so because Ariyanayagam was S.112.3188(1),FS supervisor. Sabolic stated that this concerned him, and he sought clarification from Ariyanayagam. However, while Ariyanayagam admitted to borrowing the \$500, she stated that S.112.3188(1),FS offered to make the loan and that Ariyanayagam never asked or pressured S.112.3188(1),FS. *(NOTE: This is consistent with what Ariyanayagam reported to the OIG and the response documented by Ariyanayagam to Sabolic in Exhibit 26.)* Sabolic stated that Ariyanayagam was told that it is "not a good idea" to borrow money from someone in the office.

Sabolic stated he also remembered S.112.3188(1),FS reporting that Ariyanayagam pressured S.112.3188(1),FS to attend workout and public speaking classes with her. However, when Sabolic spoke with Ariyanayagam about this issue, Ariyanayagam again stated that she had not pressured S.112.3188(1),FS, and S.112.3188(1),FS had volunteered to take the classes with Ariyanayagam. Sabolic stated he did not recall S.112.3188(1),FS telling him that Ariyanayagam would throw a tantrum and call S.112.3188(1),FS stupid if S.112.3188(1),FS missed a class.

Sabolic stated that he vaguely remembers S.112.3188(1),FS telling him something about having to pick up Ariyanayagam at the airport, but he could not recall if he ever spoke to Ariyanayagam about this.

Sabolic stated that he did not remember S.112.3188(1),FS ever reporting to him that Ariyanayagam had required S.112.3188(1),FS to work on a few Saturdays and then not record the time. Sabolic stated that any weekend work would have needed to be approved by the Bureau Chief, and he would be aware of it.

Sabolic stated that he did not recall S.112.3188(1),FS ever reporting that Ariyanayagam bullies, intimidates, or verbally abuses her employees. Sabolic stated S.112.3188(1),FS never reported being called “stupid” or “anal retentive.”

Sabolic stated that S.112.3188(1),FS never reported anything about Ariyanayagam physically abusing anyone.

Sabolic stated that if anyone had ever reported any “action or a trend or a pattern or a series of egregious acts” perpetrated by Ariyanayagam, Ariyanayagam would have been removed from her position.

Sabolic stated that S.112.3188(1),FS reported that Powell had some attendance issues while she was a Government Operations Consultant II under S.112.3188(1),FS (Exhibit 9). Sabolic stated that Powell’s attendance issues were addressed by the Bureau Chief, and he believed that the situation had been resolved.

Sabolic stated that S.112.3188(1),FS “may have” reported that Powell spent a lot of time of the phone, but management “could never determine” the amount of time and to whom Powell was talking.

Sabolic stated that he is not aware of anyone reporting any complaints about Senior Management Analyst Supervisor Anita Proano’s conduct.

**Delaney** stated that shortly before she became the Division of Risk Management (DRM) Assistant Director, Aldana and S.112.3188(1),FS came to her to address concerns that they had with Ariyanayagam. Delaney stated that Aldana and S.112.3188(1),FS’s concerns dealt with Ariyanayagam being a “tough supervisor.” Delaney stated that S.112.3188(1),FS had issues with s.112.3188(1),FS most recent performance evaluation, but Delaney could not remember what the issues were. Delaney also stated that S.112.3188(1),FS felt that S.112.3188(1),FS’s subordinates believed that Ariyanayagam was leading their district, so they would go over S.112.3188(1),FS’s head straight to Ariyanayagam. *(NOTE: This is consistent with the follow-up email Ariyanayagam sent Delaney after Aldana and S.112.3188(1),FS made the complaint. See Exhibit 25.)* Delaney stated that she could not remember anything else that Aldana and S.112.3188(1),FS spoke of, and she did not recall them reporting any policy violations.

Delaney stated that after her meeting with Aldana and S.112.3188(1),FS, she talked with Holloman and Sabolic regarding S.112.3188(1),FS and Aldana’s concerns. Delaney stated that she believed she also followed up with Ariyanayagam, S.112.3188(1),FS, and Aldana, and in the end, “everything was fine.” Delaney stated that her interpretation of S.112.3188(1),FS and Aldana’s complaint was that S.112.3188(1),FS and Aldana were new supervisors and Ariyanayagam was “just trying to be strict to make sure they [S.112.3188(1),FS and Aldana] were getting everything done that they needed to get done.” Delaney stated this occurred in February 2016, and she then moved to DRM on March 1. Delaney stated these were the only issues about Ariyanayagam that S.112.3188(1),FS ever brought to her attention. Delaney stated that she would review her emails and provide anything she had related to S.112.3188(1),FS and Aladana’s concerns (Exhibit 25).

Delaney stated that S.112.3188(1),FS also spoke to HR when S.112.3188(1),FS was in Tallahassee in early 2016, and the unknown HR employee referred S.112.3188(1),FS to Delaney.

Delaney stated that she had no knowledge of S.112.3188(1),FS reporting that Ariyanayagam uses her position for personal gain, including pressuring S.112.3188(1),FS to take classes and loan

Ariyanayagam money. Delaney stated that she had no knowledge of S.112.3188(1),FS reporting that Ariyanayagam refused to allow S.112.3188(1),FS to claim time worked on Saturday. Delaney stated that she had no knowledge of S.112.3188(1),FS reporting that Ariyanayagam targets certain employees and tries to get them fired. Delaney stated that she had no knowledge of S.112.3188(1),FS reporting that Ariyanayagam bullies, intimidates, or verbally abuses her employees. Delaney stated that she had no knowledge of S.112.3188(1),FS reporting that Ariyanayagam physically abused S.112.3188(1),FS.

Delaney stated that S.112.3188(1),FS became the District Supervisor shortly before Delaney moved to DRM, so it is possible that S.112.3188(1),FS made these reports to management after Delaney's move.

Delaney stated that when she met with S.112.3188(1),FS in early 2016, S.112.3188(1),FS advised that Ariyanayagam had told S.112.3188(1),FS that no one in DWC management wanted to hire S.112.3188(1),FS, and Ariyanayagam had gotten S.112.3188(1),FS job. Delaney stated she couldn't remember following up with Ariyanayagam about that allegation, but she was "sure we did [follow up]." (NOTE: Based on Ariyanayagam's email to Delaney in Exhibit 25, DWC management did follow-up on this allegation made by S.112.3188(1),FS.)

Delaney stated that she could not recall anyone other than S.112.3188(1),FS reporting concerns about Ariyanayagam's conduct.

Delaney stated that she could not recall S.112.3188(1),FS reporting any concerns about Powell's conduct.

Delaney stated that she could recall Proano being brought up in a complaint made by Krossman. Delaney stated that Krossman brought up that Proano was allowed to come to work late, but Krossman wasn't. Delaney stated that Proano did not arrive to work late regularly, but she was "late sometimes."

**Macon** stated she recalled one complaint that S.112.3188(1),FS made against Ariyanayagam. Macon stated that there was one day that S.112.3188(1),FS's building in West Palm Beach shut down around noon due to a water problem, and Ariyanayagam asked S.112.3188(1),FS to finish the day working in the Ft. Lauderdale Office. Macon stated S.112.3188(1),FS thought that Ariyanayagam's tone of voice was inappropriate when Ariyanayagam told S.112.3188(1),FS to work in Ft. Lauderdale, and S.112.3188(1),FS felt this was unfair because S.112.3188(1),FS lives north of West Palm Beach and Ft. Lauderdale is south of West Palm Beach. Macon stated that she told S.112.3188(1),FS that S.112.3188(1),FS needs to set an example for s.112.3188(1),FS team and work out of the Ft. Lauderdale office for the day, and Macon also talked to Ariyanayagam about the way she speaks to her employees.

Macon stated there was another time when she and Ariyanayagam were in West Palm Beach, and they went to lunch without S.112.3188(1),FS. Macon stated that afterward, S.112.3188(1),FS shared that she was hurt because S.112.3188(1),FS had not been invited to lunch. Macon stated that S.112.3188(1),FS was not invited to lunch because just prior to Macon and Ariyanayagam going to lunch, Ariyanayagam had had a meeting with S.112.3188(1),FS, and Ariyanayagam had been upset by S.112.3188(1),FS, so Ariyanayagam wanted to go to lunch and recover. Macon stated that she does not know what took place in the meeting between Ariyanayagam and S.112.3188(1),FS.



Macon stated that S.112.3188(1),FS never reported anything to her about Ariyanayagam bullying, intimidating, or verbally abusing her employees.

Macon stated that S.112.3188(1),FS never reported anything to her about Ariyanayagam physically abusing anyone.

### Findings

It is alleged that Holloman, Sabolic, Delaney, and Macon violated AP&P 5-26, Standards and Procedures of Discipline Section IX.B. NEGLIGENCE and Section IX.C. INEFFICIENCY OR INABILITY TO PERFORM ASSIGNED DUTIES, by ignoring Ariyanayagam's behavior and allowing S.112.3188(1),FS to be harassed and abused. – **UNFOUNDED**

## ALLEGATION 11

**Ariyanayagam, Macon, Sabolic, and Holloman took retaliatory measures in response to an anonymous OIG complaint.**

### Complainant Statement

S.112.3188(1),FS stated that S.112.3188(1),FS was forced to resign by Holloman, Sabolic, Macon, and Ariyanayagam in retaliation for filing an anonymous OIG complaint (see OIG Case 17018 MR). S.112.3188(1),FS stated that because complaint OIG Case 17018 MR dealt with the “nasty” treatment of Hispanics, DWC management targeted all Hispanics in the office and attempted to terminate them. S.112.3188(1),FS stated the Hispanics in the office were S.112.3188(1),FS, Casal, and Rodriguez. S.112.3188(1),FS stated S.112.3188(1),FS resigned in lieu of termination, and management attempted to terminate Rodriguez, but didn't have the necessary documentation. So instead of being fired, Rodriguez had her probation extended but has not been told what areas she needs to improve. In s.112.3188(1),FS written complaint, S.112.3188(1),FS writes that Casal was “harassed daily by Cheryl Powell” following the anonymous OIG complaint; however, S.112.3188(1),FS did not provide additional details. (NOTE: See Allegation 1 for Casal's allegations against Powell.)

S.112.3188(1),FS also stated that S.112.3188(1),FS believes Holloman retaliated against S.112.3188(1),FS following S.112.3188(1),FS last physical day of work. S.112.3188(1),FS stated Holloman initially told S.112.3188(1),FS could use leave to be paid through August 2017. However, after S.112.3188(1),FS requested to speak to the CFO, Holloman had a “change of heart” and only allowed S.112.3188(1),FS to use leave through August 11, 2017. S.112.3188(1),FS stated S.112.3188(1),FS believes this change occurred specifically because S.112.3188(1),FS wanted to speak to the CFO.

### Witness Statements

**L. Beckstrom** (W/F) stated she does not feel like she has ever been retaliated against. However, she stated she “takes suspicion” as to why S.112.3188(1),FS was terminated. Beckstrom stated that her suspicion is that they “went after” S.112.3188(1),FS because of “whatever S.112.3188(1),FS was complaining about.” Beckstrom stated that was just her suspicion, and she does not know whether S.112.3188(1),FS was retaliated against.

**M. Cicio (W/M)** stated that part of the reason S.112.3188(1),FS was terminated was that there was a “security breach” in DWC’s case management system. Cicio stated that management believed that the investigators were logging into the system as other investigators and writing narratives for each other. Cicio stated that management based that belief on a portion of Rodriguez’s narrative that was written by Cicio. However, Cicio stated that he did not log into the case management system as Rodriguez; he wrote a portion of the narrative in Word and then emailed it to Rodriguez, who copied and pasted it into the case management system.

**H. Fluriach (H/M)** stated that he does not feel like he has ever been retaliated against, but he stated that Ariyanayagam has a group of people that she likes, and Fluriach feels like Ariyanayagam “holds him back” because he is not in that group. (NOTE: See Allegation 7 for additional details.)

**C. Powell (B/F)** concluded her statement by voicing grievances about S.112.3188(1),FS’s management style. Powell stated that S.112.3188(1),FS was “vindictive” and would “retaliate” if you did not agree with S.112.3188(1),FS. Powell stated that S.112.3188(1),FS caused a high rate of turnover by micromanaging and yelling at S.112.3188(1),FS employees. Powell also stated that S.112.3188(1),FS gave Hispanic employees preferential treatment. Powell stated that the Bureau of Compliance team in West Palm Beach “fell apart” beginning when S.112.3188(1),FS was made the district supervisor over the office. Powell stated that S.112.3188(1),FS’s complaint is “retaliation by a disgruntled employee.”

**A. Proano (H/F)** stated she has heard that Ariyanayagam retaliates against her employees. When asked who she has heard it from, Proano stated that Cerrone told her that Ariyanayagam retaliated against S.112.3188(1),FS after S.112.3188(1),FS made a complaint to HR about Ariyanayagam. However, Proano stated she did not have any additional details regarding the alleged retaliation.

**Y. Rodriguez (H/F)** stated when she was presented with a termination letter on July 26, 2017, she asked Holloman and Macon why she was being terminated, and they told her she was not meeting her standards. Rodriguez stated she had no indication prior to this time that she was not performing to standards, and she had never gotten in trouble or been counseled for failing to meet expectations. Rodriguez stated she was not given any documentation to show that she wasn’t meeting her performance expectations. Rodriguez stated that she doesn’t believe she was trained properly because there was a personnel shortage. When she voiced this concern to Holloman, the decision was made to extend her probation 60 days instead of terminating her. However, Rodriguez stated that after she was presented with a termination letter, she did not feel like DWC wanted her to work there anymore, so she began looking for new employment and voluntarily separated from DFS.

**X. Valdivia (H/F)** stated that Ariyanayagam has never retaliated against her and that Ariyanayagam “always tries to make you a better person and a better professional.”

### Subject Statements

**A. Sabolic (W/M)** stated that S.112.3188(1),FS was presented with a termination letter because DWC management determined that S.112.3188(1),FS’s district was not where it needed to be in terms of working together as a team, and the decision was made that the division needed to go in another direction. Sabolic stated S.112.3188(1),FS did not meet the expectations placed on S.112.3188(1),FS as a supervisor. Sabolic stated S.112.3188(1),FS’s separation was not related to the anonymous complaint made to the OIG, and he also stated that at the time of S.112.3188(1),FS’s separation, he

did not know who had made the anonymous complaint. Sabolic also stated that S.112.3188(1),FS's separation was not related to S.112.3188(1),FS being Hispanic.

**T. Holloman (B/M)** stated that S.112.3188(1),FS's separation was not related to the anonymous OIG complaint. Holloman stated that the Bureau Chief had been working with S.112.3188(1),FS for approximately 15 months prior to S.112.3188(1),FS's separation, and Holloman believed that the decision to terminate S.112.3188(1),FS was made prior to the anonymous OIG complaint being filed. Holloman stated that he did not have any documentation showing the date that the determination was made to terminate S.112.3188(1),FS. *(NOTE: The first indication that the OIG had that S.112.3188(1),FS was the anonymous complainant was when S.112.3188(1),FS admitted this to CFO Patronis in her email dated August 10, 2017. See Exhibit 3. This occurred after S.112.3188(1),FS resigned in lieu of termination on July 26, 2017.)*

Holloman denied telling S.112.3188(1),FS that s.112.3188(1),FS was being terminated, at least in part, because he "couldn't trust" s.112.3188(1),FS and/or he "couldn't have people filing reports," as S.112.3188(1),FS claimed in S.112.3188(1),FS written complaint (Exhibit 3). Holloman stated that S.112.3188(1),FS's termination was not a result of investigators completing narratives for each other as stated by Cicio. However, Holloman stated that he and Cicio did have a conversation regarding Cicio completing narratives for Rodriguez. Holloman stated that S.112.3188(1),FS was terminated after "a year-long trying to get that office on track, and when I say on-track, working together professionally and not at war with each other. Ultimately, we decided it was just enough."

