

IN THE CIRCUIT COURT OF THE EIGHTH JUDICIAL CIRCUIT
IN AND FOR ALACHUA COUNTY, FLORIDA

REBECCA BUTSCHER
Plaintiff,

v.

CLOVIS WATSON, JR. in his Official
Capacity as SHERIFF OF ALACHUA
COUNTY
Defendant.

COMPLAINT FOR WRIT OF MANDAMUS AND FOR INJUNCTIVE RELIEF

COMES NOW, Plaintiff, REBECCA BUTSCHER (hereinafter referred to as "Plaintiff" or "Cpt. Butscher"), by and through her undersigned Counsel, pursuant to Rules 1.630 and 1.610, *Fla. R. Civ. P.* (2023), sues Defendant, CLOVIS WATSON, JR. (hereinafter referred to as "Defendant") and hereby files her Complaint for Writ of Mandamus and for Injunctive Relief and as grounds therefore alleges:

1. This is an action wherein Plaintiff is asking the Court to issue the relief of a Writ of Mandamus, ordering Defendant to convene a Compliance Review Hearing and to re-open Administrative Investigation, Tracking Number 2023-00036 pursuant to *Florida Statutes*, Chapter 112, §§112.531-112.534, commonly and collectively referred to as the "Officers' Bill of Rights" and to issue an Injunction as fully described further within paragraph sixty (60). (*See Fla. R. Civ. P.* 1.630; Ch. 112.531-534, *Fla. Stat.*(2023); *Fla. R. Civ. P.* 1.610 (2023)).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this equitable action pursuant to Section

26.012(2)(c), *Florida Statutes*, and the Florida Constitution, Article V, Section 5(b).

3. Venue is proper in this Judicial Circuit and County pursuant to Section 47.011, *Florida Statutes*, because the action accrued in Alachua County, and the ALACHUA COUNTY SHERIFF'S home office is located in Alachua County.

FACTUAL BACKGROUND

4. Captain Rebecca Butscher ("Cpt. Butscher") is a thirty (30) year, well respected and highly decorated, veteran Sworn Law Enforcement Officer who is employed by ALACHUA COUNTY SHERIFF'S OFFICE ("ACSO").
5. Major Lance Yaeger ("Major Yaeger"), was a Deputy a mere twenty-two (22) months ago and is now three (3) full ranks above Deputy status as a Major who is also employed by ACSO.
6. Until recently, Cpt. Butscher has either out ranked or has been equal in rank to Major Yaeger for the majority of her thirty (30) year career.
7. Cpt. Butscher and Major Yaeger have, at times, had disagreements on various work-related topics.
8. Pursuant to ACSO's internal governing Policy, filing a complaint is the first step that shall be done to try and place a sworn Law Enforcement Officer under what is commonly referred to as an internal affairs investigation however, ACSO uses the synonym administrative investigation for its process of administrative investigations. (Ex. 1, ACSO- Policy # 122, Disciplinary Procedures, July 15, 2022).
9. The ACSO Office of Professional Standards ("OPS") customarily performs the

administrative investigations into complaints about officers' conduct however, there are occasions when it is appropriate for someone in an officers' direct Chain of Command to perform the administrative investigation.

10. Statewide, once a Law Enforcement Officer is under an administrative investigation for which "disciplinary action, suspension, demotion, or dismissal" could result, the collective body of laws contained within Ch. 112, §§112.531-534, commonly referred to as the "Officers' Bill of Rights," applies to the subject officer, the investigating agency, and to the assigned investigator's conduct throughout the administrative investigation. (§§112.531-112.534).

11. The Officers' Bill of Rights, mandates the following:

All law enforcement officers and correctional officers employed by or appointed to a law enforcement agency or a correctional agency **shall have the following rights and privileges:**(1) RIGHTS OF LAW ENFORCEMENT OFFICERS AND CORRECTIONAL OFFICERS WHILE UNDER INVESTIGATION.—Whenever a law enforcement officer or correctional officer is under investigation and subject to interrogation by members of his or her agency for any reason that could lead to disciplinary action, suspension, demotion, or dismissal

(§112.532(1), *Fla. Stat.*).

12. Also, the applicable law requires:

Every law enforcement agency and correctional agency **shall establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall be the procedure for investigating a complaint against a law enforcement officer** and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary.

(§112.533 (1)(a), *Fla. Stat.*).

13. The Officers' Bill of Rights plainly expresses that the Defendant not only SHALL

have a policy “put into operation” for the “receipt, investigation and determination” of complaints against ACSO’s sworn officers, that policy, here Ex. 1, “SHALL be the procedure for investigating a complaint against a Law Enforcement . . . Officer.” *Id.*

14. On February 14, 2023, less than thirty (30) days after he outranked Cpt. Butscher for the first time in his career, Major Yaeger completed an ACSO approved Complaint Intake Form and listed himself as the “Complainant” and Cpt. Butscher as the subject of the “Complaint.” (*See* Comp. Ex. 2 at p.2, Administrative Investigation Evidence Packet, Feb. 22, 2023).
15. Major Yaeger merely alleged that Cpt. Butscher violated the “insubordination” policy by being “insubordinate” to him the day before. (*Id.*).
16. On February 22, 2023, Major Yaeger ordered Cpt. Butscher to his office at which time he revealed to her, for the first time, that on February 14, 2023, he had personally launched a complaint against her, placed her under investigation for violation of the insubordination policy and that he, himself, was performing the “investigation” into his own allegation against her. The Administrative Investigation was assigned Tracking Number 2023-00036 (the “AI”). (*Id.*).
17. When Cpt. Butscher walked into Major Yaeger’s office on February 22, she immediately noticed a pocket recorder on his desk. These are typically utilized by Law Enforcement to record interviews pursuant to the Officers’ Bill of Rights.
18. Once Cpt. Butscher sat down across from Major Yaeger, he started to read her rights and present materials, which are acts that are traditionally performed directly before a subject Officer is interrogated, under oath, as part of the administrative investigation.

19. Cpt. Butscher advised Major Yaeger that she was going to invoke her right, pursuant to the Officers' Bill of Rights, to have a representative with her for evidence review and while being questioned. Therefore, he was precluded from interrogating Cpt. Butscher that day.
20. Cpt. Butscher's invocation of her right to Counsel was followed by Major Yaeger ordering her to write a statement to him within twenty-four (24) hours as part of the AI and that he may question her at a later time. (*See* Ex. 2 at p. 5).
21. ACSO-Policy # 122 clearly warns that Major Yaeger could not "order" Cpt. Butscher to waive her right to be interviewed, as the subject of the AI, rather, that right is solely within the purview of Cpt. Butscher as follows:

The subject employee's interview and all recess periods must be recorded on audio tape or otherwise preserved in such a manner as to allow a transcript to be prepared. **If the subject employee wishes to waive this right, they may submit a handwritten or typed response on an Administrative Investigation Response Form, ACSO 00-02B.**

2. A law enforcement officer or detention officer who completes a written response, in lieu of a recorded interview, shall include the following statement at the conclusion of the written response: "Under penalty of perjury, I do solemnly swear or affirm that the facts I have stated herein are true."

(Ex. 1, Sec. XV(3)(L)).

22. Cpt. Butscher would later find out that Major Yaeger continued his improper conduct when he closed the AI with a finding of sustained AFTER he was noticed of Ch. 112 violations and he formally and without precedent recommended that Cpt. Butscher's thirty (30) year career be terminated for her "body language and tone" that he biasedly found to be insubordinate.
23. To date, Cpt. Butscher has never been questioned, or given the opportunity to address the allegations against her as once she properly and timely noticed Major Yaeger of his

- intentional Ch. 112 violations of her rights, he immediately closed the investigation.
24. Only Cpt. Butscher's Chain of Command have the authority to recommend discipline against her pursuant to ACSO Policy #122. (Ex. 1, Sec. XVI (D)).
25. Major Yaeger was not at the relevant time, nor is he now, in Cpt. Butscher's direct chain of command. They both report directly to Colonel Chad Scott. (*See Comp. Ex. 3, ACSO Policy # 002- Organizational Structure with Chart, Jan. 15, 2023*).
26. Major Yaeger did not strictly follow ACSO Policy #122, from the inception of his Complaint against Cpt. Butscher which Cpt. Butscher properly advised him of in a written Notice of Chapter 112 violations. (*See generally Ex. 4, Notice of Chapter 112 Violations, Feb. 23, 2023; Ex. 1*).
27. All of Major Yaeger's actions while "investigating" Cpt. Butscher were in violation of both ACSO Policy # 122-Disciplinary Procedures and the "Officers' Bill of Rights." (*See Generally "Officers' Bill of Rights" Fla. Stat.; Ex. 1; Ex. 4*).
28. Major Yaeger included "evidence" that was not ever provided to Cpt. Butscher on February 22, 2023, or since. Namely, Major Yaeger included alleged statements that Captain Behl made to Major Yaeger about Cpt. Butscher however, those statements were never recorded and they were not contained within Cpt. Behl's written statement that was provided to Cpt. Butscher as one (1) of two (2) witness statements that together, comprised the evidence in its entirety. (*See Comp. Ex. 2*).
29. The Officers' Bill of Rights orders the following procedures to be strictly adhered to by both Cpt. Butscher and the Defendant while investigating Cpt. Butscher in the AI and once violations of Ch. 112 are noticed:

(1) If any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or

an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the following procedures apply.

For purposes of this section, the term “law enforcement officer” or “correctional officer” includes the officer’s representative or legal counsel, except in application of paragraph (d).

(a) **The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred.** The officer’s notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.

(b) **If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer’s refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.**

(c) Thereafter, **within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation.** All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.

(d) **Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed,** unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances and facts surrounding the alleged intentional violation. The compliance review panel shall be made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional officers who are active from the same law enforcement discipline as the officer requesting the hearing. Panel members may be selected from any state, county, or municipal agency within the county in which the officer works. The compliance review hearing shall be conducted in the county in which the officer works.

(e) **It is the responsibility of the compliance review panel to determine whether or not the investigator or agency intentionally**

violated the requirements provided under this part. It may hear evidence, review relevant documents, and hear argument before making such a determination; however, all evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the officer. The investigative materials are considered confidential for purposes of the compliance review hearing and determination.

(§112.534, *Fla. Stat.*).

30. Pursuant to the Officers' Bill of Rights, Cpt. Butchers' sole avenue for redress against the Defendant, and specifically against Major Yaeger, for his intentional violations of the law and of her rights while under investigation, is to invoke a "Compliance Review Hearing." (*Id.*).

31. Pursuant to the applicable law, within three (3) working days, Cpt. Butscher served her written Notice of Major Yaeger's Ch. 112 violations on Defendant and on Major Yaeger. (*See generally* Ex. 4).

32. Also within the mandated time frame, Cpt. Butscher served two (2) written notices of her Invocation of a Compliance Review Hearing. The first written Notice was contained within Ex. 4, dated February 23, 2023. When the Defendant did not respond, Cpt. Butscher followed up with an additional written Notice of Invocation of a Compliance Review Hearing. (Ex. 4; Ex. 5, Notice of Invocation of Compliance Review Hearing, Feb. 27, 2023).

33. As further evidence of the unequivocal directives contained within Ch. 112 requiring that the Defendant participate in the invocation of a Compliance Review Hearing, Order from Leon County Circuit Judge Charles W. Dodson held as follows:

This Court finds that Petitioner is entitled to extraordinary relief to compel the Respondent to convene a Complaint Review Board and a

Compliance Review Hearing. Petitioner has demonstrated a clear legal right to the Compliance Review Hearing. The Respondent has not demonstrated that the statute in question provides any discretion to Respondent in granting a Compliance Review Hearing. This Court agrees that the act of convening the Compliance Review Hearing is entirely ministerial, and must be convened pursuant to Petitioner's request, which this Court finds sufficiently complied with Florida Statutes § 112.534.

Accordingly, it is ORDERED and ADJUDGED that:

1. Mandamus relief is hereby GRANTED.
2. Respondents have thirty (30) days to convene a Complaint Review Board and conduct a Compliance Review Hearing for Petitioner, pursuant to Florida Statutes § 112.532(2) and § 112.534(1).

(See generally Court Order Glisson v. Florida Department of Corrections, Case Number 2015 CA 001593, May 26, 2016).

34. Binding case law from the First District Court of Appeals directs this Court that the language in the Officers' Bill of Rights:

. . . is clear, and the procedure provided in the statute is straightforward. First, under paragraph (a), the officer under investigation must advise the investigator of the alleged intentional violation of the LEO Bill of Rights. Then, if the investigator fails to cure the violation or continues the violation, under paragraph (b), the officer must inform the agency head of the alleged violation and the investigator must stop the interview of the officer. Next, under paragraph (c), the officer has three days to file a written notice of violation and request for a compliance review hearing. **Finally, under paragraph (d), a compliance review hearing must be held within 10 working days unless the violation is remedied, or the officer and the agency mutually agree to a later hearing.**

(See *FOP, Gator Lodge 67 v. City of Gainesville*, 148 So. 3d 798 at 803 (Fla. 1st DCA 2014)).

35. Cpt. Butscher has demonstrated to Defendant that she has a clear legal right to the relief requested by relying upon the unmistakable mandates contained within the Officers' Bill of Rights, as well as, relying upon trial court precedent and binding

case law. (*See generally* Court Order Glisson v. Florida Department of Corrections, Case Number 2015 CA 001593, May 26, 2016; *FOP, Gator Lodge 67 v. City of Gainesville*, 148 So. 3d 798 (Fla. 1st DCA (2014))).

36. On March 3, 2023, undersigned Counsel, on behalf of Cpt. Butscher, sent an e-mail to both the Defendant and to Major Yaeger giving them dates of availability to schedule the mandatory Hearing, requested who its selected Panel member was, asked whether it has Counsel that should be communicated with rather than them directly, and finally, asked whether their lack of communication on the time-sensitive matter was due to them attempting to cure the Ch. 112 violations for presentation to Cpt. Butscher for approval, to no avail. (Ex. 6, Email to Clovis Watson, Jr., and Lance Yaeger, Mar. 3, 2023).
37. Four (4) days later, on March 7, 2023, Defendant's General Counsel, Jake Rush advised undersigned Counsel in an e-mail that the Defendant would not comply with the law, and that a Compliance Review Hearing would not be invoked. (Ex. 7, Email from Jake Rush to undersigned Counsel refusing to participate in a Compliance Review Hearing, Mar. 7, 2023).
38. At least two (2) other sworn Law Enforcement Officers, both Sergeants, have been placed under an Administrative Investigation by Defendant, and have served their written Notices of Ch. 112 violations, and are currently experiencing the same violation of their rights as Cpt. Butscher. (*See* Comp. Ex. 8, Affidavits of Sgt. William "Frank" Williams and Sgt. Kevin Davis with incorporated Notices of Ch. 112 Violations and Invocation of Compliance Review Hearings, Mar. 13, 2023).
39. On March 8, 2023, undersigned Counsel, on behalf of Cpt. Butscher, transmitted a

Final Notice of Intent to Invoke Court Intervention if Defendant did not come into compliance with the law by the deadline of March 13, 2023. (Ex. 9, Notice of Intent to Invoke Court Intervention, Mar. 8, 2023).

40. The Final Notice to Defendant contained a clear explanation of the law, with legal authority and trial court precedent. (*Id.*).

41. On the same day, March 8, 2023, rather than come into compliance with the law or communicate with Cpt. Butscher about her notice of violations, Defendant, yet again violated the Officers' Bill of Rights, when it served Cpt. Butscher with notification that Major Yaeger, after being put on formal notice of the plethora of Ch. 112 violations that he committed while investigating Cpt. Butscher, had improperly closed the AI, sustained the allegation against her without ever affording her a right to be heard, inexplicably added evidence to his Final Report that was never provided to Cpt. Butscher and certainly was never captured on recording or in writing, and then recommended that her thirty (30) year career be ended with an immediate termination. (*See* Comp. Ex. 10, Notice of Intent to Discipline packet, Mar. 8, 2023).

42. Once Cpt. Butscher placed Defendant on written Notice on February 23, 2023, that numerous Ch. 112 violations had occurred, all activities within the AI shall cease.

The law orders the following:

Notice to the officer must be provided within 180 days after the date the agency received notice of the alleged misconduct . . . EXCEPT AS FOLLOWS:

The running of the limitations period is tolled during the time that the officer's compliance hearing proceeding is continuing beginning with the filing of the notice of violation and a request for a hearing and ending with the written determination of the compliance review panel or upon the violation being remedied by the agency.

(§112.532(6)(a)(6), *Fla. Stat.*).