Holloman stated that he did not tell S.112.3188(1),FS that S.112.3188(1),FS could use leave through the end of August 2017; however, S.112.3188(1),FS did ask to use leave through August, and Holloman told s.112.3188(1),FS that he couldn't give S.112.3188(1),FS an answer. Holloman stated that he then consulted with HR, and HR gave him an official separation date for S.112.3188(1),FS. Holloman denied having a "change of heart" regarding S.112.3188(1),FS's leave after S.112.3188(1),FS requested to speak with the CFO. Holloman also stated that S.112.3188(1),FS did not ask to speak with the CFO until after S.112.3188(1),FS was told that s.112.3188(1),FS would not be allowed to use all of the leave S.112.3188(1),FS had requested to use.

When **P. Macon (B/F)** was asked why S.112.3188(1),FS was going to be terminated, she responded, "[S.112.3188(1),FS] had issues in how S.112.3188(1),FS managed S.112.3188(1),FS people." Macon stated that she feels like S.112.3188(1),FS didn't need to be in a management role because s.112.3188(1),FS showed favoritism to certain employees and "created cliques." Macon went on to state that she got a complaint from a former employee about S.112.3188(1),FS sharing confidential information with employees and having favorite employees. Macon stated she looked into the complaint and believed it to be confirmed based on certain privileges being granted to specific employees. However, S.112.3188(1),FS denied that S.112.3188(1),FS had favorites. Macon stated that S.112.3188(1),FS's termination was not related to the anonymous complaint made to the OIG. Macon stated that S.112.3188(1),FS's termination was not related to S.112.3188(1),FS being Hispanic, and went on to state that there are currently three Hispanic district supervisors. *(NOTE: The supervisor that replaced S.112.3188(1),FS is one of the three Hispanic supervisors.)*

**S. Ariyanayagam (A/F)** stated she was not involved in the decision to terminate S.112.3188(1),FS. Ariyanayagam stated she is not sure why S.112.3188(1),FS was terminated, and she did not know S.112.3188(1),FS was going to be terminated until the day before it happened. Ariyanayagam stated that DWC management has an expectation of the way each district office should function, and the West Palm Beach Office was not functioning properly under S.112.3188(1),FS. Ariyanayagam stated that she did not believe S.112.3188(1),FS's termination was related to an anonymous OIG complaint.

Ariyanayagam stated that she did not know that it was S.112.3188(1),FS that made the anonymous complaint, but she assumed that it was based on previous conversations she had had with S.112.3188(1),FS. Ariyanayagam stated S.112.3188(1),FS was not terminated because S.112.3188(1),FS is Hispanic.

## Findings

It is alleged that Ariyanayagam, Macon, Sabolic, and Holloman violated AP&P 5-26 Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, Standards and Procedures of Discipline, and AP&P 6-01, Inspector General Investigations, by taking retaliatory measures in response to an anonymous OIG complaint. – **UNFOUNDED**

## ALLEGATION 12

**Holloman's treatment of African-American employees is overly favorable and visibly different than his treatment of light-skinned employees.**

### Complainant Statement

In s.112.3188(1),FS written complaint, S.112.3188(1),FS (H/F) alleges Holloman's (B/M) "disciplinary decisions are much harsher for light skinned folks, his willingness to work with is a lot less and everyone talks about how noticeable are the differences in his methods of approach are all dependent on skin color [sic]" (Exhibit 3). During S.112.3188(1),FS statement, S.112.3188(1),FS elaborated that Holloman's "willingness to work" with African-Americans referred to Holloman being willing to reassign them instead of terminating them.

S.112.3188(1),FS stated S.112.3188(1),FS was forced to hire Insurance Analyst II Errol Wilson, who is African-American, even though the candidate S.112.3188(1),FS wanted to hire was a white male. S.112.3188(1),FS also stated that Wilson got a higher starting salary than any other new Insurant Analyst II (Exhibit 11). When S.112.3188(1),FS brought this up to Ariyanayagam (A/F), Ariyanayagam responded, "If you wanna keep your job, leave it alone." S.112.3188(1),FS also stated that when Holloman traveled to West Palm Beach and met Wilson, Holloman stated, "Now we're more even." S.112.3188(1),FS stated S.112.3188(1),FS is not sure what Holloman meant by that, but assumes he was referring to the racial make-up of the Division.

### Witness Statements

**S. Ariyanayagam** (A/F) stated she did not know why Insurance Analyst II Errol Wilson was hired at a higher starting salary than other Insurance Analyst IIs. Ariyanayagam stated that she is not involved in assigning employees' salaries. Ariyanayagam stated that salary recommendations originate with the immediate supervisor, which would have been S.112.3188(1),FS in Wilson's case, and the recommendations are then passed on to Macon (African-American). Ariyanayagam could not remember S.112.3188(1),FS ever speaking with her about Wilson's salary. Ariyanayagam denied telling S.112.3188(1),FS, "If you want to keep your job, leave it alone," regarding Wilson's salary. Ariyanayagam stated that S.112.3188(1),FS alleging Ariyanayagam said that is an "absolute lie." Ariyanayagam stated that she did not know if Wilson was S.112.3188(1),FS's first choice to hire or not, but Ariyanayagam denied that S.112.3188(1),FS was forced to hire Wilson.

**J. Cabrera (H/M)** stated that he never witnessed any group of people being favored by management due to race or ethnicity. When asked specifically if he believed Holloman favored African-Americans, Cabrera responded, "I could say that, yes, I may have gotten a feeling, particularly in the upper management area." When asked what his feeling was based on, Cabrera responded, "Just the number of African-Americans as opposed to non-African-Americans."

**J. Casal (H/F)** stated that DWC management "most definitely" favored people based on race or ethnicity. Specifically, Casal stated that Holloman and Macon favored African-Americans. When asked for a specific example of how African-Americans are favored, Casal stated that when she was at a meeting with Holloman, he was "very familiar" with an unknown African-American woman but he didn't know Casal at all. *(NOTE: Regarding Casal's comment that Holloman didn't know her at all, it should be noted that Casal worked for the Department for less than one month and was located in West Palm Beach, while Holloman works out of Tallahassee.)*

When **B. Cerrone (W/M)** was asked if he felt management favored any group of people based on race or ethnicity, there was approximately a 15-second pause before he replied, "Well, I would say no." When he was asked why there was such a long pause before his response, he stated, "Well, I think there's no secret that some of the African-American employees had a direct line to Tanner [Holloman] and seemed to be favored somewhat more. I don't know if that was a racial thing or a female thing." When asked who specifically was favored, Cerrone stated that Insurance Specialist SaReeta Brown (African-American) "had Tanner [Holloman] on speed dial." Cerrone stated that Brown repeatedly disappeared out of the office without telling anyone where she was going, despite Cerrone telling her to let someone know when she was leaving in the day. Cerrone stated he wanted to "get rid of" Brown, but Holloman contacted him and said that Holloman would be in the office in a few days and he would talk to Brown and Cerrone then. After the meeting, Cerrone told Holloman he wanted to terminate Brown, but Holloman said he would try to move Brown under a different manager. However, Brown was never moved and Holloman stated she was going to "stay where she was at." Cerrone stated after that, he felt like Brown was "untouchable" because of her relationship with Holloman.

**M. Cicio (W/M)** stated that Rodriguez got in trouble for not meeting her performance standards; however, Wilson consistently fails to meet his performance standards, but he does not get reprimanded or counseled. *(NOTE: The OIG requested all disciplinary action taken against Rodriguez during her employment with DFS. The only disciplinary action on file with HR was Rodriguez's rescinded termination letter. See Exhibit 32. There is no documentation showing that Rodriguez was regularly reprimanded or counseled for failing to meet her performance standards.)* Cicio stated that at one point, Wilson was going to submit his resignation, but DWC management asked him to stay. When Cicio was asked why he believes Wilson is never counseled for failing to meet expectations, he replied, maybe "he [Wilson] knows somebody in upper management...but I can't think of another reason besides they just don't want to lose the guy, for whatever the reason. I don't know if it's because of diversity, if they want to have the office balanced." Cicio went on to state he has seen other people terminated immediately for not meeting performance standards, and it is "surprising" that the Division wants to keep Wilson. Cicio also spoke of Powell recently receiving a position that Cicio was interested in despite the "animosity" and "division" she has created in the office. *(NOTE: Wilson and Powell are both African-American.)* Cicio stated that he feels that he has reached his full potential in the Division because he is Caucasian. Cicio stated that he believes the source of the favoritism is Ariyanayagam, Macon, and Holloman.

Cicio stated that when he was completing his probationary period with DWC, he was required to work eight to five Monday through Friday. At some point following his probationary period, he enrolled in flight school in the evenings and altered his schedule so that he could be at class by 5:00

PM. Cicio stated after S.112.3188(1),FS was terminated, his schedule was changed back to eight to five Monday through Friday because he was told that the office needed coverage until 5:00 PM. Cicio stated, "The office is always manned Monday through Friday from eight to five. We normally have a supervisor there. We normally have a lead investigator there. We normally have a facilitator there, and we have two examiners that are there Monday through Friday from eight to five." Cicio stated that he asked Ariyanayagam if she could have one or both of the investigators on probation cover the office so that he could still attend flight school. However, Ariyanayagam stated she could not mandate that those investigators work an eight-to-five schedule, and Cicio had to unenroll from flight school to cover the office. Cicio stated he asked Ariyanayagam why she could mandate him to work an eight-to-five schedule and she couldn't mandate the other employees, but there was "no response to it besides, 'You're gonna have to work the schedule until we find new people, new investigators, that we will hire them and specifically mandate they work from eight to five.'" Cicio stated that he and Wilson both technically work out of the Palm Beach office, though he primarily works from a satellite office in Ft. Pierce. Cicio stated the two employees currently on probation are Wilson and Insurance Analyst II Laura Tigner-Lofton, who are both African-American. Cicio stated he was never disciplined or counseled for anything while he was working an alternate schedule and going to flight school, and he was generally meeting his performance expectations. Cicio stated that any month that he did not meet his performance expectations was due to him prioritizing training of other DWC employees over completing his other responsibilities.

When **Ariyanayagam** was asked why Cicio was required to change his schedule to 8:00 am to 5:00 pm, she replied, "I don't know," and she was not aware that his schedule had been changed. Ariyanayagam denied forcing Cicio to change his schedule, and stated that DWC management asked each district to ensure that each office had coverage during normal business hours. Ariyanayagam stated that the West Palm Beach Office was asked to collectively come up with a schedule to ensure the office had coverage. Ariyanayagam stated that she believes staff are taking turns covering the office, and as far as she knew, Cicio was not working 8:00 to 5:00 every day. Ariyanayagam stated that probationary employees are typically required to work from 8:00 to 5:00, but she prefers to have more experienced investigators covering business hours as well. Ariyanayagam again stated she does not believe Cicio works a schedule from 8:00 to 5:00; however, she did not know what Cicio's schedule is. Ariyanayagam stated that Cicio's claim that Ariyanayagam mandated him to work an eight-to-five schedule and she couldn't mandate the other employees to do so is an "absolute lie." Ariyanayagam stated that she would provide emails sent to the district regarding coverage (Exhibit 27). *(NOTE: Following her subject interview, Ariyanayagam asked Lopez, who is Cicio's immediate supervisor, what Cicio's schedule is. According to Ariyanayagam, Lopez reported that Cicio works from 7:30 AM to 4:00 PM. See Exhibit 28. The OIG confirmed with Lopez that Cicio's regular schedule is 7:30 AM to 4:00 PM. However, Lopez stated that as of February 1, 2018, Cicio was asked to work a temporary eight-to-five schedule while he trains a new employee. It is unknown why Cicio reported under oath on January 5, 2018, that his schedule was changed to 8:00 AM to 5:00 PM. See Exhibit 31.)*

**H. Fluriach** (H/M) stated that most of the upper management positions within the DWC are filled by African-Americans; however, he also stated that Holloman is "a good man," and he has "never had an issue" with Holloman.

When **P. Krossman** (W/F) was asked if anyone in the Division management favored any group of people based on race or ethnicity, she responded, "Yes, I do." However, Krossman stated she would prefer not to elaborate because it was related to an active civil case she is involved in.

**A. Proano** (H/F) stated that she does not believe anyone in DWC management favors any group of people based on race or ethnicity. Proano stated that she has heard that people feel like Holloman

favors African-Americans, but she does not feel that way. Proano could not specify who she had heard that from other than that it was a rumor within the division. Proano stated that she has always enjoyed working for DWC upper management.

When **E. Wilson (B/M)** was told that S.112.3188(1),FS had reported that when Holloman first met Wilson, he made a comment along the lines of “now we’re more even,” Wilson stated he could not remember Holloman making this comment, and he was not sure whether or not the comment was made.

Aldana (H/F), Beckstrom (W/F), Carlin (W/M), Delaney (W/F), Gumph (W/M), Ledwell (H/F), Loy (W/F), Mickens (B/F), Rivera (H/F), Seidler (H/F), Tigner-Lofton (B/F), Valdivia (H/F), and Victores (H/F) all stated they do not believe anyone in DWC management favors any group of people based on race or ethnicity. Specifically, they do not feel Holloman favors African-Americans.

### Subject Statement

Holloman denied favoring any group of people based on race or ethnicity.

Holloman stated that it is not common for employees to be transferred or reassigned in lieu of termination, despite S.112.3188(1),FS’s claim otherwise. Holloman stated that both Valdivia and Powell were recently moved to new positions, but not for disciplinary reasons. Holloman stated that Valdivia requested to be moved to a new office because she did not want to work under S.112.3188(1),FS, and Powell was moved because management determined it was a better fit for her to be in Miami because some of the investigators in West Palm Beach had trouble getting along with her. Holloman stated that Powell was demoted to a position that is not a lead position because other employees felt that Powell “talked down” to them. However, he does not consider this to be a disciplinary action because there was no disciplinary process.

Holloman stated that he had no knowledge of Cicio’s schedule being changed. Holloman stated that Cicio is a senior investigator, and after S.112.3188(1),FS’s separation, the Division relied on senior investigators to make sure the office had coverage. However, Holloman was unaware of Cicio’s schedule being changed to ensure office coverage.

Holloman stated that he was not involved in the hiring process of Wilson, and he was not sure why Wilson’s starting salary was higher than other Insurance Analyst IIs. Holloman was then shown a copy of Exhibit 20 and stated that Wilson was given a higher starting salary because he had investigative experience and had been with the Department of Children and Families for 20 years. Holloman also stated that it is not common for investigators to possess Master’s degrees, which Wilson does. Holloman stated that he had no knowledge of S.112.3188(1),FS’s claim that S.112.3188(1),FS did not want to hire Wilson. When Holloman was asked if Wilson was given a higher salary due to his race, he responded, “No, sir, I don’t operate that way.” Holloman stated that he did not meet Wilson until after Wilson was hired, and at the time Wilson was hired, Holloman was not aware that Wilson is an African-American. Holloman denied making a comment that the Division was “more even” when he met Wilson.

### Findings



It is alleged that Holloman violated AP&P 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination, and AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by favoring African-Americans based on race. – **UNFOUNDED**

### ALLEGATION 13

**There is an issue with discrimination and bias against Hispanic employees in the Division.**

#### Complainant Statement

S.112.3188(1),FS made allegations consistent with S.112.3188(1),FS written complaints (Exhibits 2 and 3) that S.112.3188(1),FS believes Holloman is prejudiced against Hispanics. S.112.3188(1),FS stated s.112.3188(1),FS believes that if S.112.3188(1),FS was not Hispanic, S.112.3188(1),FS would have been reassigned within the Department instead of terminated.

S.112.3188(1),FS stated that there is a “serious racial problem” within the Division because of the “bias created by” Holloman. S.112.3188(1),FS stated that when S.112.3188(1),FS left the Department, Holloman did not do a proper exit interview. Holloman did not ask about Ariyanayagam, Powell, or the discrimination taking place within the Division. S.112.3188(1),FS stated that when Holloman went to West Palm Beach to terminate S.112.3188(1),FS, Insurance Analyst II Laura Tigner-Lofton asked Holloman why he was visiting the office. Holloman’s response was “I’m getting rid of a problem I should have taken care of a long time ago.” (NOTE: Tigner-Lofton denied that Holloman told her he was “getting rid of the problem he should have taken care of a long time ago” when he was in the West Palm Beach office. Tigner-Lofton stated Holloman told her he was there because “there was a problem that needed to be addressed,” but he did not say anything about needing to fix it a long time ago.)