43. When the Defendant served its Notice of Intent to Discipline Cpt. Butscher on March 8, 2023, pursuant to ACSO Policy Directive # 122-Disciplinary Procedures, the AI opened against Cpt. Butscher was considered closed. The Defendant's Policy determines the following:

Once the employee has been notified of the findings and any intended disciplinary action, the investigation is considered closed and becomes public record. It is then available for inspection by ACSO employees and members of the public pursuant to established procedures. See ACSO 827 – Public Records Requests, Section VIII.X for further information.

(Ex. 1 at Sec. XVII (G)).

44. If, at the conclusion of a Compliance Review Hearing, Defendant and Major Yaeger are found to have intentionally violated Cpt. Butscher's Officers' Bill of Rights, her remedy is as follows:

If the alleged violation is sustained as intentional by the compliance review panel, **the agency head shall immediately remove the investigator from any further involvement with the investigation of the officer. Additionally, the agency head shall direct an investigation be initiated against the investigator determined to have intentionally violated the requirements provided under this part** for purposes of agency disciplinary action. If that investigation is sustained, the sustained allegations against the investigator shall be forwarded to the Criminal Justice Standards and Training Commission for review as an act of official misconduct or misuse of position.

(§112.534(1)(g), *Fla. Stats.*).

45. Absent the convening of a Compliance Review Hearing, Cpt. Butscher does not have a single avenue for redress of the Defendant's violations of her Officers' Bill of Rights.
46. The next step in the administrative process is for Cpt. Butscher to request what is

commonly referred to as a “Loudermill” meeting. This meeting shall be requested within three (3) working days from the date the Defendant issued Cpt. Butscher its Notice of Intent to Discipline her. Here, the deadline is Monday, March 13, 2023.

47. ACSO Policy #122 expresses the following:

A. Pre-Disciplinary Hearing Procedures (Loudermill Hearing)

1. **The purpose of the pre-disciplinary hearing (Loudermill Hearing) is to provide the subject employee an avenue of appeal for actions involving termination, demotion or suspension prior to the imposition of discipline.** 2. Termination or Demotion a. The subject employee will be afforded the opportunity to meet with the Sheriff or their designee prior to the effective date of the intended termination or demotion, to respond to the charge(s). b. The subject employee is responsible for requesting the Loudermill Hearing and must do so within three (3) working days of receipt of the Employee Notice of Intended Disciplinary Action. c. If the subject employee presents adequate justification, the Sheriff has the authority to amend the intended disciplinary action. 3. Suspensions a. The subject employee will have the opportunity to meet with the Undersheriff or the subject employee’s Major/Director/Chief of Staff prior to the effective date of the intended disciplinary action to respond to the charge(s). Subject employees not falling under the overall command of the Undersheriff or a Major/Director/Chief of Staff may request a Loudermill Hearing directly with the Sheriff.

(Ex. 1, Sec. XVIII (A)).

48. The “Loudermill” meeting does not allow for review of the Defendant’s or Major Yaeger’s violations of the Officers’ Bill of Rights, only review of the allegations against Cpt. Butscher and whether the noticed discipline will stand.

49. Once the “Loudermill” meeting has taken place and discipline has been issued, the final administrative step that Cpt. Butscher has is expressed in ACSO Policy # 383- Appeals Process Provided under Laws of Florida, Chapter 86-342. (*See generally* Ex. 11, Sept. 17, 2020).

50. Cpt. Butscher’s final administrative step after receiving discipline, if it is deemed

applicable in this situation, is commonly referred to as a “Career Service Appeal Board”. This Board shall ONLY address the following:

The Career Service Appeals Board will, by majority vote, dispose of the appeal for which it was appointed by making findings of fact and issuing a written decision. **Such decision will either sustain or not sustain the disciplinary action being appealed.**

(Ex. 11, Sec. VII).

51. The “Career Service Appeal Board” does not have the authority to review Defendant’s and Major Yaeger’s violations of Cpt. Butscher’s Officers’ Bill of Rights. (*Id.*).
52. There are strict deadlines that Cpt. Butscher must comply with to invoke the “Loudermill” meeting and possibly the “Career Service Appeals Board”. However, absent the convening of a Compliance Review Hearing first, the investigative findings and discipline issued against her will stand. She will not have the ability to address the violations of her Officers’ Bill of Rights, in a Compliance Review Hearing, nor will she ever have the opportunity to defend against Major Yaeger’s allegation, as is the clear intent of the Legislature.

Writ of Mandamus Relief

53. Paragraphs four (4) through fifty-two (52) of this Complaint are incorporated by reference as specifically set forth herein.
54. Cpt. Butscher requests this Court issue a Writ of Mandamus ordering Defendant to reopen Administrative Investigation-Tracking Number 00036, and to participate in a Compliance Review Hearing.
55. Cpt. Butscher has demonstrated that as a sworn Law Enforcement Officer and the subject of an Administrative Investigation, she is entitled to the rights contained

within the Officers' Bill of Rights; specifically, the right to convene a Compliance Review Hearing when her Ch. 112 rights have been violated and she has performed all conditions precedent in a timely fashion. The plain language of the Statutes and binding case law underscore her position. (*See generally* Officers' Bill of Rights; Court Order Glisson v. Florida Department of Corrections, Case Number 2015 CA 001593, May 26, 2016; *FOP, Gator Lodge 67 v. City of Gainesville*, 148 So. 3d 798 (Fla. 1st DCA (2014))).

56. The plain language of the applicable Statutes and binding case law require Defendant to "toll" the investigation when the notice of violations was timely produced and to then either cure the violations or participate in the Compliance Review Hearing. (*See Fla. Stat. §112.532(6)(a)(6)*).

57. A Compliance Review Hearing is the sole remedy that Cpt. Butscher has to address the violation of her rights, absent Court intervention she will forever be barred from any remedy addressing Defendant's violations.

58. Wherefore, Cpt. Butscher respectfully requests this Court mandate Defendant to reopen Administrative Investigation-Tracking Number 2023-00036, and participate in a Compliance Review Board.

Injunctive Relief

59. Paragraphs four (4) through fifty-two (52) of this Complaint are incorporated by reference as specifically set forth herein.

60. Cpt. Butscher requests this Court issue an injunction preventing Defendant from not strictly following statutory and agency procedures when a sworn Law Enforcement Officer is placed under an administrative investigation for which

suspension, demotion, or termination could result. She specifically requests that this Court injunct Defendant from the following conduct:

- Refusing to “toll” all investigative activities once being noticed of violations of Ch. 112 until the conclusion of a Compliance Review Hearing.
- Refusing to participate in a Compliance Review Hearing when an Officer has timely complied with all statutory conditions precedent required to be performed prior to its invocation.
- Refusing to strictly comply with all Ch. 112, *Florida Statutes*, §§112.531-112.534 mandates.
- Refusing to strictly adhere to the orders contained within its own applicable policies and directives upon the “receipt, investigation, and determination of complaints” against its sworn employees.

61. A party requesting injunctive relief must establish a clear legal right, an inadequate remedy at law, and irreparable harm absent injunctive relief. (*Horne v. Endres*, 61 So. 3d 428, 432 (Fla. 1st DCA 2011)).

62. There are multiple Officers employed by Defendant who are currently under administrative investigations wherein notice of Chapter 112 violations have been timely noticed yet Defendant has repeatedly ignored the mandates of the Officers’ Bill of Rights to cease all investigative activity and to convene a Compliance Review Hearing when properly invoked. (*See Comp. Ex. 11*).

63. Cpt. Butscher has established that absent Court intervention, Defendant will continue to deny the undeniable rights that Law Enforcement Officers enjoy and will continue to violate the Officers’ Bill of Rights.

64. The plain language of the Officers' Bill of Rights and the applicable case law are the foundation for Cpt. Butscher's clear legal right to her requests for relief. (See generally Officers' Bill of Rights; Court Order *Glisson v. Florida Department of Corrections*, Case Number 2015 CA 001593, May 26, 2016; *FOP, Gator Lodge 67 v. City of Gainesville*, 148 So. 3d 798 (Fla. 1st DCA).
65. Cpt. Butscher has no other adequate remedy at law as this Court has the exclusive jurisdiction to cease Defendant's unlawful actions.
66. Cpt. Butscher will suffer irreparable harm if she is required to move forward with the "Career Service Appeal Board" as ALL documents created and utilized during the hearing will become a permanent and public record and will become a part of her personnel file. The presence of which could preclude her from obtaining employment at a different law enforcement agency, or worse yet, could be used against her in a hearing in front of the Criminal Justice Standards and Training Commission if she were ordered to appear for a probable cause hearing as to why her Law Enforcement Standards shouldn't be suspended, revoked or disciplined as a result of the contents of the investigative file and the resulting sustained policy violation against her.
67. Cpt. Butscher will also suffer irreparable harm if she is forced to move forward in the process without the benefit of a fair and impartial investigation being conducted by a different, unbiased Investigator. At minimum, she must be afforded the opportunity to be interviewed and present material and relevant evidence in the investigation. Absent a decision from a Compliance Review Hearing Panel, she has zero ability to have a fair and impartial review of Major Yaeger's conduct and if

appropriate, his removal from her AI.

68. Cpt. Butscher has demonstrated that she has no other adequate remedy at law to address the violations of her Officers' Bill of Rights, other than the convening of a Compliance Review Hearing.

69. An injunction will serve the public interest as the detriment to the community by allowing the Sheriff, a constitutional Officer, to engage in this type of conduct can't be overstated. If Defendant is repeatedly violating its own sworn Law Enforcement Officers' rights and the plain requirements of the law as a matter of procedure, the public's faith in the ability of its Sheriff's office could diminish beyond repair.

70. Importantly, the ACSO is at dangerously low staffing levels. Designated Patrol Zones throughout the community are being staffed with less than even "minimum" requirements, with some going unstaffed altogether. Undeniably, when given the choice between employment at a Law Enforcement Agency that strictly adheres to the requirements of Ch. 112 and the constitution and one such as Defendant that engages in the conduct plead within, the choice has been, and will continue to be that officers will seek employment elsewhere leaving the community vulnerable to criminal activity and lack of police services. The goal of establishing and implementing a "community policing model" could be severely eroded.

71. Wherefore, Cpt. Butscher respectfully requests injunctive relief as specified in paragraph sixty (60).

WRIT OF MANDAMUS LEGAL ARGUMENT

Mandamus is an extraordinary common law remedy used to enforce an established legal right by compelling a person in an official capacity to perform a ministerial duty required by law.

(*Pace v. Singletary*, 633 So. 2d 516 (Fla. 1st DCA 1994)). To be entitled to Mandamus relief, the Plaintiff must establish that she has a clear legal right to the requested action, that the Defendant has a clear legal duty to perform the requested action, and that no other adequate legal remedy exists. (*Turner v. Singletary*, 623 So. 2d 537, 538 (Fla. 1st DCA 1993)).

A. PLAINTIFF HAS A CLEAR LEGAL RIGHT TO A COMPLIANCE REVIEW HEARING.

The Defendant is a Governmental Agency that employs sworn Law Enforcement Officers. As such, it shall have policies that are strictly followed when performing Administrative Investigations. Once a Complaint is initiated against a sworn law enforcement officer, Defendant must comply with the Officers' Bill of Rights, codified in *Florida State Statutes*, Chapter 112, Part VI, §§112.531-112.535.

Looking at a previous trial court's review of this exact issue, located within the First District Court of Appeals, as guidance to this Court, it is undeniable that under this fact pattern, Defendant's duty to participate in a Compliance Review Hearing is "entirely ministerial" and is absent any agency discretion. (*See generally* Court Order *Glisson v. Florida Department of Corrections*, Case Number 2015 CA 001593).

In *Glisson*, the subject officer under investigation timely provided written notice to his employing agency regarding the Officers' Bill of Rights' violations revealed and his invocation of a Compliance Review Hearing PRIOR TO THE INVESTIGATION BEING CLOSED. *Id.* The court held that because the subject officer strictly complied with the procedural requirements contained within the Officers' Bill of Rights, any agency discretion to deny participation was non-existent and that the agency "MUST" perform its ministerial duty of participating in a Compliance Review Hearing. (*Id.*).

Significantly, the court in *FOP, Gator Lodge*, in a binding decision on this Court, also found that when an officer serves the written notice of violations of the Officers' Bill of Rights and invokes notice of invocation of a Compliance Review Hearing, the agency SHALL do so. (148 So. 3d 798 at 803 (Fla. 1st DCA)).

The distinction between this matter and the conduct of the officer under investigation in *FOP, Gator Lodge*, who was ultimately denied a Compliance Review Hearing, is that Cpt. Butscher served her Notice of Ch. 112 Violations at exactly the time required by the law, within the three (3) working day statutory time frame while the AI was open, NOT AFTER THE INVESTIGATION WAS CLOSED AND DISCIPLINE HAD BEEN ISSUED. (*Id.*).

When Defendant violated its own policies governing its actions while performing the AI against Cpt. Butscher, Defendant and the self-assigned "Investigator" Major Yaeger, violated Cpt. Butscher's Officer Bill of Rights. Once Cpt. Butscher completed all conditions precedent including providing written notice of the violation of her rights, in strict compliance with the expressed orders of Ch. 112, and the Defendant refused to cure the noticed violations, a Compliance Review Hearing shall be convened. (*See generally* §112.534, *Fla. Stats.*; Court Order *Glisson v. Florida Department of Corrections*, Case Number 2015 CA 001593; *FOP, Gator Lodge 67 v. City of Gainesville*, 148 So. 3d 798 (Fla. 1st DCA)).

Distinctly, law enforcement officers under an administrative investigation are entitled to certain procedural safeguards and are given a singular avenue for redress when their Chapter 112 rights have been violated. The relevant statute provides in part:

- (a) The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer's notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation. Fla. Stat. § 112.534(1)(a).

- (b) “If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his or her designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer's refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.” Fla. Stat. § 112.534(1)(b).
- (c) “Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information- to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.” Fla. Stat. § 112.534(1)(c).

Plaintiff has properly included the facts supporting her argument that Defendant has clearly violated Plaintiff’s Chapter 112 rights and that Defendant has not cured any of the violations listed within the Notices of Ch. 112 violations and invocation of a Compliance Review hearing. The Notice of Violations properly contain detailed facts supporting Plaintiff’s claims of intentional violations of her Ch. 112 rights. Therefore, because Defendant refuses to comply with the law, Cpt. Butscher is entitled to Mandamus relief.

B. DEFENDANT HAS A CLEAR LEGAL DUTY TO CONVENE A COMPLIANCE REVIEW HEARING WHEN PROPERLY REQUESTED BY A LAW ENFORCEMENT OFFICER.

The requirements for obtaining a Compliance Review Hearing are clear and unambiguously expressed within Chapter 112, §112.534, and Defendant has a clear non-discretionary, ministerial duty to convene a Compliance Review Hearing when one is properly invoked pursuant to *Florida Statute*:

- (1) If any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the

following procedures apply. For purposes of this section, the term "law enforcement officer" or "correctional officer" includes the officer's representative or legal counsel, except in application of paragraph (d).

- (a) The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer's notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation." Fla. Stat. § 112.534(1)(a).
- (b) If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his or her designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer's refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation. Fla. Stat. § 112.534(1)(b).
- (c) Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information- to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation. Fla. Stat. § 112.534(1)(c).
- (d) **Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed,** unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances and facts surrounding the alleged intentional violation. The compliance review panel shall be made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional officers who are active from the same law enforcement discipline as the officer requesting the hearing. Panel members may be selected from any state, county, or municipal agency within the county in which the officer works. The compliance review hearing shall be conducted in the county in which the officer works.

(§112.534(1)(d), *Fla. Stat.*).

Plaintiff, at all times relevant, has been in strict compliance with the requirements of Chapter 112; as such, Cpt. Butscher requests the Court mandate that the Defendant re-open the AI

against her and convene the mandatory Compliance Review Hearing. (*See generally* §112.534, *Fla. Stats.*; Court Order *Glisson v. Florida Department of Corrections*, Case Number 2015 CA 001593; *FOP, Gator Lodge 67 v. City of Gainesville*, 148 So. 3d 798 (Fla. 1st DCA)).

C. PLAINTIFF TIMELY EXPRESSED TO DEFENDANT THE IDENTIFIED CH. 112 VIOLATIONS AND HER NOTICE OF INVOCATION OF A COMPLIANCE REVIEW HEARING ON FEBRUARY 23, 2023.

Plaintiff strictly complied with all conditions precedent unmistakably identified within the Officers' Bill of Rights in order to invoke a Compliance Review Hearing, yet Defendant continues to refuse to follow the law.

In fact, Defendant, through General Counsel, brazenly and improperly stepped into the shoes of the Compliance Review Hearing Panel Members when it refused to participate in a Compliance Review Hearing stating “[a]fter review of your letter, Florida Statute, and applicable case law, I must conclude that your allegations and conclusions are mistaken and unfounded in law – none of which qualify for a Compliance Review Hearing” and continued on with investigative activities and its Notice of Intent to Discipline Cpt. Butscher. (Ex. 7).