#### Witness Statements

OIG staff took sworn, recorded statements from the following employees or former employees of Hispanic descent: Aldana, Cabrera, Casal, Fluriach, Ledwell, Proano, Rivera, Seidler, Valdivia, and Victores. Additionally, Rodriguez provided a non-recorded statement. Of these employees, only Casal and Victores stated they felt discriminated against based on race. Casal stated that she feels Powell was cruel to her. As an example, Casal stated Powell was not helpful the first time Casal tried to put gas in her car using a State fuel card. When asked if there was any reason for Powell to be cruel to Casal, Casal replied, “The feeling that I have is because I was different. I was Hispanic. Maybe she was not happy that I was hired.” Casal stated that she feels the Hispanic employees in the office were treated differently than the non-Hispanics. However, Casal could not provide specific examples of how the Hispanic employees were treated differently and mentioned that Powell was “really connected” to DWC management.

Victores stated that she felt discriminated against due to her race because “Cubans are loud,” and Ariyanayagam told Victores that she was too loud.

While no other witnesses reported feeling discriminated against because of race or color, the following comments were made regarding discrimination based on other characteristics:

- Aldana stated that she feels her former supervisor, Workers' Compensation Administrator Ken Howard, who is no longer employed with DFS, valued the opinions of older investigators over Aldana's.
- Cabrera stated he found it "odd" that all of the supervisors and assistant supervisors were women when he was employed with DWC.
- Casal stated that she was "maybe" discriminated against based on age, and stated there is a "good possibility" that she was discriminated against based on sex. When asked if she had been discriminated against based on religion, Casal responded, "That probably, too, because I'm Catholic and always wear a cross." When asked how specifically she was discriminated against based on sex or religion, she responded that she likes to wear heels, and Powell would make comments like "You're not gonna be able to work in those heels." When asked how she was specifically discriminated against based on age, she responded that Holloman once made a comment that everyone working in the division is old. When asked how she was treated differently because of her age, Casal could not provide a specific example and stated she felt the discrimination was primarily based on race.
- Fluriach pointed out that almost all of the DWC supervisors throughout the State are female.
- Victores stated that she felt discriminated against due to her sex because Ariyanayagam "wanted only guys." Victores stated she feels all of the women and Fluriach were discriminated against by Ariyanayagam. She stated, "You could tell" that Ariyanayagam thought "girls are weak. They suck." When Victores was asked if Ariyanayagam ever did or said anything to make her think Ariyanayagam believed women are weak, Victores responded, "Yeah. She told me, 'Why are you crying?' Yeah, stuff like that." Victores stated she is not sure why Ariyanayagam had a problem with Fluriach, but Ariyanayagam definitely had preferences among her employees.

Also, Krossman stated that she feels Ariyanayagam discriminated against men in the office. Krossman stated she feels this way because Ariyanayagam told her stories about Ariyanayagam's ex-husband, and Ariyanayagam's stance is that "men are useless."

### Subject Statements

**Holloman** stated that he believes Rodriguez separated from the Division because she was close to S.112.3188(1),FS. Holloman stated that DWC was planning on letting Rodriguez go during her probationary period, but when he met with Rodriguez, she had concerns about the training she had received. So instead of being terminated, her probation was extended.

Holloman stated that he is not sure why former Insurance Analyst II Jacqueline Casal separated from the Division, but it is his belief that Casal, along with Rodriguez, did not want to work for anyone other than S.112.3188(1),FS. Holloman denied that Casal's and Rodriguez's separations were related to the anonymous OIG complaint or race.

Holloman stated that he has never treated anyone differently based on age, race, color, sex, religion, political opinion or affiliation, marital status, or disability.

**Sabolic** stated that he has never treated anyone differently based on age, race, color, sex, religion, political opinion or affiliation, marital status, or disability. Sabolic stated he is not aware of anyone in the Division being treated differently based on these characteristics.

**Delaney** stated that she has never treated anyone at work differently based on age, race, color, sex, religion, political opinion or affiliation, marital status, or disability. Delaney stated she is not aware of anyone in the Division being treated differently based on these characteristics.

**Ariyanayagam** stated that she has never treated anyone at work differently based on age, race, color, sex, religion, political opinion or affiliation, marital status, or disability. Ariyanayagam stated she is not aware of anyone in the Division being treated differently based on these characteristics.

Ariyanayagam could not remember ever telling Victores she is loud; however, Ariyanayagam admitted to telling people they are loud if they are disrupting others' work or appearing unprofessional. Ariyanayagam stated that if she did tell Victores that she was loud, it was not because Victores is Cuban.

**Macon** stated that she has never treated anyone at work differently based on age, race, color, sex, religion, political opinion or affiliation, marital status, or disability. Macon stated she is not aware of anyone in the Division being treated differently based on these characteristics.

## Findings

It is alleged that Holloman violated AP&P 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination, and AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by discriminating against Hispanics based on race. – **UNFOUNDED**

## ***FINDINGS/CONCLUSION***

### Allegation 1

It is alleged that Powell violated AP&Ps 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination, and 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by making discriminatory and/or rude remarks to and about her coworkers. – **NOT SUSTAINED/INCONCLUSIVE**

It is alleged that Ariyanayagam and Macon violated AP&Ps 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination, and 5-26, Standards and Procedures of Discipline Section IX.B. NEGLIGENCE and Section IX.C. INEFFICIENCY OR INABILITY TO PERFORM ASSIGNED DUTIES, by failing to take corrective action after being notified of Powell's inappropriate behavior. – **NOT SUSTAINED/INCONCLUSIVE**

### Allegation 2

It is alleged that Powell violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, and AP&P 4-04, Information Technology Resources Acceptable Use Policy, by excessively using her telephone and computer for personal use. – **SUSTAINED**

It is alleged that Powell violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by excessively using her telephone and computer for personal use while claiming State time on her timesheets. – **SUSTAINED**

### Allegation 3

It is alleged that Ariyanayagam and Macon violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by intentionally submitting a falsified performance evaluation for Powell. – **NOT SUSTAINED/INCONCLUSIVE**

Based on statements made by Ariyanayagam and Powell, Ariyanayagam reported an incorrect number of case closure reviews completed by Powell during the evaluation period. This behavior constitutes poor performance on the part of Ariyanayagam, and is in violation of AP&P 5-26, Standards and Procedures of Discipline Section IX.C. INEFFICIENCY OR INABILITY TO PERFORM ASSIGNED DUTIES. – **SUSTAINED**

### Allegation 4

It is alleged that Ariyanayagam violated AP&P 1-15, Code of Ethics, and AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by using her position in state government for personal gain. – **NOT SUSTAINED/INCONCLUSIVE**

### Allegation 5

It is alleged that Ariyanayagam violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by not allowing S.112.3188(1),FS to claim time worked on a weekend. – **NOT SUSTAINED/INCONCLUSIVE**

It is alleged that Ariyanayagam violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by going to salons during work hours and claiming work time. – **UNFOUNDED**

During the course of the investigation, it was discovered that Ariyanayagam regularly works on weekends, but does not claim the time on her timesheet. This behavior is in violation of AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE. – **SUSTAINED**

During the course of the investigation, it was discovered that Macon approves timesheets that she knows to be false. This behavior is in violation of AP&P 5-26, Standards and Procedures of Discipline Section IX.B. NEGLIGENCE, Section IX.C. INEFFICIENCY OR INABILITY TO PERFORM ASSIGNED DUTIES, and Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE. – **SUSTAINED**

### Allegation 6

It is alleged that Ariyanayagam violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, but targeting specific employees based on personal bias and agendas. – **NOT SUSTAINED/INCONCLUSIVE**

### Allegation 7

It is alleged that Ariyanayagam violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by bullying, intimidating, and verbally abusing her employees. – **NOT SUSTAINED/INCONCLUSIVE**

### Allegation 8

It is alleged that Ariyanayagam violated AP&P 5-23, Violence in the Workplace, and AP&P 5-26 Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by physically abusing S.112.3188(1),FS. – **NOT SUSTAINED/INCONCLUSIVE**

### Allegation 9

It is alleged that Ariyanayagam violated AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by sharing inappropriate personal stories with S.112.3188(1),FS. – **SUSTAINED**

### Allegation 10

It is alleged that Holloman, Sabolic, Delaney, and Macon violated AP&P 5-26, Standards and Procedures of Discipline Section IX.B. NEGLIGENCE and Section IX.C. INEFFICIENCY OR INABILITY TO PERFORM ASSIGNED DUTIES, by ignoring Ariyanayagam's behavior and allowing S.112.3188(1),FS to be harassed and abused. – **UNFOUNDED**

### Allegation 11

It is alleged that Ariyanayagam, Macon, Sabolic, and Holloman violated AP&P 5-26 Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, Standards and Procedures of Discipline, and AP&P 6-01, Inspector General Investigations, by taking retaliatory measures in response to an anonymous OIG complaint. – **UNFOUNDED**

### Allegation 12

It is alleged that Holloman violated AP&P 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination, and AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by favoring African-Americans based on race. – **UNFOUNDED**

### Allegation 13

It is alleged that Holloman violated AP&P 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination, and AP&P 5-26, Standards and Procedures of Discipline Section IX.F. CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by discriminating against Hispanics based on race. – **UNFOUNDED**

## **MANAGEMENT ISSUES**

## DIVISION OF WORKERS' COMPENSATION

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

### *Issue 1*

Cabrera alleged there is a disparity in the way doctors are treated by the Division compared to everyone else. Cabrera stated that investigators have to make appointments with doctors prior to reviewing their workers' compensation coverage, and every other industry can be reviewed unannounced. Cabrera stated this treatment is unfair. Morales also stated that she felt that DWC unfairly and solely targeted constructions companies to issue stop work orders.

### *Issue 2*

Cabrera stated that investigators are graded based on how many enforcement actions they issue in a month, and rewards are given to the employee who writes the most stop work orders. Cabrera stated this is "inherently wrong." Fluriach also stated he believes it is a policy violation to incentivize employees with rewards for issuing the most stop work orders. When asked why that would be a policy violation, Fluriach responded, "Because that's our job anyways. It shouldn't maybe get an investigator to go from a gray area on an employer to actually issuing a stop." Fluriach stated this is similar to mandating a quota for investigators, and he believes "if the public found out about that, they would have a field day." Morales also stated she had an issue with the "stop work order quota" required by DWC.

### *Issue 3*

Fluriach stated that the investigators have asked that all documents that need to be distributed to employers be translated into Spanish because Miami's Latino population is so large. Fluriach stated the last time he brought this up to Ariyanayagam, she responded, "If she had to learn English, everybody else has to learn English." Fluriach stated a lot of the times it falls on the investigators to translate documents for employers, but not all investigators speak Spanish.

### *Issue 4*

Cicio stated that he wanted to add to what he initially stated concerning favoritism. Cicio stated that the vacant positions left by S.112.3188(1),FS's separation and Powell's transfer were never advertised. Cicio stated that Lopez was appointed to the position of district supervisor, and Macon told Cicio that she does not want to put anyone from the West Palm Beach office in the vacant Government Operations Consultant II position (Powell's previous position). Cicio stated this promotes the feeling that employees cannot advance within the bureau. Cicio stated that it is his opinion that Lopez is not qualified for the supervisor position because "he does not possess the leadership qualities that you would want as a supervisor. From what I've [Cicio] seen in the last couple months, there is more divisiveness that he is bringing to the table because of his demeanor...He talks down to you and demeans you in a way where it makes you feel like you're incompetent." When asked for an example of how Lopez "speaks down to and demeans" his employees, Cicio stated that prior to Lopez becoming his supervisor, Ariyanayagam and S.112.3188(1),FS required their investigators to inform them of what they would be doing each day. Cicio continued this practice with Lopez, and Lopez's response was something like "I don't know why

you are asking me permission to do your job. As an investigator, my expectation is that you should know how to do your job." Lopez then stated that most investigators seemed to be asking permission instead of being proficient at their jobs.

#### *Issue 5*

Throughout the course of the investigation, multiple witnesses reported that Ariyanayagam talks down to them or makes them feel dumb. Specifically, witnesses reported that Ariyanayagam uses words like "stupid" and "duh" when addressing them or talking about other employees.

#### *Issue 6*

Beckstrom, Cabrera, Cerrone, Glover, Krossman, and Rivera all reported that Ariyanayagam hugs them. However, only Cerrone, Glover, and Krossman stated that the hugging bothered them, and only Krossman stated she told Ariyanayagam that the hugging bothered her. Krossman stated she had to hug Ariyanayagam anyway because if not, it would offend Ariyanayagam.

Ariyanayagam stated that at the end of Cerrone's employment, he made a few allegations against her that she did not understand. When asked what those allegations were, Ariyanayagam stated that Cerrone had voiced concerns to Chief of Human Resource Management Liz Kelley about Ariyanayagam hugging him and forcing him to go to lunch with her. Ariyanayagam admitted to hugging Cerrone numerous times, but stated he never told her the hugging bothered him. Ariyanayagam stated she hugs all of her employees, and no one has ever said the hugging makes them uncomfortable or is inappropriate. Ariyanayagam stated Krossman never told her that Krossman felt Ariyanayagam's hugs were inappropriate.

### DIVISION OF ADMINISTRATION

During the course of the investigation the following management issue was discovered and is referred to Division of Administration Director Rick Sweet for review and consideration.

#### *Issue 7*

S.112.3188(1),FS stated that S.112.3188(1),FS and Aldana came to Tallahassee in January 2016 for training. While in Tallahassee, S.112.3188(1),FS spoke to Chief of Human Resources (HR) Liz Kelley about S.112.3188(1),FS's issues with Ariyanayagam. S.112.3188(1),FS stated that Kelley told S.112.3188(1),FS that DWC management had a "special liking" to Ariyanayagam and "probably wouldn't do anything." S.112.3188(1),FS stated Kelley offered to make an OIG complaint, but Kelley stated she "didn't think it would do anything." Aldana confirmed that Kelly stated nothing would be done. According to Aldana, Kelley stated, "Swendy [Ariyanayagam] is very strong, and she is liked by the bureau, so unfortunately, Scarlett [Aldana], I feel you, but that's how it is."



**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, Investigator

**STATE OF FLORIDA  
COUNTY OF LEON**

Sworn to (or affirmed) and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 2018, 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: \_\_\_\_\_ Date: \_\_\_\_\_  
Mike Shoaf, Director

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
Teresa Michael, Inspector General

**EXHIBIT LIST**

Online Complaint Forms Submitted by S.112.3188(1),FS .....	Exhibit #1
Email from S.112.3188(1),FS to Holloman dated August 9, 2017 .....	Exhibit #2
Email from S.112.3188(1),FS to CFO Jimmy Patronis dated August 10, 2017 .....	Exhibit #3
AP&P 1-15, DFS Code of Ethics .....	Exhibit #4
AP&P 5-24, Sexual Harassment and Other Acts of Unlawful Discrimination ...	Exhibit #5
AP&P 5-26, Standards and Procedures of Discipline .....	Exhibit #6
Powell's Performance Evaluation Completed by S.112.3188(1),FS .....	Exhibit #7
Powell's Quarterly Performance Evaluations Completed by S.112.3188(1),FS .....	Exhibit #8
Powell's Attendance Record Maintained by S.112.3188(1),FS .....	Exhibit #9
Powell's Performance Evaluation Completed by Ariyanayagam .....	Exhibit #10
Insurance Analyst II Salaries .....	Exhibit #11
Powell's DFS Desk Phone Records .....	Exhibit #12
DWC Staff Policy Acknowledgements .....	Exhibit #13
Lync Messages between Aldana and S.112.3188(1),FS .....	Exhibit #14
Powell's Facebook Posts .....	Exhibit #15
Valdivia's Pay History .....	Exhibit #16
Powell's Internet Activity .....	Exhibit #17
Email from Ariyanayagam to Victores Dated February 13, 2015 .....	Exhibit #18
Documentation Concerning Powell's Demotion .....	Exhibit #19
Request for Personnel Action Memo dated September 28, 2016 .....	Exhibit #20
Case Closure Reviews Provided by Holloman .....	Exhibit #21
Case Closure Reviews Maintained by Powell .....	Exhibit #22
Case Closure Reviews Provided by Ariyanayagam .....	Exhibit #23
Ariyanayagam's Timesheets .....	Exhibit #24
Email from Ariyanayagam to Delaney dated February 1, 2016 .....	Exhibit #25
Email from Ariyanayagam to Sabolic and Holloman dated June 6, 2016 .....	Exhibit #26
Emails Between Ariyanayagam and District 2 Employees on Various Dates .....	Exhibit #27
Email from Ariyanayagam to Blimes dated January 30, 2018 .....	Exhibit #28
S.112.3188(1),FS's Timesheets .....	Exhibit #29
Response to S.112.3188(1),FS's FCHR Complaint .....	Exhibit #30
Email from Lopez to Blimes dated February 19, 2018 .....	Exhibit #31
Email from Moye to Blimes dated February 21, 2018 .....	Exhibit #32
AP&P 4-04, Information Technology Resources Acceptable Use Policy .....	Exhibit #33
AP&P 6-01, Inspector General Investigations .....	Exhibit #34
Jimerson Termination Letter .....	Exhibit #35
Photo of Ariyanayagam Wearing Combat Gear .....	Exhibit #36

## ***DISTRIBUTION LIST***

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**CHIEF FINANCIAL OFFICER  
JIMMY PATRONIS  
STATE OF FLORIDA**

## **DIVISION OF FUNERAL, CEMETERY, AND CONSUMER SERVICES**

*OIG Report of Investigation Number 17036 I*

It is alleged that Financial Examiner/Analyst II Christopher McMurray violated AP&P 5-26, Standards and Procedures of Discipline, by making an inappropriate comment to his coworker. It is also alleged that McMurray violated AP&P 1-15, Code of Ethics, and AP&P 5-26, Standards and Procedures of Discipline, by accepting gifts from a person or entity doing business with the Department. It is also alleged that McMurray violated 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 smoking in fleet and rental vehicles. It is also alleged that McMurray violated 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 driving for State business with a suspended license.

*Teresa Michael*

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

March 27, 2018



Schuller stated that after he stopped telecommuting, he sat at his desk for "maybe a week, if that, and it just wasn't working out"<sup>4</sup> because of McMurray. For example, McMurray would use his speakerphone to make business and personal calls, which would disrupt employees in the cubicles near him. So, Lowe told Schuller to work in the office of Regional Manager James Jacobs, who is the area representative for CFO Jimmy Patronis and mostly works outside of the office. (NOTE: During his interview, Schuller drew the office layout. See Exhibit #4.) Schuller stated that Lowe is not currently in his chain of command, but he oversaw coordinating Schuller's situation since he worked locally, and his supervisor is in Tallahassee. Schuller stated he did not want to work out of Jacobs' office because Jacobs reports directly to the CFO, and Schuller did not want to attract the CFO's attention. Schuller stated that he would work in Jacobs' office with the door closed to avoid McMurray, and several times Jacobs came to the office while Schuller was in it. When this happened, Schuller would work in the conference area until Jacobs left his office again. Schuller stated there was one time that Jacobs arrived at the office when Schuller's belongings were in the office, but Schuller himself was not, and Jacobs ended up working in the spare cubicle until Schuller came back to the office. Schuller stated that as of November 2, 2017, he works out of a cubicle in the Division of Workers' Compensation section.

When Schuller was asked what in his history with McMurray led him to tell Lowe and Schwantes that issues would arise if they worked together, Schuller stated that "there were things going on that were bewildering"<sup>5</sup> when Schuller and McMurray worked in the same office before and while Schuller was telecommuting. Schuller also stated that he had raised some concerns to Lowe about McMurray's performance, and he did not think McMurray liked that.<sup>6</sup> Schuller was asked what type of "bewildering things" were occurring, and he stated that he had prepared a list of the following situations that stuck out most in his mind: (NOTE: Unless otherwise noted, Schuller repeatedly stated that he did not know when these events occurred.)

- 1) McMurray offered Schuller a CD from the band Journey. McMurray claimed that the CD had been given to him by some people at a cemetery that McMurray was inspecting, and McMurray said they gave him the CD so he "wouldn't find any problems"<sup>7</sup> during the inspection. Schuller stated that he does not know if McMurray was joking or serious. Schuller reported this conversation to Lowe, but Schuller did not know if anything became of it. Schuller stated this conversation took place at his cubicle, but he did not know if anyone else overheard the conversation between him and McMurray. Schuller stated McMurray got the CD from employees at Mansion Memorial Park in Ellenton, Florida. (NOTE: The OIG contacted "Mike," who did not provide a last name, and Connie Johnson at Mansion Memorial Park, who have worked there on and off since prior to 2006. Neither of them had any information regarding anyone at Mansion Memorial Park giving a CD to McMurray. See Exhibit #5.)
- 2) Schuller stated that he has heard rumors that there were two previous OIG complaints made against McMurray: one for sexual harassment, and one for asking a licensee out on a date. (NOTE: A search of OIG records did not return any such complaints.) Schuller stated he could not remember who he heard these rumors from.
- 3) McMurray went to do an inspection at Helm Vault Service without any type of identification and was asked to leave. Schuller stated that Powell Helm (of Helm Vault Service) is on the Board of Funeral, Cemetery, and Consumer Services, and the division management at the time

<sup>4</sup> Schuller's taped statement time 18:18

<sup>5</sup> Schuller's taped statement time 28:07

<sup>6</sup> Schuller's taped statement time 1:42:18

<sup>7</sup> Schuller's taped statement time 30:18

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## INVESTIGATIVE PREDICATE

On October 27, 2017, the Florida Department of Financial Services (DPS) Office of Inspector General (OIG) received an email from Bureau of Personnel Management Senior Management Analyst Supervisor Kenyetta Moye regarding alleged misconduct on the part of Financial Examiner/Analyst II Christopher McMurray (Exhibit #10). On October 27, 2017, OIG Director of Investigations Mike Shoaf assigned this complaint to OIG Investigator Andrew Blimes for investigation.

## ALLEGATIONS

It is alleged that Financial Examiner/Analyst II Christopher McMurray violated Administrative Policy and Procedure (AP&P) 5-26, Standards and Procedures of Discipline, CONDUCT UNBECOMING A PUBLIC EMPLOYEE, (Exhibit #3) by making an inappropriate comment to Financial Specialist Kurt Schuller.

It is also alleged that McMurray violated AP&P 1-15, Code of Ethics, and AP&P 5-26, Standards and Procedures of Discipline, CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by accepting gifts from a person or entity doing business with the Department.

It is also alleged that McMurray violated AP&P 2-07, Fleet Management – Use of State Owned, Leased, or Rented Vehicles, and AP&P 5-26, Standards and Procedures of Discipline, CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by smoking in fleet and rental vehicles.

It is also alleged that McMurray violated AP&P 2-07, Fleet Management – Use of State Owned, Leased, or Rented Vehicles, and AP&P 5-26, Standards and Procedures of Discipline, CONDUCT UNBECOMING A PUBLIC EMPLOYEE, VIOLATION OF LAW OR AGENCY RULE, and INEFFICIENCY OR INABILITY TO PERFORM ASSIGNED DUTIES by driving for State business with a suspended license.

During the course of the investigation it was discovered that McMurray also smoked in hotel rooms while traveling on statement business. This behavior constitutes a violation of AP&P 5-26, Standards and Procedures of Discipline, CONDUCT UNBECOMING A PUBLIC EMPLOYEE.

## EXECUTIVE SUMMARY

From October 27, 2017, to March 10, 2018, 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 McMurray violated AP&P 5-26, Standards and Procedures of Discipline, CONDUCT UNBECOMING A PUBLIC EMPLOYEE (Exhibit #3), by telling Schuller "this is where the dicks hang out" while they were in the restroom. OIG staff further discovered that McMurray violated AP&P 1-15, Code of Ethics (Exhibit #1), and AP&P 5-26, Standards and Procedures of Discipline, CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by accepting an audio CD, meals, and rides from licensees. OIG staff further discovered that McMurray violated AP&P 2-07, Fleet Management – Use of State Owned, Leased, or Rented Vehicles (Exhibit #2), and AP&P 5-26, Standards and Procedures of Discipline, CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by smoking in fleet and rental vehicles. It was also determined that McMurray violated AP&P 5-26, Standards and Procedures of Discipline, CONDUCT UNBECOMING A PUBLIC EMPLOYEE, VIOLATION OF LAW OR AGENCY RULE (namely Section 322.24, Florida Statutes), and INEFFICIENCY OR INABILITY TO PERFORM ASSIGNED DUTIES, by knowingly driving for State business with a suspended license. OIG staff further discovered that McMurray



violated AP&P 5-26, Standards and Procedures of Discipline, CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by smoking in non-smoking hotel rooms while traveling on state business.

## COMPLAINANT INTERVIEW

On November 3, 2017, a sworn recorded interview of Division of Funeral, Cemetery, and Consumer Services Financial Specialist Kurt Schuller was conducted at the Office of Financial Regulation in Tampa, FL. The following represents actual and paraphrased statements made by Schuller:

Schuller has been a Financial Specialist for approximately 13 years. His current responsibilities include investigating complaints against licensees in the funeral industry. His immediate supervisor is Investigations Manager Nicole Singleton.

Schuller stated that when he began working with the Department, his office was in Largo, Florida. At some point, his office was moved to North Tampa, and then the offices were subsequently moved again to their current location in Tampa. Schuller stated that he began telecommuting around the time the offices were moved to their current location, but he was not sure how long ago that was. However, he stated the Chief Financial Officer (CFO) at the time was Alex Sink. (NOTE: Sink was CFO from January 2007 to January 2011.) Schuller stated that after current Division Director Mary Schwantes became the director, the practice of telecommuting was discontinued, and he now spends most of his work time in the office. (NOTE: Schwantes joined the division in February 2017.) Schuller stated that when he was telecommuting, he had very limited contact with Financial Examiner/Analyst II Chris McMurray, but now he sees McMurray every day.

Schuller stated that shortly before Schwantes joined the division, his business unit was reorganized. He stated formerly, employees could be assigned inspections, examinations, or investigations of funeral homes. However, after the restructure, there are designated employees that only conduct inspections, designated employees that only conduct examinations, and designated employees that only conduct investigations. Schuller stated that McMurray is in the examinations section.

Schuller stated that when Schwantes became the Division Director, she contacted all Funeral, Cemetery, and Consumer Services (FCCS) employees to get a feel for what was going on within the division. Schuller stated that Schwantes initially asked all telecommuting employees to report to the office for one hour each week. Schuller had a "very open and frank"<sup>1</sup> conversation with Schwantes that he could not report to the office because if he did, he would "run into issues, altercations, whatever you want to call it"<sup>2</sup> with McMurray. Schuller told Schwantes that he had this same conversation with Financial Administrator Thurman Lowe, who was both McMurray's and Schuller's supervisor prior to the Division's restructure. Schuller stated that he "made it very clear"<sup>3</sup> to Schwantes that he didn't want to have any issues with McMurray. Schuller stated that he raised some concerns about McMurray with Schwantes, and Schwantes referred him to DFS Employee Relations (ER) Senior Management Analyst Supervisor Kenyetta Moya. Schuller stated he could not remember the concerns that he raised with Schwantes. Schuller contacted Moya and told her his concerns about McMurray, and Moya's primary concern was whether or not Schuller feared for his safety, which he did not at the time.

<sup>1</sup> Schuller's taped statement time 13:59

<sup>2</sup> Schuller's taped statement time 14:27

<sup>3</sup> Schuller's taped statement time 15:35

knew that McMurray's interactions with Helm caused Helm to ask McMurray to leave. Schuller stated that as far as he knows, McMurray has not been back to Helm Vault Service since this occurred. Schuller did not know when this occurred but stated it was "early on"<sup>9</sup> after FCCS began doing cemetery inspections, and he believed it was when Diana Evans was the Director of FCCS. (NOTE: Diana Evans retired effective June 30, 2008.) Schuller stated that he does not remember how he learned of this incident, but it was common knowledge in the office.

- 4) Schuller stated that McMurray has a history of smoking in the FCCS fleet vehicle. Schuller stated that he believes McMurray smokes in the car because the car "reeks of smoke or an air freshener."<sup>10</sup> Schuller stated that he has had numerous conversations with Lowe about McMurray smoking in the car, and Lowe tells him that McMurray might be smoking outside of the car and then getting in the car smelling like smoke. McMurray stated he has seen ash in the car, so he does not think that McMurray smokes outside of the car and then gets in. Schuller stated he had finally had enough of the car smelling like smoke, and he told Lowe that if it didn't stop, Schuller would file a complaint with HR. After that, "surprisingly, it stopped."<sup>10</sup> Schuller also stated that McMurray was fined by Avis for smoking in a rental car. Schuller stated that he heard McMurray on the phone with Avis trying to get the smoking charge removed. Schuller stated that the charge was removed from McMurray's P-card, but he did not know if the charge was dropped altogether or if McMurray paid it with a personal card.
- 5) Schuller stated that while he was doing an exam at Chapel Hill Gardens and Floral Memorial Gardens, either Schuller or former Financial Examiner/Analyst II Jessica Helms had a conversation with the funeral director, Keith Williams. During this conversation, K. Williams stated during a previous examination, McMurray's car had broken down, and McMurray had asked K. Williams for a ride. Schuller stated that the examiners have "tremendous, tremendous authority over our licensees. I mean, we can make their life a living hell."<sup>11</sup> Therefore, Schuller thought it was inappropriate for McMurray to ask for a favor from K. Williams. Schuller stated he did not ever discuss this incident with Lowe. Schuller stated he could not remember if the comments were made to him or Helms because the conversation took place a long time ago and Schuller "tries to forget"<sup>12</sup> incidents involving McMurray. Schuller stated that he did not report this matter to Lowe because Lowe was not receptive to his complaints about McMurray. (NOTE: The OIG called Chapel Hill Gardens in an attempt to contact Williams. However, Williams is no longer employed at the cemetery, and no contact information was available.)
- 6) Schuller stated that there was a time when he and Helms did an investigation at a cemetery in Tampa called Rose Hill, which is run by a man named George Saclarides. During the investigation, Saclarides told Schuller and Helms that during a prior visit by McMurray, McMurray had taken cemetery records off the cemetery grounds. Schuller stated, "By statute, you need Board approval to remove records from the cemetery. And then, even if you remove them and keep them somewhere else, they have to be in a fire-proof safe, locked, and secured."<sup>13</sup> Schuller stated he did not know which statute mandated this, and stated he actually believed it was a rule, but there would be a related statute. Schuller stated he did not

<sup>9</sup> Schuller's taped statement time 32:46

<sup>10</sup> Schuller's taped statement time 36:11

<sup>11</sup> Schuller's taped statement time 37:28

<sup>12</sup> Schuller's taped statement time 40:12

<sup>13</sup> Schuller's taped statement time 39:45

<sup>14</sup> Schuller's taped statement time 44:00

know when McMurray's examination took place, and he could not recall when he and Helms did the investigation.