As required, Plaintiff’s recitation of the facts and Defendant’s violations unquestionably qualify for a Compliance Review Hearing. Each fact and the corresponding violations which were properly served in written fashion on Defendant are contained below:

1.

FACTUAL BASIS

On February 14, 2023, you completed a Complaint Intake Form listing yourself as the Complainant filing a charge of insubordination against Cpt. Butscher.

VIOLATION

112.533 (1)(a) Every law enforcement agency and correctional agency shall establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall

be the procedure for investigating a complaint against a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary.

112.533 (1)(b)(2)- [. . . W]hen a conflict is identified with having an investigator conduct the investigation of an officer of the same employing agency . . . or the agency's investigator is the subject of, or a witness in

ACSO Policy # 122- Disciplinary Procedures, Section XI (A)(1)-Complainants should be referred to the immediate supervisor of the subject employee. (3) The Supervisor will obtain a statement from the complainant. (5) Once the Complaint is received by ACSO, the subject employee's chain of command will either: a. Conduct the Administrative Investigation, or; b. Depending on the nature of the complaint, request OPS handle the investigation.

You listed yourself as the Complainant. Pursuant to Agency Policy, you should refer your own Complaint to Captain Butscher's direct Supervisor, which you are not. Equally, any reasonable interpretation of the statutory language cited above requires you to refrain from conducting any investigation in which you are also the complainant and witness. This is a direct conflict of interest. Finally, Cpt. Butscher's direct chain of command shall conduct the Administrative Investigation or request OPS to handle the investigation. You are not in Cpt. Butscher's direct chain of command.

2.

FACTUAL BASIS

On February 14, 2023, you completed a Complaint Intake Form listing yourself as the Complainant. You merely stated "[d]uring a counseling session, Cpt. Rebecca Butscher was insubordinate to Major Yaeger."

VIOLATION

§112.532(d)-The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.

You ordered Cpt. Butscher to respond to you, in writing, within twenty-four hours. You have failed to properly advise Cpt. Butscher regarding the nature of the investigation. She can't properly respond to a mere statement that she was "insubordinate" without further advisement regarding her actions that are alleged to have been insubordinate. The Complaint Intake Form directs the complainant to provide a "[b]rief description of the incident to include when and where the alleged conduct violation(s) took place. Merely stating that Cpt. Butscher was insubordinate to you is unreasonably vague and violates the intent of the legislature when drafting the Officers' Bill of Rights.

3.

FACTUAL BASIS

On February 22, 2023, you ordered Captain Butscher to your office. At which time, you handed her a packet of items including:

- Sworn Allegation Sheet
- Complaint Intake Form
- Administrative Investigation Witness Statement Form x 2
- Corrective Counseling Session
- Administrative Investigation Response Form
- Addendum to Administrative Investigation Response Form
- Email thread dated February 8, 2023

VIOLATION

112.533 (1)(a) Every law enforcement agency and correctional agency shall establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall be the procedure for investigating a complaint against a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary.

§112.532(d)-The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness statements, may

voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.

ACSO Policy # 122-Disciplinary Procedures, Section XV (A)- When the subject employee is a law enforcement officer . . . the investigation will be conducted in accordance with “The Law Enforcement Officers’ . . . Bill of Rights. (F.S.S. 112.532-112.535 sic). (B) An employee under an Administrative Investigation by OPS or a supervisor will be notified in writing via the Sworn Employee Notice of Administrative Investigation. ACSO 17-20A. The notification will contain the following: [CFA 20.02M; FCAC 7.06M] [PSCAP 1.4.6M] (1) The nature of the allegations, (2) The employee’s rights and responsibilities relative to the investigation.

You failed to provide Cpt. Butscher with the mandatory Notice of Investigation, you failed to properly advise her of the nature of the allegations and, you failed to provide to her the applicable rights and responsibilities, all mandatory actions. The Complaint Intake Form directs the complainant to provide a “[b]rief description of the incident to include when and where the alleged conduct violation(s) took place. You also failed to provide her with all the evidence included in the “investigation” including the audio of the meeting held on February 22, 2023.

4.

FACTUAL BASIS

On February 22, 2023, you ordered Cpt. Butscher to your office. You ordered Cpt. Butscher to provide to you a written statement in lieu of a recorded interview. Equally, on the Sworn Allegation Sheet you stated “subject employee interview is not required.”

VIOLATION

§112.532(d)-The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.

You do not have the authority to order Cpt. Butscher to provide a written statement to you within twenty-four (24) hours; it is her right to waive being formally questioned under oath, not yours. You also do not have the authority to waive Cpt. Butscher’s right to be questioned as the subject

of the investigation; The Officers' Bill of Rights requires a fair and thorough investigation, as does CJSTC standards.

5.

FACTUAL BASIS

On February 22, 2023, you ordered Cpt. Butscher to your office. At which time you provided to her merely two (2) Administrative Investigation Witness Statement Forms.

VIOLATION

§112.532(d)-The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.

The statement by Captain Kaley Behl included the fact that “[Cpt. Butscher] stated that she had previously spoken with Colonel Chad Scott and he told her that she didn’t have to speak to Major Yaeger.” This fact contained within the “investigation” clearly identifies Colonel Scott as a witness that SHALL be interviewed.

(See Ex. 4).

Prior to asking for this Court’s intervention, Plaintiff strictly complied with ALL statutory conditions precedent and advised Defendant of same-on multiple occasions, to no avail.

D. PLAINTIFF HAS NO OTHER ADEQUATE LEGAL REMEDY AVAILABLE AT LAW.

Plaintiff has no other adequate remedy at law to reopen the AI and to obtain the invocation of a Compliance Review Hearing; Plaintiff can only request that this Court order Defendant, via a Writ of Mandamus, to do so. No other cause of action affords Plaintiff the relief she seeks.

CONCLUSION

Without this Court's intervention, Cpt. Butscher has zero recourse against Defendant and Major Yaeger for violating her rights and the law. Cpt. Butscher has plainly met all Statutory requirements to exercise her right to a Compliance Review Hearing. However, once Defendant inexplicably not only denied but trampled over her Ch. 112 rights to do so, this Court became her singular avenue for relief. Accordingly, Cpt. Butscher respectfully requests that Mandamus and Injunctive relief are granted.

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VERIFICATION OF PLEADING

Under penalties of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief.

CAPTAIN Rebecca Butcher Date: 3-13-23
Plaintiff, Captain Rebecca Butcher

WHEREFORE, Plaintiff requests that this Court enter a Writ of Mandamus consistent with Rule 1.630, Florida Rules of Civil Procedure, mandating Defendant to reopen the Administrative Investigation against Plaintiff and to convene a Compliance Review Hearing pursuant to Florida Statutes §112.534 and to issue an Injunction including all averments contained within paragraph sixty (60) and grant any other relief as the Court deems appropriate.

Dated this 13th day of March, 2023.


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Exhibit 1



ALACHUA COUNTY SHERIFF'S OFFICE
122 – Disciplinary Procedures

PUB: 07/15/22
STATUS: Current

- I. **EFFECTIVE DATE:** December 03, 2021
RESCINDS: ACSO 122 of March 28, 2021
- II. **SCOPE AND PURPOSE** – This directive applies to all Alachua County Sheriff's Office (ACSO) personnel and establishes policy and procedures for the investigation and resolution of complaints and allegations of misconduct by ACSO supervisors as well as the Office of Professional Standards (OPS). This directive also establishes policy and procedures for the disciplinary process.
- III. **DISCUSSION** – It is essential that the citizens of Alachua County have confidence in their Sheriff's Office and the administration that supervises the exercise of police authority. This mandates the procedures for investigating and resolving complaints and allegations of misconduct. Although complaints are frequently based upon misunderstandings of the law or of established law enforcement procedures, they are of great concern and can lead to a mistrust of law enforcement if not investigated or explained. Citizens are encouraged to bring forward legitimate grievances regarding employee misconduct. Information regarding the procedures for filing complaints is made available to the public upon request and is located on the ACSO webpage. [PSCAP 1.4.2M & 1.4.12M]
- IV. **POLICY** – All complaints received against the ACSO or any employee will be investigated and resolved by established procedures.
- V. **FORMS**
 - Administrative Investigation Report, ACSO 00-02 (**Are part of Form 00-02**)
 - **Administrative Investigation Cover Sheet**
 - **Administrative Investigation Witness Statement Form, ACSO 00-02A**
 - **Administrative Investigation Response Form, ACSO 00-02B**
 - **Supervisor Findings, ACSO 00-02C**
 - **Complaint Intake Form, ACSO 00-02D (English)**
 - **Complaint Intake Form, ACSO 00-02D S (Spanish)**
 - **Addendum to Administrative Investigation Response Form, ACSO 00-02E**
 - Civilian Employee Notice of Administrative Investigation, ACSO 17-20B
 - Confidential Administrative Investigation Acknowledgment, ACSO 98-08
 - Corrective Counseling Session, ACSO 77-05
 - Addendum to Corrective Counseling Session, ACSO 77-05A
 - Discipline Level and Point Scale, ACSO 02-33
 - Employee Notice of Administrative Suspension, ACSO 95-06
 - Fast Track Discipline Agreement, ACSO 12-01
 - Fast Track Discipline Response Form, ACSO 12-02
 - Garrity Warning, ACSO 95-14
 - Receipt of Agency Property, ACSO 07-08
 - Administrative Reports, ACSO 03-02
 - Civilian Allegation Sheet, ACSO 15-09
 - Sworn Allegation Sheet, ACSO 15-10

For OPS Use: (Not in DMS)

Employee Notice of Intended Disciplinary Action, ACSO 95-07

Employee Notice of Disciplinary Action, ACSO 95-08

Employee Notice of Findings of Administrative Investigation, ACSO 95-09

VI. DEFINITIONS

- A. **Administrative Inquiry** – A preliminary investigation to determine if any misconduct or lack of performance has taken place.
- B. **Administrative Investigation** – An investigation by a supervisor or OPS Inspector focusing on an employee's misconduct or lack of performance that violates ACSO directives, policies, procedures, rules or regulations which could lead to formal disciplinary action, demotion or termination.
- C. **Complaints**
1. **Misunderstanding** – Objections by an individual to ACSO policies, procedures or tactics, but appropriate in accordance with ACSO directives and employee safety.
 2. **Informal Complaints** – Allegations of infractions of ACSO directives and procedures, continuous or progressive improper behavior that is minor in nature or do not reflect unfavorably upon the ACSO, that can be resolved with verbal or corrective counseling.
 3. **Formal Complaints** – Allegations of an employee's misconduct or lack of performance that violates ACSO directives, policies, procedures, rules or regulations which could lead to formal disciplinary action, demotion or termination.
- D. **Corrective Counseling** – An informal disciplinary action involving verbal counseling or instruction, which is documented on a Corrective Counseling Session, ACSO 77-05.
- E. **Criminal Investigation** – An investigation initiated against an employee alleged to be involved in criminal activity or who is alleged to have committed a criminal act that violates state or federal laws or city or county ordinances.
- F. **Employee Profile** – A report that documents the employee's disciplinary history, or lack thereof.
1. The Employee Profile is created by OPS.
 2. When the investigating supervisor contacts an Inspector for assistance, a tracking number, or carry over points, the subject employee's Employee Profile will be constructed and sent to the investigating supervisor.
 3. The subject employee's Employee Profile must be attached to the Administrative Investigation Report, ACSO 00-02, before it is sent through the chain of command for recommendations.
- G. **Formal Disciplinary Action** – Formal disciplinary action includes Training or Retraining, Written Reprimand, Suspension of Vehicle Privileges, Disciplinary Probation, Suspension without Pay, Demotion or Termination. [PSCAP 3.6.5M a & c]
1. Training and/or Remedial Training is considered a minor form of formal disciplinary action and will not necessarily preclude an employee from earning annual salary adjustments, applying for reassignment or transfer or from participating in any rank promotional process.

- H. **Informal Disciplinary Action** – Informal disciplinary action is corrective in nature. Such measures may include verbal counseling, a corrective counseling session, temporary suspension of vehicle privileges, or the assignment of a research project and presentation. [PSCAP 3.6.5M b]
 - 1. These actions will not be included in the employee's permanent personnel or disciplinary file. However, the supervisor may use Corrective Counseling Session, ACSO 77-05, and the Addendum to Corrective Counseling Session, ACSO 77-05A, if needed, or any on the spot verbal correction notes as reference for up to one (1) year in any subsequent violations, whether or not it is the same rule or regulation.
 - 2. Any informal disciplinary action can be commented upon in the employee's performance appraisal.
- I. **Misconduct** – Any violation of ACSO directives, policies, rules, procedures, regulations, federal or state laws, as well as city or county ordinances. Any conduct by an employee that may tend to reflect unfavorably upon the employee or the ACSO or causes a dysfunction in services when such acts or omissions would normally result in formal or informal discipline.
- J. **Suspension Day** – For the purpose of calculating disciplinary suspension days, a suspension day will be considered eight (8) hours.
- K. **Tracking Numbers** – Numbers issued by OPS to track Administrative Investigations and Administrative Inquiries.
 - 1. Administrative Inquiry (AI) – A preliminary investigation handled by the subject employee's supervisor or an OPS Inspector.
 - 2. Formal Complaint (FC) – Administrative Investigations handled by the subject employee's supervisor will be designated as FC.
 - 3. Internal Affairs Investigation (IA) – Administrative Investigations handled by OPS will be designated as IA.

VII. OFFICE OF PROFESSIONAL STANDARDS RESPONSIBILITY AND AUTHORITY
[PSCAP 1.4.1M b]

- A. The Office of Professional Standards is responsible for conducting Administrative Inquiries and Administrative Investigations arising from employee misconduct or lack of performance. The OPS Captain and Inspectors are acting under the authority of the Sheriff and have full authority to discharge this responsibility. [PSCAP 1.4.2M]
- B. Responsible for investigations of allegations regarding: [CFA 20.01M C; FCAC 7.05M C]
 - 1. Commission of a Crime
 - 2. Official Misconduct/Malfeasance in Office
 - 3. Improper Use of Alcohol, Prescription Drugs or Use of Illegal Drugs
 - 4. Excessive Use of Force
 - 5. Harassment, Sexual and Other
 - 6. Infringement of Civil Rights
 - 7. Category 1 Deadly Force Incidents
 - 8. In-Custody Deaths

9. Major violations of ACSO 353 – Standards of Conduct and Violation Levels that the Sheriff requests OPS investigate.

C. May also be responsible for investigations where:

1. Personnel from more than one (1) Division are involved.
2. The complaint or investigation is such that it would be impractical or undesirable for the investigation to be conducted by the subject employee's Division Commander.
3. Sufficient resources to conduct the investigation are not available to the subject employee's Division Commander.

D. Are not required to sign receipts for copies of documents or reports received from any element within the ACSO

VIII. DIVISION COMMANDER AND SUPERVISOR RESPONSIBILITIES [PSCAP 1.4.1M a]

A. Division Commanders and supervisors are responsible for taking appropriate and decisive action whenever there is a violation of ACSO directives, policies, procedures, rules or regulations. Division Commanders and supervisors will be responsible for investigating complaints alleging inappropriate behavior on the part of any subordinate except in those situations enumerated above in VII.B & C. [CFA 20.01M A; FCAC 7.05M A]

B. In those situations, the complaint will be documented in writing (letter, e-mail, IOC, Complaint Intake Form, etc.) or verbally recorded and forwarded to the Office of Professional Standards.

IX. AUTHORITY FOR RELIEVING OF DUTY [CFA 2.07M; FCAC 7.07;] [PSCAP 1.4.8M]

A. Any supervisor has the responsibility and authority to relieve an employee under their command of duty for the duration of the shift with pay if, in their opinion, such action would be in the ACSO's or the employee's best interest.

B. Any time an employee is relieved of duty, the relieving supervisor will notify the employee's Division Commander as soon as practicable.

C. Additionally, an Inter-Office Correspondence (IOC) with detailed reasons for the action must be submitted to the employee's Division Commander before the end of the supervisor's tour of duty.

D. In severe cases where it is necessary for a sworn/certified employee to be relieved of duty, the supervisor shall take the employee's:

1. Badge
2. ACSO Identification Key Card
3. Firearm
4. Vehicle

E. The supervisor will give the sworn/certified employee a receipt for all items taken and all property will be turned over to the property custodian as soon as possible. The supervisor will use the Receipt of Departmental Property, ACSO 07-08, to document the relinquished property and immediately notify the Information Technology Bureau (ITB) Director or their designee and the Human Resources Bureau (HRB) by sending an e-mail to #disableaccess. If this occurs after hours, the supervisor will contact ITB via the CCC Supervisor by calling (352) 955-1818.