- 7) Schuller stated that in or around 2014, he was doing an examination at Curlew Hills. The director of Curlew Hills, Mr. Keenan Knopke, who also sits on the Board of Funeral, Cemetery, and Consumer Services, asked Schuller if McMurray still worked for FCCS. Knopke stated that the last time McMurray had been there doing an exam, there was a car running in the parking lot. Cemetery staff discovered it was McMurray's car. When staff asked McMurray about it, he said that he was having trouble with his battery, and if he turned the car off, it wouldn't start. Knopke told McMurray that the cemetery had batteries and a maintenance crew, and they could give him a jump at the end of the day; however, McMurray declined.
- 8) On October 13, 2014, Schuller had signed out the fleet vehicle to go to JGR Funeral Home to take an affidavit. However, when he arrived at the office, the car was not there. Schuller stated that McMurray had used the car on October 10, which was a Friday, and had never returned it. Schuller stated that he called Lowe, and Lowe's response was that it didn't matter where the car was, Schuller needed to find a way to get to JGR and take the affidavit, even if that meant he needed to go rent a car. Schuller stated that he is not sure if Lowe ever spoke with or disciplined McMurray for this incident.
- 9) Schuller stated that on October 26, 2017, he was in the restroom using the urinal. McMurray began using the urinal next to Schuller and stated, "I heard this is where all the dicks hang out."<sup>14</sup> Schuller stated this comment was especially upsetting because he had told Schwantes and Moye that he did not want to work with McMurray, but he felt "nobody listened to that [his complaint about working with McMurray], and nobody tried to prevent that [comment from being made]. Whether it was on purpose, by mistake, I tend to believe somebody just dropped the ball, but now I'm stuck dealing with this."<sup>15</sup> Schuller stated that McMurray's comment could be taken two ways: first, the literal meaning since he and McMurray were in the restroom, and the figurative meaning in which McMurray was calling Schuller a "dick." However, Schuller stated, "Deep down in my heart, he was probably trying to say I'm a dick."<sup>16</sup> Schuller stated he immediately started making phone calls to Schwantes, Singleton, and Financial Analyst/Examiner Supervisor Tina Williams to report this incident. Schuller stated he and McMurray haven't spoken in years, and Schuller did not understand why McMurray would make this comment. Schuller stated there were no other people in the restroom when the comment was made.
- 10) Schuller stated that during a conversation with the building manager, Ed Harris, Harris asked Schuller if he worked with McMurray. Harris then proceeded to tell Schuller that Harris had found a truck in the parking lot that didn't have a license plate or a DMS parking sticker on it. Harris also stated that it looked like someone had been living in the truck. Harris stated they looked through the truck to determine whose truck it was, and there was a "pee bucket in the truck."<sup>17</sup> Schuller stated that Harris ultimately had the truck towed because he thought a homeless person had snuck into the garage. However, Schuller believes the truck ended up being McMurray's since Harris began the conversation by asking about McMurray, and Schuller knows that McMurray owned a truck.
- 11) Schuller stated he checks mugshots on a regular basis to see if any licensees have been arrested. He stated that one day, "Examiner McMurray popped up on the arrest—on the Tampa Bay mugshots."<sup>18</sup> Schuller stated he could not remember when this occurred, but

<sup>14</sup> Schuller's taped statement time 59:26

<sup>15</sup> Schuller's taped statement time 59:49

<sup>16</sup> Schuller's taped statement time 1:00:52

<sup>17</sup> Schuller's taped statement time 1:16:16

<sup>18</sup> Schuller's taped statement time 1:20:27

McMurray was arrested in Manatee County for some kind of domestic violence. Schuller stated that the arrest might have happened sometime in 2015. (NOTE: A search of OIG records indicated that this arrest appears to have been reported to the OIG and monitored under OIG case number 15096 IM.) Schuller stated McMurray has also received a citation for driving with an open container. (NOTE: A review of the Comprehensive Case Information System revealed that McMurray received a citation for "Open Container/Consumption of Alcohol in Parked Vehicle" on June 8, 2015. See Exhibit #13.)

- 12) Schuller stated that McMurray flosses his teeth and passes gas at his cubicle. Schuller stated that the gas issue has been reported to T. Williams.
- 13) Schuller stated he believed that at one point McMurray was operating a state vehicle without a license. Schuller stated he believed this based on a telephone conversation he overheard between McMurray and someone at the Clerk's office. Schuller stated the conversation involved McMurray trying to get a court date moved. Schuller stated that he asked T. Williams if McMurray was driving on a suspended license, but he did not know if T. Williams did any follow-up.

Schuller stated that he is not a medical professional, but he believes that something is wrong with McMurray mentally that makes McMurray act strange.<sup>19</sup> He stated that he told Schwantes about McMurray, and something he told her concerned her enough that Schwantes decided to involve Moyer.

Schuller stated that he reported some of these issues to Lowe; however, specifically with the smoking issue, "it was a real battle just to try to get him [Lowe] to understand and to believe that, you know, there's a problem."<sup>20</sup> Schuller stated that whenever he would raise concerns about McMurray to Lowe, Lowe's response would be along the lines of "there's no problem with him [McMurray]. You're the problem. You just can't get along with your coworkers."<sup>21</sup> Therefore, Schuller stopped reporting issues about McMurray to Lowe. Schuller stated multiple times throughout the interview that he has been told by Lowe that he is the problem, not McMurray. Schuller stated, "I don't want to hear that."<sup>22</sup>

Schuller stated that it appears to him that Helm and Knopke voiced concerns about McMurray to FCCS management, and the decision was made to not send McMurray back to Helm's and Knopke's establishments. Schuller believed that to be the case because McMurray had not been to Helm Vault Service or Curlew Hills after his interactions with Helm and Knopke, despite it being common for examiners to visit the same cemetery on a regular basis. (NOTE: Schuller said examiners used to visit the same cemetery on a regular basis, but this is no longer common practice.)

Schuller stated numerous times throughout the interview that he does not care whether or not McMurray faces discipline for any of his actions. Schuller stated, "Please give me the courtesy that you [FCCS management] gave the other licensees' who haven't had as much bizarre interactions as I have."<sup>23</sup> Schuller stated that he just wants to stay away from McMurray.

Schuller stated that he gets along with all of his other coworkers; it is only McMurray that he has problems with. Schuller stated that when Helms was working for FCCS, she also had problems with McMurray that were reported to Lowe. However, Schuller did not elaborate on Helms' issues with McMurray. Schuller stated that if the OIG speaks with Financial Examiner/Analyst Stephanie Schmidt,

<sup>19</sup> Schuller's taped statement time 35:00

<sup>20</sup> Schuller's taped statement time 51:17

<sup>21</sup> Schuller's taped statement time 51:48

<sup>22</sup> Schuller's taped statement time 58:31

<sup>23</sup> Schuller's taped statement time 1:00:20



who replaced Helms, Schmidt will report that McMurray is "weird." Without being asked, Schuller voluntarily stated that he is not raising these issues now simply because he is no longer telecommuting. He stated, "That's not the issue. The issue is Chris [McMurray]."<sup>24</sup>

Schuller stated that he is worried how McMurray will react when he learns that he is under investigation because of the "crazy things"<sup>25</sup> Schuller has seen and heard of McMurray doing.

## DOCUMENTATION/RECORDS ANALYSIS

### Exhibit #1: DFS AP&P 1-15, Code of Ethics

Section V.J.3 of this policy states, "An employee is prohibited from accepting any gift, directly or indirectly...from a person or entity doing business with the Department." The term "gift" is defined as "anything accepted by a person or on that person's behalf, whether directly or indirectly, for that person's benefit, and for which no payment is made in advance." Examples of gifts include real property and transportation. (NOTE: McMurray's personnel file was reviewed to obtain a copy of his acknowledgment of policy receipt for AP&Ps 1-15 and 5-26, as well as the signed form at the end of AP&P 2-07; however, McMurray's acknowledgments were not in his personnel file. The OIG also inquired of Schwantes and Lowe to see if FCCS maintained a copy of McMurray's policy acknowledgements; however, they were unable to locate the requested documents.)

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

Section VI.B of this policy states, "Users operating a state vehicle are required to have a valid driver's license." Section VI.L states, "Employees shall not allow state vehicles to be operated by unauthorized or unlicensed drivers." The term "state vehicle" is defined as "Any state owned, leased, or rented motor vehicle acquired for the purpose of conducting official state business." Section XII.D states, "Any employee who is assigned to a state vehicle who has his/her driver's license suspended or revoked for any reason must immediately notify his/her supervisor. The employee must immediately cease driving the assigned vehicle, and must cease driving any other vehicle for official state business until the employee possesses a valid driver's license."

### Exhibit #3: DFS AP&P 5-26, Standards and Procedures of Discipline

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." This includes the "inability to perform assigned job duties due to suspension or revocation of a required license." Section IX.E VIOLATION OF LAW OR AGENCY RULE, states, "Employees shall abide by the law and applicable rules and policies and procedures." This section also states, "Operating a Department vehicle without a valid driver's license or failing to immediately report the suspension or revocation of one's driver's license when driving a Department vehicle is part of the employee's job duties." Section IX.F CONDUCT UNBECOMING A PUBLIC EMPLOYEE, states, "Employees shall: (1) conduct themselves, on and off the job, in a manner that will not bring discredit or embarrassment to the state; (2) be courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers; (3) maintain high standards of honesty, integrity, and impartiality...(5) not use, or

<sup>24</sup> Schuller's taped statement time 1:09:20

<sup>25</sup> Schuller's taped statement time 1:30:37

attempt to use, their official position for personal gain or confidential information for personal advantage."

**Exhibit #4: Tampa FCCS Office Layout**

This exhibit contains a diagram drawn by Schuller during his sworn interview on November 3, 2017. The drawing depicts the layout of the FCCS suite within the Tampa Field Office.

**Exhibit #5: Email from Connie Johnson to Blimes dated February 23, 2018**

This exhibit contains an email from Connie Johnson to Blimes dated February 23, 2018. Johnson is the Office Manager at Groover Funeral Home at Manson Memorial Park. (NOTE: This is the location at which Schuller alleged McMurray accepted a Journey CD.) Based on the email, Johnson has no knowledge of McMurray accepting a Journey CD. Johnson adds that her interactions with McMurray have always been professional.

**Exhibit #6: Documentation Received from Schwantes**

This exhibit contains an email from Schwantes with 10 attachments. Schwantes writes:

"Attached you will find the following:

1) Relevant handwritten notes from my initial conversation with Kurt Schuller on March 2, 2017. My notes pertaining to his prior complaints about an (at that time) unidentified employee are contained within the square border, which is how I highlighted that portion during the conversation for my future review/consideration. I later confirmed that Kurt was referring to Chris McMurray. Also included in the attached notes document is a copy of the two handwritten sticky notes which were pasted on my notes and refer to my May 3, 2017 discussions with Kenyetta Moye and Kim Fluharty-Denson regarding the issues raised during my March conversation with Kurt. On May 10, 2017, I met on these matters in HR with Kenyetta Moye, Stephanie Gray, and Kim Fluharty-Denson. No action was deemed necessary at that time.

Following the incident which occurred between Kurt and Chris McMurray on October 26, 2017, I received/sent the following emails, copies of which I had with me during our interview.

- 2) October 26, 2017 email from Tina Williams -10:53 a.m. - regarding notice of initial incident (NOTE: The "initial incident" referred to here is the comment McMurray made to Schuller in the restroom.)
- 3) October 26, 2017 email from Tina Williams -11:18 a.m. -concerning Kurt locking himself in office
- 4) October 26, 2017 email from Tina Williams -11:53 a.m. -including EMPLOYEE ISSUE NOTES (NOTE: These notes are related to Williams' notification of management and HR after becoming aware of the comment made by McMurray in the restroom.)
- 5) October 26, 2017 email from me to Tina Williams -1:14 p.m. -summarizes my conversations with HR and Kurt
- 6) October 27, 2017 email from me to Nicole Singleton -12:49 p.m. -regarding Kurt's continued absence from office
- 7) October 27, 2017 email from me to Chasity O'Steen-4:29 p.m. -regarding referral of issue to OIG's office
- 8) October 27, 2017 email from me to Thurman Lowe -4:42 p.m. -regarding instructions for his planned conversation with Chris for Monday, October 30th

9) October 27, 2017 email from Thurman Lowe -10:38 a.m. -confirming his conversations/verbal reprimand to Chris McMurray earlier that morning

10) October 30, 2017 email from Mike Shoaf-12:21 p.m. -confirming receipt of matter for investigation

Finally, I have looked and have not found any statutes or rules that prohibit the removal of records from a cemetery. As previously discussed, however, I would not condone it."

**Exhibit #7: Notes Kept by Williams**

This exhibit contains notes kept by former Financial Examiner/Analyst Supervisor Tina Williams related to her discovery of McMurray's suspended license. On an unspecified date, Williams received a notice in People First that McMurray's position requires a valid driver's license. On August 10, 2017, Williams contacted "Yvonne in HR," who referred her to Senior Management Analyst Supervisor Pam Mills. On August 29, Williams gets ahold of Mills, who requested copies of employees' driver's licenses if their positions required them to drive. On the same date, Williams requested McMurray's license, and McMurray inquired why she needed it. After obtaining and running McMurray's license, Williams discovered that the license was suspended as of August 21, 2017. On August 29, McMurray was instructed that he "could not drive, travel or rent vehicles representing the state until his license issue was taken care of." On August 31, 2017, McMurray provided proof that his license was once again valid. On September 1, 2017, Williams verified with the Department of Highway Safety and Motor Vehicles that McMurray's license was valid.

**Exhibit #8: Documentation Regarding McMurray's Suspended License**

This exhibit contains a traffic citation issued to McMurray on April 20, 2017, for following too closely and causing an accident. Because the accident occurred while McMurray was on duty and on state business, there is also an Incident, Accident & Preventative Suggestion Form (IAPS) completed by McMurray and dated April 24, 2017. On the IAPS form, McMurray writes, "While travelling [sic] to Orlando to conduct a financial examination of a licensee, I became distracted while approaching a red light and hit the car in front of mine. This resulted in a few scratches to the front of the rental car I was driving and dents and scratches to the car I hit." The IAPS form indicates that there were no injuries.

The exhibit also contains an IAPS form completed by Lowe and dated April 24, 2017. Lowe's forms contain the additional detail that McMurray was distracted by his GPS, which resulted in the accident.

On May 11, 2017, McMurray plead not guilty to following too closely.

On May 16, 2017, McMurray completed the Florida Department of Transportation defensive driving training.

The exhibit also contains a notice for McMurray to appear in court on June 6, 2017, regarding his plea of not guilty. On June 9, 2017, McMurray notified Lowe via email that his trial date is June 22, 2017.

On July 7, 2017, McMurray notified Lowe that his request for a continuance was denied and that he was found guilty of following too closely.



On August 31, 2017, Williams sent an email to Lowe stating that per their discussion, McMurray's license was suspended on August 21, 2017, and that McMurray has committed to use personal time on Friday, September 1, to pay the citation.

On September 1, 2017, Lowe notifies Schwantes that McMurray's license is once again valid.

**Exhibit #9: Travel Reimbursement Voucher dated August 24, 2017**

This exhibit contains a travel reimbursement voucher completed by McMurray and approved by Williams on August 24, 2017. According to the voucher, McMurray drove his personal vehicle on state business on August 21, 22, and 23.

**Exhibit #10: Email from Moye to Shoaf dated October 27, 2017**

This exhibit contains an email from Moye to Shoaf dated October 27, 2017, in which Moye writes:

I would like to refer a complaint to the OIG for investigation. Yesterday, I received a call from Kurt Schuller, indicating that while he was in the bathroom, his co-worker, Chris, entered and stated, "This is where the dicks hang out."

Today I was informed that he has made statements that he is afraid of Chris, and is concerned that Chris may cause damage to his car.

**Exhibit #11: Florida Statutes, Section 322.34 Driving while license suspended, revoked, canceled or disqualified**

Section 322.34(2) states, "Any person whose driver license or driving privilege has been canceled, suspended, or revoked as provided by law, except persons defined in s. 322.264, who, knowing of such cancellation, suspension, or revocation, drives any motor vehicle upon the highways of this state while such license or privilege is canceled, suspended, or revoked, upon: (a) A first conviction is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083."

This section also states, "The element of knowledge is satisfied if...the person admits to knowledge of the cancellation, suspension, or revocation."

**Exhibit #12: Email from McMurray to Blimes dated March 9, 2018**

This exhibit contains an email from McMurray to Blimes dated March 9, 2018, which was the day following McMurray's sworn interview to the OIG. The email states:

"I appreciate the opportunity to address the allegations against me by Kurt Schuler.

Upon reflection, I realize your stoic manner and line of questioning is part of your procedures in these matters. I hope you will excuse my abrupt manner during our interview.