- F. In severe cases where it is necessary for a civilian employee to be relieved of duty, the supervisor shall take the employee's ACSO Identification Key Card and shall issue the employee a receipt as outlined in E above. The supervisor will immediately notify ITB and HRB by sending an e-mail to #disableaccess. If this occurs after hours, the supervisor will contact ITB via the CCC Supervisor by calling (352) 955-1818.

X. INFORMAL AND FORMAL DISCIPLINE CRITERIA AND PROCESS

- A. Supervisors should confer with their immediate supervisor prior to making a decision to implement either formal or informal discipline in order to determine the most appropriate action. [CFA 7.03] [PSCAP 3.6.6M]
- B. A supervisor's immediate intervention to cease an employee's actions shall not constitute any type of formal or informal discipline.
- C. **Informal Discipline Criteria** [CFA 7.02M; FCAC 7.01M] – The following criteria may be used as a guideline when using informal discipline for corrective action:
1. The employee appears to be deficient in a particular aspect of their job as demonstrated by a lack of knowledge, poor performance or insufficient instruction in the particular job function.
 2. The employee has an existing problem or is experiencing difficulty adjusting to interpersonal working relationships.
 3. The employee's supervisor believes that the employee's job deficiency/action is most appropriately remedied through education in the form of informal discipline and that informal discipline will have a positive impact on the employee's work performance.
- D. **Informal Discipline Process** [PSCAP 3.6.5M b]
1. Should informal disciplinary action be required, the following procedures are established:
 - a. **Corrective Counseling**
 - i. If a corrective counseling session is conducted, it will be documented on the Corrective Counseling Session, ACSO 77-05, by a supervisor. [CFA 7.03]
 - ii. The employee will sign for and receive a copy of the Corrective Counseling Session, ACSO 77-05.
 - iii. The Division Commander will
 - (A) Retain the Corrective Counseling Session, ACSO 77-05, for one (1) year or,
 - (B) If considered appropriate, until commented upon in the employee's performance appraisal, at which time the form will be removed from the employee's file and disposed of in accordance with the State of Florida's General Records Schedule for law enforcement agencies.
 - b. **Temporary Suspension of Vehicle Privilege**
 - i. As a general rule, supervisors may use the immediate suspension of vehicle privileges as a corrective measure. [CFA 7.03]
 - ii. At the end of duty, the employee will park their assigned vehicle at the ACSO Headquarters for the designated time period and the supervisor will ensure that the employee is driven home at the conclusion of their shift.

- iii. If needed, upon completion of the vehicle suspension, the employee may receive a ride from a fellow employee to work to resume their vehicle privilege.
- iv. The temporary suspension of vehicle privileges will be documented on Corrective Counseling Session, ACSO 77-05, outlining the performance issue(s) and what specific dates and times the assigned vehicle is to be parked at the ACSO.

c. Vehicle Suspension Guidelines

SPEEDS OVER POSTED LIMIT	10	11-15	16-20	21-25	25+
VEHICLE LOSS # OF WORK DAYS**	1-3	4-6	7-9	10-12	13-15

- i. **Additional hazards such as, but not limited to, wet roads, congested traffic areas, school zones, low light conditions, etc., will automatically increase the amount of vehicle suspension days to the top range of the category.
 - ii. Instances where it is determined that the subject employee's driving is excessive or dangerous, formal discipline may be the best course of action.
 - iii. Two (2) or more instances within twelve (12) months of the previous informal discipline for speeding may be dealt with via formal discipline.
- d. On-Duty Assignment of a Research Paper and Presentation
- i. Employees may be assigned research papers and to give a roll call presentation as a form of corrective action.
 - ii. The topic will be relevant to the employee's job classification.
 - iii. As a general rule, research papers are to be no more than ten (10) pages, and will be attached to a copy of the original Corrective Counseling Session, ACSO 77-05.
 - iv. Ultimately, the topic of presentation, the content, completion date and compliance rests with the employee's supervisor.
- e. Failure to comply with informal discipline will result in formal discipline.

E. Formal Discipline Criteria – The following criteria will be used as a guideline when using formal discipline to correct misconduct or lack of performance: [CFA 7.02M; FCAC 7.01M]

- 1. The employee appears to be deficient in a particular aspect of the job responsibility and informal discipline failed to bring about a positive change.
- 2. The employee has violated policy and/or procedures and the misconduct or lack of performance justifies formal disciplinary action be taken.

XI. HANDLING COMPLAINTS

A. Complainants

- 1. Complainants should be referred to the immediate supervisor of the subject employee.

2. If the supervisor of the subject employee is not on-duty and the complainant requests to speak to a supervisor immediately:
 - a. An on-duty supervisor in the subject employee's bureau will be notified.
 - b. If the subject employee's bureau is closed, an on-duty Patrol supervisor will be notified.
 - c. If an on-duty Patrol supervisor is unavailable, any employee is authorized to receive a complaint against any other employee.
3. The supervisor will obtain a statement from the complainant.
4. A complainant's statement may be received in any form, such as
 - a. Written: Letter, E-mail, IOC, Complaint Intake Form, etc.
 - b. Verbal: Voice Recorder, Vehicle Camera System (VCS) or Body-Worn Camera (BWC) Video
 - c. In the event the complainant refuses to submit a written complaint or have their statement recorded, the supervisor will reduce the complainant's allegations to a written form.
5. Once the complaint is received by ACSO, the subject employee's chain of command will either:
 - a. Conduct the Administrative Investigation, or;
 - b. Depending on the nature of the complaint, request OPS handle the investigation.
6. A complainant will be notified by the assigned investigating supervisor that their complaint has been received.
7. Once an Administrative Investigation has been completed, the complainant will be notified by OPS that the investigation has been completed and of the disposition. [CFA 20.04M; FCAC 7.09M]

B. Misunderstandings

1. Misunderstandings in reference to directives, policies, procedures or tactics, will not be handled in the same manner as formal complaints.
2. The employee's supervisor will attempt to resolve the misunderstanding.
 - a. If resolved, the supervisor will inform their superior of the issue and complete an IOC or e-mail detailing the matter and the final resolution. The IOC or e-mail will be forwarded to the employee's Division Commander.
 - b. If the supervisor is unable to resolve the misunderstanding, the supervisor will make notification to their superior, who will attempt to settle the matter.
 - c. If still unresolved, the circumstances will be documented in an IOC or e-mail to the employee's Division Commander.
 - d. The Division Commander will attempt to resolve the situation or pass the information up the chain of command for further recommendations.

C. Informal Complaints

1. If a minor infraction occurs that is observed by or brought to the attention of an employee's supervisor, and it can be rectified with verbal counseling or corrective

counseling, the employee's supervisor will take appropriate action in a timely manner.

2. The supervisor will inform the complainant of the investigative findings and any counseling sessions conducted.
3. Informal documentation will be kept by the employee's supervisor to initiate any future progressive discipline and/or to be included in the employee's next performance appraisal.

D. Administrative Inquiry

1. An Administrative Inquiry is a preliminary investigation to determine if any misconduct or lack of performance has taken place.
2. If during the Administrative Inquiry it is determined that the employee's actions were within directives and no further action is required, an IOC will be completed by the investigating supervisor or Inspector.
 - a. The investigating supervisor will contact an Inspector to request a tracking number for the Administrative Inquiry before forwarding the IOC on to OPS.
 - b. The IOC should be addressed to the Chief Inspector of OPS.
 - c. The original Administrative Inquiry will be retained in the OPS.
 - d. A copy of the Administrative Inquiry will be sent to the employee's Division Commander.
3. An Administrative Inquiry may consist of interviewing the complainant and obtaining any relevant documentation. Typically, once the investigating supervisor begins interviewing multiple witnesses, the inquiry will now become an Administrative Investigation and will be documented as such.

E. Formal Complaints

1. Allegations that involve misconduct, lack of performance or violation of ACSO directives may require that a formal Administrative Investigation will be conducted.
2. If the allegation is of a criminal nature, a formal Administrative Investigation will be conducted:
 - a. The allegation will be investigated by the appropriate investigative agency or ACSO Division/Bureau.
 - b. If the alleged criminal incident occurred within the jurisdiction of the Alachua County Sheriff's Office, a supervisor from Patrol Division, or the Criminal Investigation Division will be notified of the allegation by the subject employee's supervisor or their chain of command.
 - c. The criminal investigation of an ACSO employee will always lead to an Administrative Investigation. As such, an Inspector will be notified and provided a copy of all reports and documentation related to the complaint.
 - d. The ACSO Division/Bureau responsible for the criminal investigation will keep OPS briefed on the progress of the investigation.
 - e. OPS will closely monitor any criminal investigation where the subject of the investigation is an ACSO employee.