It does concern me that most of the incidents cited by Mr. Schuler occurred several years ago and I probably did not provide the best answers I could have as I was simply recalling them from memory and was not given the opportunity to prepare my responses beforehand.

If specific dates, places and further explanation would provide better clarification for my response to the allegations, please do not hesitate to contact me and I will provide these to you.

I would also add the timing of these allegations relating to incidents which occurred as far back as ten years does come as a surprise to me. The fact that Mr. Schuller chose to bring these to the attention of the Inspector General rather than management also raises questions.

If Mr. Schuller has concerns about his personal safety because someone calls him a "dick" then he is probably in over his head working as an investigator for the Department. As such, he could probably benefit from psychological or other counseling the Department would be able to offer him."

**Exhibit #13: Comprehensive Case Information System (CCIS) Printout**

This exhibit contains a printout from CCIS showing McMurray's traffic citation history. The exhibit shows that on June 8, 2015, McMurray was given a citation for Open Container/Consumption of Alcohol in Parked Vehicle. The exhibit also shows that on April 21, 2017, McMurray received a citation for Following Too Closely.

**Exhibit #14: Email from Kelley to Blimes dated March 14, 2018**

This exhibit contains an email from Chief of Human Resources Liz Kelley to Blimes dated March 14, 2018. In the email, Kelley stated that neither Human Resources nor Employee Relations has any documentation of McMurray receiving counseling for his behavior toward Schuller prior to the comment in the restroom on October 26, 2017.

## **WITNESS INTERVIEWS**

On February 7, 2018, a sworn recorded interview of Division of Funeral, Cemetery, and Consumer Services Director Mary Schwantes was conducted at the Office of Inspector General in Tallahassee, FL. The following represents actual and paraphrased statements made by Schwantes:

Schwantes has been the Division Director for approximately one year. Prior to that, she worked in the Division of Rehabilitation and Liquidation. As the Division Director, she oversees the division responsible for regulating licensees in the death care industry and sits as the Executive Director of the Board of Funeral, Cemetery, and Consumer Services. Her immediate supervisor is General Counsel Chasity O'Steen.

Schwantes stated that when she became the FCCS Director, one of the first things she did was contact all FCCS employees to get an idea of what everyone did and to see if anyone needed anything. During this process, she contacted Schuller on March 2, 2017 (Exhibit #6). Schuller told Schwantes that he had a problem with someone else in the office, but Schuller didn't want to identify the other person. Schwantes stated that Schuller told her that the person had been arrested for domestic violence and had been involved in OIG investigations before. Based on that information, Schwantes was able to determine that Schuller was talking about McMurray. Schwantes stated that she notified O'Steen, Executive Senior Attorney Kim Fluharty-Denson, and Senior Management Analyst Supervisor Kenyetta Moye that Schuller had raised concerns about McMurray, and the consensus was that there were not sufficient allegations to pursue the matter or refer it to the OIG.

Schwantes stated that from what she has been told, McMurray is not antagonistic toward Schuller. However, for some reason, at least as far as Schuller is concerned, Schuller and McMurray do not get along. Schwantes stated that when she was initially making calls to FCCS employees, neither Financial Administrator Thurman Lowe nor Financial Analyst/Examiner I Stephanie Schmidt, who also work in the same suite as McMurray, raised any concerns about McMurray. Schwantes stated that when she discussed McMurray and Schuller with Lowe, Lowe's opinion seemed to be that Schuller was "very sensitive"<sup>26</sup> about some of what McMurray had said and that McMurray's comments "perhaps would have been taken differently by other people."

Because Schuller had voiced concerns about working with McMurray, FCCS management arranged for him to work out of Regional Manager James Jacobs' office, which is in the same suite as McMurray's and Schuller's cubicles (Exhibit #4). Schwantes stated that Jacobs did not come into the office often, so she thought this would be an acceptable solution. However, with the appointment of CFO Jimmy Patronis, Jacobs began working in the office more often, which meant that Schuller had to work in his cubicle next to McMurray.

Schwantes stated that on October 26, 2017, Schuller was in the restroom when McMurray entered the restroom and said, "So this is where the dicks hang out." Schwantes stated that after McMurray made this comment to Schuller, Schuller locked himself in Jacobs' office and was afraid for his safety. Schwantes stated Schuller was very upset by the comment, and he began attempting to contact FCCS management to report the incident. Schuller reached former Financial Analyst/Examiner Supervisor Tina Williams, who was McMurray's supervisor at the time of the incident, and Williams told him to contact Schwantes or Investigations Manager Nicole Singleton, who is Schuller's immediate supervisor. Schwantes also stated that Williams reached out to Schwantes and Singleton.

Schwantes stated that shortly after she became the division director, all telecommuting within the division was stopped; therefore, Schuller had to report to the office to work. Schwantes stated that not all employees were pleased that had to stop telecommuting, but everyone was professional about it.<sup>27</sup> Schwantes stated that it is "quite possible"<sup>28</sup> that Schuller's complaint to the OIG is a result of him being forced to stop telecommuting.

Schwantes stated that she asked Lowe to speak with McMurray about the comment he made in the bathroom, and she believes Lowe has had to counsel McMurray once before regarding his behavior toward Schuller, but Schwantes wasn't positive. (NOTE: Based on a follow-up email from Chief of Human Resources Liz Kelley, there is no documentation of McMurray being counseled for his behavior toward Schuller prior to October 2017. See Exhibit 14.) Schwantes stated that the comment was made on October 26, 2017. By October 27, she had already discussed the matter with O'Steen, Assistant Division Director Ellie Simon, Singleton, and Human Resources (HR), and HR had decided to refer the matter to the OIG. On October 27, Schwantes sent an email to Lowe instructing him to counsel McMurray regarding the comment (Exhibit #6). Schwantes stated that she got an email from Lowe on October 30 summarizing the discussion he had with McMurray, and McMurray acknowledged making the comment as a joke (Exhibit #6). Schwantes stated that there has been no further action taken as of the date of her interview with the OIG.

<sup>26</sup> Schwantes' taped statement time 24:20

<sup>27</sup> Schwantes' taped statement time 20:30

<sup>28</sup> Schwantes' taped statement time 20:40

Schwantes stated that after he reported McMurray's comment, Schuller was worried that McMurray might vandalize his car in retaliation, and Schuller asked if he could work from home. This request was denied; however, arrangements were made for Schuller to work on a different floor in the office so that he would not encounter McMurray. Schwantes stated she is not sure if McMurray was ever given a reason for Schuller being moved to a different floor, but she believes Schuller was told he was being moved as a result of McMurray's comment in the restroom. Schwantes also stated that this move is not intended to be a permanent move unless it needs to be based on the outcome of the OIG investigation. Schwantes stated that there is a new employee, Financial Specialist Gene Brimmer, that works in the suite with McMurray now.

Schwantes stated that in her dealings with McMurray, she has not gotten the impression that McMurray is mentally unstable, and she has not gotten that impression from any of McMurray's supervisors.

Schwantes stated that she was not aware of McMurray accepting a CD from a licensee. However, she stated this behavior is "questionable"<sup>29</sup> and stated if she had been told about it, she would have gotten more information to see if McMurray's behavior was appropriate.

Schwantes stated that she was not aware of McMurray visiting Helm Vault Service without any identification. She again stated that if she had been aware of this, she would have asked McMurray about it. Schwantes stated that she is not aware of any licensee filing a complaint about McMurray, and if McMurray has not been back to examine or inspect any particular funeral home or cemetery, it is because the licensee has not been in McMurray's normal rotation of inspections. Schwantes denied Schuller's claim that when a licensee files a complaint against McMurray, it is taken seriously, but when Schuller files a complaint, he is told that he is the problem, not McMurray. Schwantes supported her denial by stating that from the beginning of her tenure, she has informed Legal and HR about Schuller's concerns about McMurray.

Schwantes stated that Schuller never raised concerns to her about McMurray taking cemetery records off-site to review them. Schwantes stated that if a licensee had complained about McMurray to Schuller, she would hope that Schuller would then in turn report the complaint to his supervisor so that it could be appropriately investigated and addressed.

Schwantes stated that Schuller "may have" mentioned his suspicion that McMurray smoked in the fleet vehicles, but again stated that Schuller did not initially tell her whom he was speaking about and his comments were "very broad and all over the place."<sup>30</sup>

Schwantes stated that she was not aware of McMurray running his car at a funeral home so that the battery wouldn't die while McMurray was conducting an examination. Schwantes stated she would not have any concerns about this if it happened unless there was a funeral going on at the time and the car was making noise or there were other extenuating circumstances.

Schwantes stated that she was not aware of Schuller's allegations that it appeared that McMurray was living in his car. Schwantes stated that if she had been aware of this, she would question McMurray about parking the car on state property, but other than that it is not concerning from a work perspective, and it should not have any impact on Schuller.

<sup>29</sup> Schwantes' taped statement time 38:06

<sup>30</sup> Schwantes' taped statement time 48:20



Schwantes stated that she did not have any problem with McMurray flossing his teeth at his cubicle, and stated that Schuller's allegation that McMurray passes gas at his cubicle would be akin to someone that wears too much perfume. Schwantes stated that this might need to be verbally addressed, but should not affect anyone's work performance.

Schwantes stated that FCCS management tries to keep McMurray and Schuller as separate as possible, even when Tampa staff travels to Tallahassee. Schwantes stated that she believes that FCCS staff get along with Schuller and McMurray individually, but for whatever reason, the two of them don't get along.

*(NOTE: Following McMurray's interview, the OIG had a meeting with Schwantes regarding McMurray asking licensees for rides and accepting meals. Schwantes had no knowledge of these allegations prior to her conversations with the OIG. Schwantes stated that she would need more information to make a decision on asking licensees for a ride, but, in general, unless there is some type of emergency situation, examiners should not ask licensees for rides. Schwantes also stated that there is a problem with examiners accepting meals from licensees.)*

On February 27, 2018, a sworn recorded interview of Division of Funeral, Cemetery, and Consumer Services Financial Administrator Thurman Lowe was conducted via telephone from the Office of Inspector General in Tallahassee, FL. The following represents actual and paraphrased statements made by Lowe:

Lowe has been a financial administrator for approximately four to five years. As such, he has oversight of inspectors and examiners within the FCCS. His immediate supervisor is Director Mary Schwantes.

Lowe stated he has been McMurray's interim supervisor since November 2017, when Williams separated from the division. Lowe stated he has been Schuller's immediate supervisor in the past, but Schuller's current immediate supervisor is Investigations Manager Nicole Singleton.

Lowe stated that he frequently travels and is only in the Tampa office one or two days per week. He stated that he interacts with McMurray at least two or three times per month. Lowe stated that in his experience with McMurray, McMurray does not appear to have any kind of mental disorder that would make him unstable or a danger to his co-workers. Lowe stated that he has not had any employee other than Schuller file a complaint against McMurray.

Lowe stated that McMurray and Schuller "do not care for each other,"<sup>21</sup> but he does not know the "origin" of their issues. Lowe stated that based on general conversations he has had with Schuller, he does not believe Schuller was happy about no longer being able to telecommute. Lowe stated he does not believe Schuller wanted to come back to the office and sit in a cubicle beside McMurray. Lowe stated that Schuller was moved to a different floor following the comments made by McMurray in the restroom, and Schuller and McMurray no longer work in adjacent cubicles.

Lowe stated that the bathroom comment occurred in October 2017 while Lowe was on leave and out of town. He stated Schwantes contacted him while he was on leave and instructed him to question McMurray about the comment when Lowe returned to work. Lowe stated he spoke to McMurray, who admitted to making the comment "So I guess this is where all the dicks hang out" to Schuller in the restroom. Lowe informed McMurray that this comment was inappropriate and instructed

<sup>21</sup> Lowe's taped statement time 5:51

McMurray to have no further contact with Schuller unless it was necessary and work-related. Lowe stated he asked McMurray why he made this comment, and McMurray responded that it was just a joke and he did not mean for it to be a personal attack. Lowe stated that shortly after McMurray made this comment, the process was started to move Schuller to a different floor away from McMurray.

Lowe confirmed that his email to Schwantes (Exhibit #6) contains an accurate account of his interactions with McMurray relating the comment in the bathroom. Lowe stated that he has no knowledge of any issues between McMurray and Schuller since the bathroom comment in October.

Lowe stated he has no knowledge of McMurray accepting gifts or favors from any licensee. Lowe stated that if something like that occurred, that could be a violation of policy because examiners should not be accepting any kind of gift from licensees.

Lowe stated that he has no knowledge of McMurray conducting an examination or inspection without any identification. Lowe stated he did not know if this would be a violation of any kind, but it would "not be proper"<sup>32</sup> and would require Lowe to verbally address the issue with staff if it occurred. Lowe stated that McMurray is intentionally not sent to Helm Vault Service to conduct examinations or inspections, and that has been the case "for several years."<sup>33</sup> Lowe stated he believes this instruction came from former Division Director Doug Shropshire and that Shropshire gave him this instruction because there was a potential personality conflict between McMurray and the owner of Helm Vault Service. Lowe added that it is not uncommon to avoid sending a particular examiner to specific locations, and there are employees throughout the state, including Schuller, who are intentionally not sent to certain locations.

Lowe stated that at least four or five years ago, Schuller raised a concern that Schuller believed McMurray was smoking in the fleet vehicles. Lowe stated he had a conversation with McMurray in which McMurray admitted to smoking in the vehicle and said it would not happen again. Schuller again voiced concerns that he believed McMurray was still smoking in the vehicles. Lowe had another conversation with McMurray in which McMurray denied smoking in the car and stated any smoke odor in the car was due to the residual odor on McMurray's clothes after smoking outside of the car. Lowe stated he instructed McMurray to take steps to ensure that the fleet vehicle did not smell like smoke, and McMurray assured Lowe that he would correct the issue. Lowe stated there have not been any additional concerns raised about McMurray smoking in the fleet vehicle since that time. Lowe stated there is no documentation of his conversations with McMurray. Lowe stated that he feels this issue has been adequately handled by management and there is no need for additional action.

Lowe stated he has no knowledge of McMurray being fined for smoking in a rental car. Lowe stated that he approves McMurray expenses, and he has no memory of McMurray turning in an expense for a fine.

Lowe stated it is "certainly not best practice"<sup>34</sup> for an examiner to ask a licensee for a ride. Lowe stated no one ever reported to him that McMurray might have asked a licensee for a ride after McMurray's car broke down. Lowe stated he could not name a specific policy that this would be in violation of, but again stated that it would not be a "best practice" unless there was some kind of emergency situation.

<sup>32</sup> Lowe's taped statement time 26:18

<sup>33</sup> Lowe's taped statement time 28:05

<sup>34</sup> Lowe's taped statement time 37:25

Lowe stated there are "special or extenuating circumstances"<sup>35</sup> that might cause an examiner to remove records from a cemetery or funeral home. For example, Lowe stated he has taken records to the local Kinko's to be copied if the cemetery has no method of making copies. Lowe stated in these situations, he ensures that cemetery staff accompany him at all times while the records are off-site. Lowe stated that it would not be a best practice to remove original records for a day or two while conducting an examination, but he could not name a specific policy, rule, or statute that this would be a violation of. (NOTE: Schwantes also could not identify a law, rule, or policy that prohibits the removal of cemetery records from cemetery grounds, however it concerned her.)

Lowe stated it is not a violation for McMurray to leave his car idling in the parking lot of a funeral home while conducting an examination. When Lowe was asked if he, as a manager, would have any issue with McMurray doing this, he responded, "It would depend upon the impact upon the licensee."<sup>36</sup> Lowe went on to state that if there was a funeral in progress that day, the idling car might be disruptive to the family. Lowe stated this issue was never brought to his attention prior to him being questioned by the OIG, and he has never received any complaint about McMurray running his car in the parking lot while conducting an examination.

Lowe stated that he had no knowledge of McMurray keeping a fleet vehicle over a weekend, making it unavailable when Schuller needed it on Monday, October 13, 2014. Lowe stated it does occasionally happen that a fleet vehicle is not available at a reserved time, and when that occurs the employees can usually "work through those issues"<sup>37</sup> and get where they need to be by renting a car or driving their personal vehicle.

Lowe stated that he had no knowledge of McMurray possibly sleeping and/or living in his car. Lowe stated he did not know if this would be a violation of any kind, but it would "certainly be worthy of a conversation"<sup>38</sup> with the employee living in his car.

Lowe stated he was aware that Schuller had raised concerns to Williams in the past about McMurray flossing, passing gas, and using his speaker phone at his cubicle. Lowe again stated that he does not know if this behavior is a violation of any policy, but called it "worthy of conversation and correction"<sup>39</sup> if it was occurring.

Lowe stated management became aware on August 29, 2017, that McMurray's driver's license had been suspended on August 21, 2017. Once management became aware of the situation, McMurray was instructed not to drive any vehicle on state business. Lowe stated McMurray's license was suspended for an unpaid traffic citation, and McMurray stated he would not drive for the state and would take care of his license as soon as possible. Lowe stated the citation was paid on August 31, 2017. Lowe stated that during the eight days between McMurray's license being suspended and management becoming aware of it, there is no record of McMurray driving a fleet vehicle or rental vehicle. However, there is a record showing that McMurray drove his personal vehicle for state business on August 21, 22, and 23 (Exhibit #9). Lowe reiterated that management was not aware that McMurray's license was suspended while he was driving on state business during these three days.

<sup>35</sup> Lowe's taped statement time 38:52

<sup>36</sup> Lowe's taped statement time 42:20

<sup>37</sup> Lowe's taped statement time 46:09

<sup>38</sup> Lowe's taped statement time 49:55

<sup>39</sup> Lowe's taped statement time 51:47



Lowe stated McMurray did not ever report that his license was suspended, and management became aware of it when Williams got a People First notification instructing her to run a routine check of certain employees' driver's licenses. Lowe stated that based on policy (AP&P 2-07, Fleet Management - Use of State Owned, Leased, or Rented Vehicles, and AP&P5-26, Standards and Procedures of Discipline), McMurray should have reported that his license was suspended. Lowe stated that he became aware on February 27, 2018, that McMurray drove his vehicle on state business while his license was suspended. Lowe stated he discovered this while preparing for his interview with the OIG. Lowe stated that the travel reimbursement form was signed by Williams, and Lowe was not sure why Williams never reviewed McMurray's travel records when she discovered McMurray's license was suspended.

Lowe denied telling Schuller that he is the problem, not McMurray. However, Lowe did state that he has told both Schuller and McMurray that both parties should work together to get along. Lowe stated he has never sided with either Schuller or McMurray.

Lowe stated that the situation between McMurray and Schuller has gone "extremely well"<sup>40</sup> since Schuller was moved to a different floor. Lowe stated he believes keeping Schuller and McMurray separated can be a permanent solution to the problem.

Lowe stated that Schuller is the only employee that has brought a formal complaint to him about McMurray. However, Lowe stated that former Financial Examiner/Analyst II Jessica Helms and Schuller were very close, and Lowe believed that Helms sided with Schuller on a lot of his concerns regarding McMurray. However, Helms never made any type of complaint to Lowe regarding McMurray.

On March 1, 2018, a sworn recorded interview of Citizen George Saclarides was conducted via telephone from the Office of Inspector General in Tallahassee, FL. The following represents actual and paraphrased statements made by Saclarides:

Saclarides has been the Director at Rose Hill Cemetery in Tampa, FL, for approximately 10 years. Saclarides stated that McMurray was one of the first FCCS employees that Saclarides had contact with after becoming the director.

Saclarides stated that McMurray conducted an annual inspection at Rose Hill Cemetery on June 9, 2010. Saclarides stated during this inspection, which was one of the first Saclarides had as the funeral director, McMurray requested to review 20-30 of the cemetery's burial contracts. When Saclarides pulled the contracts, it was late in the day, so McMurray told Saclarides that McMurray was going to take the contracts with him for review off-site. Saclarides stated either the next day or the one after that, McMurray returned to the cemetery and had chosen a few of the contracts for which to go out and review the actual burial site.

Saclarides stated after McMurray's inspection, he spoke to the cemetery owner, and the owner told him that the contracts were not supposed to leave cemetery grounds. Saclarides stated he could not name the specific rule or statute that would prohibit McMurray from removing the records.

When asked if Rose Hill Cemetery has a copy machine, Saclarides responded that it does have a copy machine, but examiners always review original records, not copies. Saclarides stated that in all of his examinations since McMurray's in June 2010, no examiner has ever attempted to take records

<sup>40</sup> Lowe's taped statement time 1:05:10

off-site. Saclarides stated that if the records are taken off-site, there is a possibility that the examiner could alter them. Saclarides also stated that the annual inspections never take longer than a day, and McMurray's inspection in 2010 was stretched over three days.

Saclarides stated that other than McMurray removing records from the cemetery, he is not aware of any other improper or inappropriate behavior conducted by McMurray. Saclarides stated he is not aware of McMurray ever accepting gifts or favors from licensees.

On March 14, 2018, a sworn recorded interview of Division of Funeral, Cemetery, and Consumer Services Investigations Manager Nicole Singleton was conducted at the Office of Inspector General in Tallahassee, FL. The following represents actual and paraphrased statements made by Singleton:

Singleton has been the Investigations Manager for approximately 18 months. As such, she supervises four investigators throughout the state. Her immediate supervisor is Assistant Division Director Ellen Simon.

Singleton stated that she is Schuller's immediate supervisor, but she has only spoken to McMurray about six times. Singleton stated that Schuller and McMurray did not get along before she started working for FCCS, and she is not sure what the root of the problem is. Singleton stated that because she works out of Tallahassee, it is hard for her to monitor the situation between Schuller and McMurray. She stated she has not been around McMurray enough to judge his character. Singleton stated McMurray is not "overly friendly,"<sup>41</sup> but he is also not "mean".<sup>42</sup>

When Singleton was asked if Schuller raised safety concerns due to working in the same office with McMurray, she responded, "He focused more on being upset that the telecommuting was going away."<sup>43</sup> Singleton stated she thought the restroom comment occurred only a few months after Schuller stopped telecommuting. Singleton stated that before the comment in the men's room, management was trying to work on a solution for the problem between McMurray and Schuller.

When asked if she had any knowledge of McMurray violating any policies or rules, she stated that she heard from Schuller sometime in the last year that McMurray's license was suspended. Singleton stated she did not investigate it any further since she is not McMurray's supervisor, she didn't know when the license was allegedly suspended, and she didn't know if the license had actually been suspended. Singleton stated she did not share this information with anyone else.

Singleton stated she was in a meeting with Schwantes, Simon, and Lowe, when the restroom incident occurred. Singleton stated as she understood it, McMurray walked into the restroom, where Schuller was already, and stated, "I guess this is where all the dicks hang out." Singleton stated this comment could be taken two different ways, and it upset Schuller. Schuller then tried to contact Singleton, but didn't reach her because she was in a meeting, so he then reached out to Williams, who was McMurray's supervisor. Singleton stated Williams sent an email to Singleton, Schwantes, and Lowe telling them that she [Williams] needed to talk to them (Exhibit #6). Singleton stated she believed Schwantes reached out to Schuller for additional information.

<sup>41</sup> Singleton's taped statement time 14:39

<sup>42</sup> Singleton's taped statement time 14:32

<sup>43</sup> Singleton's taped statement time 11:40

Singleton stated after the restroom incident occurred, Schuller requested permission to telecommute, and she wondered if Schuller brought up McMurray's comments as a means to start telecommuting again because Schuller was "very, very upset about the telecommuting going away."<sup>44</sup> Singleton stated she did not doubt that McMurray actually made the comments, but Schuller used the comment as "grounds to request to work from home."<sup>45</sup>

Singleton stated that Schuller has complained about McMurray to her several times, but she could not remember any specific complaints other than McMurray's license being suspended and McMurray's comment in the restroom.

Singleton stated that since Schuller has moved to a different floor, she is not aware of any incident between Schuller and McMurray. However, the Division of Workers' Compensation (DWC) employees have raised concerns about Schuller because Schuller openly talks about the salary differences between DWC and FCCS investigators and Schuller openly talks about his "disdain about his job and the division"<sup>46</sup> with DWC employees.

Singleton stated that she believes the solution to the problem between Schuller and McMurray is for management to address the small issues between them before they become large issues. Singleton stated management knows that Schuller and McMurray don't get along, so any allegations Schuller makes against McMurray simply appears to be Schuller complaining. Singleton also stated the solution to the problem is documentation so that if any corrective action needs to be taken, it is well supported.

Singleton stated that she is not aware of any other FCCS employee complaining about McMurray's conduct.

On March 14, 2018, a sworn recorded interview of former Financial Examiner/Analyst Supervisor Tina Williams was conducted via telephone from the Office of Inspector General in Tallahassee, FL. The following represents actual and paraphrased statements made by Williams:

Williams stated she was in a supervisor position for a couple of months before separating from FCCS. Prior to becoming a supervisor, she was a Financial Specialist within FCCS. Her immediate supervisor at the time of her separation was Lowe. Williams stated that when she was a supervisor, McMurray was one of her direct reports; however, she worked out of Orlando and McMurray was in Tampa.

Williams stated that there have been comments made back and forth between Schuller and McMurray that have led to them not being able to get along. However, she could not remember any specific comments that were made. Williams stated McMurray and Schuller's inability to get along caused tension in the office. Williams stated that she heard Lowe stated several times that Schuller just need to "get over"<sup>47</sup> his issues with McMurray. Williams stated that after a while she stopped paying attention to the conflict between Schuller and McMurray. She stated she learned to "turn the key and turn it off."<sup>48</sup>

<sup>44</sup> Singleton's taped statement time 18:44

<sup>45</sup> Singleton's taped statement time 19:40

<sup>46</sup> Singleton's taped statement time 22:05

<sup>47</sup> Williams' taped statement time 7:03

<sup>48</sup> Williams' taped statement time 7:40

Williams stated that Schuller gets along with everyone in the office other than McMurray. When asked if McMurray got along with everyone else in the office, Williams responded, "That's kind of a hard question to answer because, gosh I hate to say this, just a lot of people didn't—they would just say Chris [McMurray] was 'OK.' I don't know anyone that had a close friendship or relationship with Chris."<sup>49</sup>

When Williams was asked if she ever felt that McMurray had a mental disorder that made him unstable, she responded, "I'm not licensed to say that. I didn't think he was capable of doing the job correctly."<sup>50</sup> Williams then stated that she would sometimes get calls from licensees saying that McMurray had asked for positions with them, wouldn't show up to the licensee's business when he was supposed to, or would constantly change exam dates. Williams stated she was not the supervisor when she got these calls, so she would just pass the information on to Lowe. Williams stated she was told by NorthStar Memorial Group and Service Corporation International that McMurray had asked them about jobs.

Williams stated right when she became the supervisor, she got a notification in People First stating that certain employees needed a valid driver's license for their positions. When she asked Lowe about it, Lowe told her not to worry about the notifications and that he gets them all the time. At least a few weeks after that, Schuller raised concerns with her that McMurray did not have a valid driver's license. On the same day that Schuller raised his concerns to her, Williams requested a copy of all of her employees' licenses. Williams stated when she asked McMurray for his license, he got "real apprehensive"<sup>51</sup> and asked why she needed it. Williams stated after she asked for McMurray's license, Lowe told her that McMurray had been in an accident in a rental car and had never paid the citation. When asked if Williams believed Lowe knew that McMurray's license was suspended, she responded, "I can't answer that truthfully. I don't know when and what he knew. He may have suspected it. If he [Lowe] knew he [McMurray] had a ticket and it wasn't paid, what do you think?"<sup>52</sup>

When Williams was asked if McMurray drove on State business with a suspended license, she responded, "I'm sure he did"<sup>53</sup> because McMurray had exams to do. When asked if she ever pulled records to see if McMurray had been driving on a suspended license, Williams responded, "No. I talked to Thurman [Lowe] and Thurman said just to call him [McMurray] and tell him that he could not drive for the State at all."<sup>54</sup>

Williams stated she has heard Schuller upset before, but she has never heard the level of distress that was in his voice when he called her and told her that McMurray had made an inappropriate comment to him in the restroom. She stated after she became aware of this incident, she notified Lowe, and it was "out of her hands after that."<sup>55</sup> Williams stated that Schuller expressed concern for his safety after the incident in the restroom, but Williams was not sure exactly why Schuller feared for his safety. Williams stated she would guess Schuller is afraid because it is common knowledge in the office that McMurray has been arrested before for domestic violence, and "if he [McMurray] does something to his wife, why wouldn't he do it to another employee?"<sup>56</sup> Williams stated she never

<sup>49</sup> Williams' taped statement time 8:30

<sup>50</sup> Williams' taped statement time 9:15

<sup>51</sup> Williams' taped statement time 13:38

<sup>52</sup> Williams' taped statement time 14:37

<sup>53</sup> Williams' taped statement time 14:58

<sup>54</sup> Williams' taped statement time 15:28

<sup>55</sup> Williams' taped statement time 12:30

<sup>56</sup> Williams' taped statement time 26:23



addressed the comment with McMurray or took any action other than passing the information up the chain to her supervisor.

Williams stated Schuller also complained to her that McMurray always used his speakerphone for telephone conversations in his cubicle. Schuller also complained that McMurray was flatulent in the office and would make sighing sounds after passing gas. Williams stated that she spoke to McMurray about using his speakerphone, but did not ever address the issue of McMurray passing gas in the office because "How do you bring that up?"<sup>57</sup>

Williams stated that someone, possibly Schuller, told her that McMurray once asked a licensee for a ride after his car broke down, but she did not have any additional information concerning this incident. (NOTE: Williams was not McMurray's supervisor when she was told that he asked a licensee for a ride.)

Williams stated that approximately six months after McMurray began working for FCCS, she told Lowe that he needed to terminate McMurray because he "wasn't cut out for the job"<sup>58</sup> because his work was "not conducive to how the division should be run." Williams then again stated that she would get calls "constantly"<sup>59</sup> from licensees stating that McMurray did not show up for an examination or complaining that McMurray did not give them the required 45-day notice prior to conducting an exam. Williams stated she passed this information on to Lowe, but she does not know what he did with the information.

Williams stated that Schuller told her that McMurray would smoke in the fleet vehicles, so Schuller placed a "no smoking" sign in the car. Williams stated that according to Schuller, Lowe got upset with Schuller after this incident and made Schuller take the sign out of the car. Williams stated there was also a time that McMurray told her he had been fined for smoking in a hotel room. Williams stated that these incidents all occurred prior to her becoming a supervisor.

When Williams was asked what she thought the solution is to the issues between Schuller and McMurray, she once again stated that she does not feel like McMurray should be working for FCCS. Williams described McMurray as "an eye sore to the Division. He does not show professionalism in the way he does his work."<sup>60</sup>

## SUBJECT INTERVIEW

On March 8, 2018, a sworn recorded interview of Division of Funeral, Cemetery, and Consumer Services Financial Examiner/Analyst II Christopher McMurray was conducted at the Office of Inspector General in Tallahassee, FL. The following represents actual and paraphrased statements made by McMurray:

McMurray stated he has been a Financial Examiner/Analyst II since August 2006. His duties include financial examinations of licensees, investigations, and regulatory inspections of facilities in the death care industry. His immediate supervisor is Financial Administrator Thurman Lowe.

<sup>57</sup> Williams' taped statement time 18:27

<sup>58</sup> Williams' taped statement time 19:52

<sup>59</sup> Williams' taped statement time 20:39

<sup>60</sup> Williams' taped statement time 27:01

McMurray stated that he and Schuller have worked together for McMurray's entire career with FCCS. McMurray stated that he and Schuller have an "antagonist"<sup>61</sup> relationship, and Schuller has tried to make him look bad, discredit his work, and complained to the supervisor. However, McMurray stated that the incidents have occurred over the last 10 years, so he was not able to provide specific examples of Schuller's behavior. McMurray described Schuller as a "difficult person,"<sup>62</sup> and stated that he generally tries to stay away from Schuller.

At this point in the interview, McMurray stated that he would like to be told the specific allegations made against him prior to continuing with the interview. OIG staff told him that we would get into the specifics in the course of the interview.

McMurray stated that Schuller trained McMurray when McMurray started working in FCCS. McMurray stated that his issues with Schuller began after McMurray became more independent and was no longer relying on Schuller to complete his work. However, he again stated that he did not know exactly why he and Schuller do not get along.

When asked if he had ever accepting any gifts from funeral homes or cemeteries where he was working, McMurray responded, "I'm trying to think here. You know, there was one time somebody bought me lunch at a funeral home."<sup>63</sup> McMurray stated he could not remember which funeral home it was, but he remembered it because it was "only the second time" a licensee had bought him lunch. McMurray stated that during his examination of the funeral home, he found a few problems that needed to be addressed. McMurray stated, "I was kind of put in sort of a difficult position" because the funeral owner had bought him lunch and then he found problems. McMurray stated this occurred approximately four or five years ago.

When asked if anyone else had ever offered him a gift, McMurray stated that there was an owner that also sold Star Trek memorabilia. The owner offered to give him a Star Trek model, but McMurray told the owner that it was not appropriate to accept gifts from licensees.

When asked if anyone had ever offered him an audio CD, McMurray immediately responded, "Yes,"<sup>64</sup> and went on to describe a cemetery manager giving him a Journey CD. McMurray stated that he had told the manager that his [McMurray] wife was a big fan of Journey because she is Filipino and the lead singer of Journey was also Filipino. McMurray stated the manager gave him a burned Journey CD, but he did not give it to his wife because it was the original vocalist of Journey on the album, not the Filipino singer. McMurray stated that this happened at Manasota Memorial Park. McMurray stated he is not aware if accepting a CD from a licensee is a violation of a policy. McMurray stated that he assumed that since it was a burned CD, the "monetary value was negligible"<sup>65</sup> and it was not a violation to accept the gift. When asked if there is a policy prohibiting state employees from accepting gifts from entities doing business with the state, McMurray responded, "There probably is."<sup>66</sup> McMurray stated that the gift was not given to influence McMurray's work, but stated he did not know that for sure.

<sup>61</sup> McMurray's taped statement time 9:49

<sup>62</sup> McMurray's taped statement time 10:31

<sup>63</sup> McMurray's taped statement time 14:00

<sup>64</sup> McMurray's taped statement time 17:18

<sup>65</sup> McMurray's taped statement time 19:03

<sup>66</sup> McMurray's taped statement time 20:35

When asked if he has ever accepted any other gifts while conducting examinations and inspections, McMurray stated, referring to gifts that McMurray believes would have a monetary value of less than five dollars, "Somebody might have given me something in the course of doing my job over 10 years and I don't recall it."<sup>67</sup> McMurray stated that he would not accept any gift that had a monetary value of five dollars or more.

McMurray also stated that there was one time the owner of Eternal Rest Cemetery bought him a salad for lunch and another time that he was doing an examination where there was pizza in the office, and McMurray was told to "help himself," so he did. McMurray stated he could not remember what cemetery he was at when he ate the pizza. McMurray estimated that the cost of the lunches purchased for him was five dollars.

McMurray stated that he has not conducted an inspection at Helm Vault Service in approximately 10 years. When asked why he is not sent there, McMurray told a story in which he asked a man named Egbert Helm if his name was really Egbert, at which point E. Helm "got pissy"<sup>68</sup> with McMurray. McMurray stated that E. Helm is the father of Powell Helm, who sits on the Board of Funeral, Cemetery, and Consumer Services. McMurray stated that at the end of the day, E. Helm asked him for a business card, but he had run out, so he did not have one to provide to E. Helm. McMurray stated that he had an identification card with him, but he did not show it to anyone and no one asked to see it. McMurray stated that P. Helm contacted the FCCS and stated that McMurray came and did an inspection without any identification, and that is why he has never been back to Helm Vault Service.

McMurray stated he saw P. Helm "a couple years later" at a cemetery. McMurray stated he [McMurray] pulled out a business card and said "Hi, I'm Chris McMurray." [while holding it in front of himself like a placard] P. Helm responded, "I've heard the name,"<sup>69</sup> and walked away.

McMurray asked why this issue was just not coming up when it had happened over 10 years ago and stated that the fact that Schuller is just now bringing up these concerns "says more about Kurt Schuller than it does about" McMurray.

McMurray stated that approximately four years ago, Lowe came to him and told him there had been a complaint that McMurray was smoking in the fleet vehicles. McMurray stated that he admitted to smoking in the cars and said he would cease immediately. McMurray stated he could not remember if Lowe had one or two conversations with him about smoking in cars. McMurray stated he is not sure if there is documentation of his conversation with Lowe anywhere. McMurray also stated that he has smoked in rental cars, but he has never been fined for smoking in the rental car. McMurray also stated that he has smoked in hotel rooms while on state business, and he did receive a fine once for smoking in the hotel room. McMurray stated that the fine was initially placed on his P-card, but he called the hotel and had the fine moved to his personal card. McMurray stated the hotel incident happened approximately eight years ago. McMurray then stated, "Is this the best he's [Schuller] got? Let's go."

When asked if his car has ever broken down while he was conducting an examination or inspection, McMurray responded that in the last 10 years, he's sure that his car and the state car have broken down. When asked if he ever asked a licensee for a ride after his car broke down, McMurray

<sup>67</sup> McMurray's taped statement time 20:18

<sup>68</sup> McMurray's taped statement time 25:14

<sup>69</sup> McMurray's taped statement time 28:20

responded, "Yes."<sup>70</sup> McMurray went on to describe a time that the clutch in his truck went out at a funeral home in Dade City. McMurray stated he contacted Lowe, and Lowe said, "I don't know what you want me to do except come up there and pick you up."<sup>71</sup> McMurray stated he slept in his car that night and then asked the cemetery manager to give him a ride to the mechanic the next day. McMurray confirmed that this occurred at Chapel Hill Gardens and that he asked Keith Williams for a ride. McMurray estimated that this occurred eight years ago. McMurray stated, "I drive old, shit-box cars, and the state vehicles that we have are 14, 15 years old,"<sup>72</sup> so there might have also been other times he asked a licensee for a ride that he does not remember.

McMurray stated he does not know if asking licensees for rides is against policy, and was told that the Code of Ethics specifically prohibits accepting transportation. McMurray responded, "Well, guilty as charged. I slept in the car because I didn't want to be put in the position where I had to come back and finish the fucking job, okay? That could have been the easiest fucking thing to do, alright? Let's continue. It would have been disruptive to my assignment if I cried like a baby 'Give me a ride home Thurman [Lowe], or I'll have to rent a car,' okay? I didn't do that. I slept in my car, and yeah, I asked for the licensee to give me a ride."<sup>73</sup>

McMurray stated he could remember removing records from a cemetery one time, at Rose Hill Cemetery. McMurray stated that the manager of the cemetery offered McMurray the records, and then when the owner found out that the manager had allowed McMurray to take the records off-site, the owner "had a fit."<sup>74</sup> McMurray stated he could not remember ever removing any other cemetery records, but stated it might have happened. McMurray stated that he took the records off-site because Rose Hill had an old photocopier, and several of the pages were tri-folded. McMurray stated he thought it would be more expedient to just take the records with him for review. McMurray also stated that there was not sufficient work space at Rose Hill, and he stated that when the cemetery manager called him and requested that he bring the records back, McMurray obliged.

McMurray stated he has left his car idling in the parking lot while conducting examinations. McMurray stated he could not remember a funeral or any service going on while he left his car running.

When asked to describe the incident that occurred with Schuller in the bathroom, McMurray stated:

"I went in the bathroom. Kurt Schuller was at the urinal, and I said, 'Oh, so this is where all the dicks hang out.' That was my comment. Double entendre, my way of calling him a dick. And that's what was said. Guilty as charged."<sup>75</sup>

McMurray stated Lowe spoke to him about the comment the following week. Lowe asked McMurray about the comment, and McMurray told Lowe he had made the comment. Lowe then told McMurray that Schuller reported the comment to HR. McMurray stated he did not receive any discipline or counseling during or following this conversation with Lowe. McMurray stated Lowe did not tell him to stay away from Schuller or to not talk with him. McMurray stated he did not tell Lowe that his

<sup>70</sup> McMurray's taped statement time 35:01

<sup>71</sup> McMurray's taped statement time 35:36

<sup>72</sup> McMurray's taped statement time 36:27

<sup>73</sup> McMurray's taped statement time 37:12

<sup>74</sup> McMurray's taped statement time 38:42

<sup>75</sup> McMurray's taped statement time 44:19



intent by making the comment was to call Schuller a dick. McMurray stated he simply told Lowe that he [McMurray] "thought it [the comment] was funny."<sup>76</sup>

McMurray stated that the address on his driver's license is not his current address, nor has it been for approximately two and a half years. However, McMurray stated that he does still receive mail sent to his old address.

McMurray stated he remembered Williams requesting a copy of his license in August 2017 because she had a task to complete in People First. McMurray stated he was reluctant to provide his license to Williams because he knew it was suspended. McMurray stated he became aware that it was suspended "earlier that week."<sup>77</sup> When asked if McMurray was driving his car while he was aware that his license was suspended, he responded, "Yes, I was."<sup>78</sup> McMurray stated he is not aware whether or not he drove for state business while his license was suspended, but he again affirmed that he knew the license was suspended, so if he had driven on state business, he had done so with the knowledge that his license was suspended. McMurray was then shown his submitted and approved travel reimbursement form showing that he had driven on state business on August 21, 22, and 23, while his license was suspended (Exhibit #9). McMurray then asked how serious of a charge this is, and OIG staff explained that the penalty could range anywhere from a counseling to termination, but the OIG is not involved in disciplinary decisions.

At the end of his interview, McMurray was asked once again if he could name anything specific that led to the rift between him and Schuller. McMurray responded, "This type of complaint," referring to the OIG complaint made by Schuller. McMurray referred to Schuller's complaint as a "fishing expedition."<sup>79</sup> McMurray then once again stated, "This complaint says more about Kurt Schuller than it does about me."<sup>80</sup> When McMurray was asked why he feels Schuller would report that he is in fear for his safety around McMurray, McMurray responded, "I don't think he is. I think that's something that he's just saying."<sup>81</sup> McMurray was told that Schuller understood that McMurray was referring to him as a dick in the restroom, and that that comment, along with the other topics discussed in the interview, are what made Schuller fear for his safety. McMurray responded, "Well, I didn't grab his dick, guys. I called him a dick."<sup>82</sup> When asked if Schuller had any reason to fear for his safety, McMurray responded, "He's [Schuller] disliked by many people."<sup>83</sup> When McMurray was asked if Schuller had reason to fear for his safety because of McMurray, McMurray responded, "I don't know. What do you think? What kind of a question is that?"<sup>84</sup> McMurray went on to state, "I think if we were gonna come to blows, it would have happened a long time ago."<sup>85</sup>

McMurray was asked if he had ever accepted any bribes, gifts, or gratuities in order to complete or not complete his assigned duties. McMurray responded, "I'm just trying to think if I've ever been offered one. I've never been offered one."<sup>86</sup> He was then asked what he would do if he was offered

<sup>76</sup> McMurray's taped statement time 46:27

<sup>77</sup> McMurray's taped statement time 50:45

<sup>78</sup> McMurray's taped statement time 52:18

<sup>79</sup> McMurray's taped statement time 56:57

<sup>80</sup> McMurray's taped statement time 57:06

<sup>81</sup> McMurray's taped statement time 57:40

<sup>82</sup> McMurray's taped statement time 59:23

<sup>83</sup> McMurray's taped statement time 59:50

<sup>84</sup> McMurray's taped statement time 1:00:00

<sup>85</sup> McMurray's taped statement time 1:00:12

<sup>86</sup> McMurray's taped statement time 1:01:33

one, and he responded, "Well, I would take it, of course. Wouldn't you?" McMurray then stated that he would not take the bribe. OIG staff then asked McMurray if he thought this was an appropriate time to make jokes, and he replied, "No."<sup>87</sup> McMurray went on to state that he was offended by the question, proceeded to pick up the OIG's digital recorder, and said directly into the microphone, "That's the reason for my lame joke answer." He then put the recorder back down and the interview was concluded.

## **FINDINGS/CONCLUSION**

It is alleged that Financial Examiner/Analyst II Christopher McMurray violated Administrative Policy and Procedure (AP&P) 5-26, Standards and Procedures of Discipline, CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by making an inappropriate comment to Financial Specialist Kurt Schuller. - **SUSTAINED**

It is also alleged that McMurray violated AP&P 1-15, Code of Ethics, and AP&P 5-26, Standards and Procedures of Discipline, CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by accepting gifts from a person or entity doing business with the Department. - **SUSTAINED**

It is also alleged that McMurray violated AP&P 2-07, Fleet Management - Use of State Owned, Leased, or Rented Vehicles, and AP&P 5-26, Standards and Procedures of Discipline, CONDUCT UNBECOMING A PUBLIC EMPLOYEE, by smoking in fleet and rental vehicles. - **SUSTAINED**

It is also alleged that McMurray violated AP&P 2-07, Fleet Management - Use of State Owned, Leased, or Rented Vehicles, and AP&P 5-26, Standards and Procedures of Discipline, CONDUCT UNBECOMING A PUBLIC EMPLOYEE, VIOLATION OF LAW OR AGENCY RULE, and INEFFICIENCY OR INABILITY TO PERFORM ASSIGNED DUTIES by driving for State business with a suspended license. Because McMurray was aware that his license was suspended while he was driving, he committed misdemeanor violations of Section 322.24, Florida Statutes, each time he drove his vehicle while his license was suspended, including driving while on State time. - **SUSTAINED**

During the course of the investigation, it was discovered that McMurray also smoked in hotel rooms while traveling on statement business. This behavior constitutes a violation of AP&P 5-26, Standards and Procedures of Discipline, CONDUCT UNBECOMING A PUBLIC EMPLOYEE. - **SUSTAINED**

## **ADDITIONAL ISSUES**

During the course of the investigation the following management issues were discovered and are referred to Division of Funeral, Cemeteries, and Consumer Services Director Mary Schwantes for review action deemed appropriate.

McMurray admitted to removing original copies of cemetery records during an inspection. While both Schwantes and Lowe stated that this behavior is concerning, the OIG could not identify any policy, rule, or statute that the behavior is in violation of.

DFS AP&P 6-01, Inspector General Investigations, requires that employees report "incidents of known or suspected fraud, waste, mismanagement, misconduct, or other abuse believed to be a

<sup>87</sup> McMurray's taped statement time 1:02:04

violation of law, rule, procedure or policy to the employee's supervisor and to the OIG within five calendar days of becoming aware of the incident." However, Schuller failed to report the majority of his concerns within the required five-day period.

**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 27 day of March 2018, 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:

M/S  
Mike Shoaf, Director

Date:

3/27/2018

Approved by:

Teresa Michael  
Teresa Michael, Inspector General

Date:

3/27/18

**EXHIBIT LIST**

DFS AP&P 1-15, Code of Ethics.....	Exhibit #1
DFS AP&P 2-07, Fleet Management - Use of State Owned, Leased, or Rented Vehicles.....	Exhibit #2
DFS AP&P 5-26, Standards and Procedures of Discipline.....	Exhibit #3
Tampa FCCS Office Layout.....	Exhibit #4
Email from Connie Johnson to Blimes dated February 23, 2018.....	Exhibit #5
Documentation Received from Schwantes.....	Exhibit #6
Notes Kept by Williams.....	Exhibit #7
Documentation Regarding McMurray's Suspended License.....	Exhibit #8
Travel Reimbursement Voucher dated August 24, 2017.....	Exhibit #9
Email from Moye to Shoaf dated October 27, 2017.....	Exhibit #10
Florida Statutes, Section 322.34 Driving while license suspended, revoked, canceled or disqualified.....	Exhibit #11
Email from McMurray to Blimes Dated March 9, 2018.....	Exhibit #12
CCIS Printout.....	Exhibit #13
Email from Kelley to Blimes dated March 14, 2018.....	Exhibit #14

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