XII. FAST TRACK DISCIPLINE (FTD)

A. Fast Track Discipline (FTD) is available for employees who realize and voluntarily admit they committed a policy violation and wish to expedite disposition of the matter. At this time, the FTD process is only available to non-bargaining unit employees and PBA bargaining unit members (law enforcement sergeants, lieutenants and deputy sheriffs). A non-bargaining unit employee or PBA bargaining unit member who is subject of a complaint may be offered the opportunity to participate in an expedited disposition of an Administrative Investigation described below.

B. Purpose of a Fast Track Discipline (FTD)

1. A formal investigation and disciplinary appeal can consume considerable time and resources.
2. On a purely voluntary basis, the subject employee may wish to acknowledge having violated agency directives and then accept discipline, rather than proceeding with a formal investigation and disciplinary appeal.
3. An FTD is designed to reduce the length of time it takes to complete an investigation.
4. An FTD may, if appropriate, be available to address all violations of ACSO directives, except for a Criminal Conduct violation or any other violation which would constitute a moral character violation as defined by Rule 11B-27.0011(4), Florida Administrative Code.

C. Procedures for a Fast Track Discipline (FTD)

1. FTD Phase 1 – Notification of Complaint and FTD Offer
 - a. When an investigating supervisor receives a complaint, they shall review the complaint and, if the nature or facts of an allegation indicate that an FTD is the most appropriate means of handling the complaint, may offer the employee a FTD.
 - b. Upon receiving a complaint, the investigating supervisor shall obtain from the Office of Professional Standards:
 - i. A Tracking Number,
 - ii. An Employee Profile,
 - iii. Number of carry-over discipline points, if any.
 - c. If the complaint is appropriate for an FTD, the investigating supervisor shall notify the subject employee that they are the subject of an Administrative Investigation. Notification to the subject employee by the investigating supervisor will be made in writing by the Employee Notice of Administrative Investigation. [CFA 20.02M A; FCAC 7.06M] [PSCAP 1.4.6M]
 - d. The investigating supervisor may offer the subject employee an opportunity to participate in an FTD.
 - e. Once the investigating supervisor offers the option of an FTD, the subject employee has five (5) calendar days' to respond as to whether or not he/she would like to participate in the FTD process.
 - f. In order to initiate the FTD process, the subject employee must give their response, in writing via the Fast Track Discipline Response Form, ACSO 12-02, to the investigating supervisor within five (5) days' notice of the complaint.

- ii. Appropriate Division Commander
- iii. Office of Professional Standards – To be placed in the employee’s discipline file.
- iv. Human Resources Bureau
- v. Payroll Specialist within the Accounting and Budget Bureau

D. General Provisions for FTD Agreement of Administrative Investigation Agreement Cases

- 1. Any subject employee who signs this agreement must still participate in a witness interview concerning the same investigation involving another employee.
- 2. An agreement reached between the subject employee and the agency shall not establish binding precedent on the Sheriff in other cases.
- 3. Any discipline imposed shall not exceed the guidelines of the Discipline Level and Point Scale, ACSO 02-33.

XIII. COMPLAINT INVESTIGATION PROCEDURES

A. Investigating Supervisors

- 1. Will conduct a thorough investigation using all proper and legal investigative tools.
- 2. Will obtain statements from the complainant(s) and witness(es).
 - a. Statements may be received in any form, such as:
 - i. Written: Letter, E-mail, IOC, Complaint Intake Form, etc.
 - ii. Verbal: Voice Recorder, Vehicle Camera System (VCS) or Body-Worn Camera (BWC) Video
 - iii. In the event the complainant(s) or witness(s) refuse to submit a written statement or have their statement recorded, the supervisor will reduce their testimony to a written form.
- 3. Will collect all pertinent evidence and documentation related to the investigation.
- 4. Before interviewing the subject employee, the investigating supervisor will, during normal office hours, contact an OPS Inspector for a preliminary review to: [CFA 20.01M B; FCAC 7.05M B]
 - a. Discuss the facts of the case, the complainant, witness statements, evidence and documentation.
 - b. Request a tracking number.
 - i. After reviewing the case, the Inspector may request that additional witness interviews be conducted or documentation obtained.
 - ii. The investigating supervisor shall not proceed with the interview of the subject employee until the Inspector has been contacted and it has been determined that all investigative work has been completed.
 - iii. Upon approval by the OPS Inspector, a Formal Complaint (FC) tracking number will be issued and shall give their approval for the subject employee to be interviewed.
 - c. Throughout and at the direction of the Inspector, keep the Inspector informed as to the status of the investigation.

- B. All non-OPS supervisors should use the Administrative Investigation Report, ACSO 00-02, to document their investigation.
- C. Upon completing the investigation, to include interviewing all witnesses and subject Employee(s), the investigating supervisor will:
 - 1. Contact OPS to ascertain the number of points a subject employee may have at the conclusion of the investigation.
 - 2. Make a disciplinary recommendation.
 - 3. Submit the completed Administrative Investigation through the chain of command.

D. Witnesses

- 1. All ACSO employee witnesses will sign the Confidential Administrative Investigation Acknowledgment, ACSO 98-08, prior to answering any questions. [CFA 20.01M E; FCAC 7.05M E]
- 2. An ACSO employee who is a witness in an Administrative Investigation and who willfully discloses any information obtained pursuant to the investigation, before such complaint, document, action or proceeding becomes a public record violates ACSO 353 – Standards of Conduct and Violation Levels, V.A.12. [CFA 20.01M E; FCAC 7.05M E]
- 3. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the subject employee's interview.
- 4. Witness statements will be documented by either:
 - a. Statements may be received in any form, such as:
 - i. Written: Letter, E-mail, IOC, Administrative Investigation Witness Form, etc.
 - ii. Verbal: Voice Recorder, Vehicle Camera System (VCS) or Body-Worn Camera (BWC) Video
 - iii. In the event the witness(s) refuses to submit a written statement or have their statement recorded, the investigating supervisor or Inspector will reduce their testimony to a written form.

E. Investigative Information

- 1. An employee who is the subject of, or a witness in, an Administrative Investigation may be required, with approval of the Sheriff, to submit to:
 - a. A medical or laboratory examination [CFA 20.03 A; FCAC 7.08 A] [PSCAP 1.4.7M a]
 - b. Being photographed [CFA 20.03 B; FCAC 7.08 B] [PSCAP 1.4.7M b]
 - c. Participating in a line-up [CFA 20.03 C; FCAC 7.08 C]
 - d. Providing financial disclosure statements [CFA 20.03 D; FCAC 7.08 D] [PSCAP 1.4.7M c]
- 2. There will be no mandatory requirement to take a polygraph examination in an Administrative Investigation. However, the ACSO may provide the opportunity for a voluntary examination. [CFA 20.03 E; FCAC 7.08 E] [PSCAP 1.4.7M e]
 - a. Exception: Per the Employee Polygraph Protection Act of 1988 (EPPA), the ACSO may conduct a mandatory polygraph examination on its employees

when there is an “economic loss to the agency” and a “governmental filing of the investigation,” i.e., filing a police report.

3. Time Limitations of Investigation [PSCAP 1.4.4M]
 - a. The investigation of a complaint will be completed within ninety (90) days of the Alachua County Sheriff's Office receiving the initial complaint, unless an extension is granted by the Sheriff.
 - b. Two (2) extensions of up to thirty (30) days each may be granted by the Sheriff upon written request by the investigating supervisor or Inspector.
 - c. Once an extension is approved by the Sheriff, the investigating supervisor or OPS Inspector will notify the subject employee of said extension through Inter-Office Correspondence, or via e-mail if it is reasonable to do so. If exigent circumstances exist, or notifying the subject employee would compromise the investigation, the investigating supervisor or OPS Inspector may withhold notification of the extension to the subject employee.
 - d. The Administrative Investigation must be completed within one hundred eighty (180) days; however, this period may be tolled as provided by s. 112.532(6), Florida Statutes.

XIV. INTERVIEW OF CIVILIAN SUBJECT EMPLOYEES

- A. Civilian employees are in classifications not covered by the “The Law Enforcement Officer's Bill of Rights.”
- B. The employee under an Administrative Investigation by OPS or a supervisor will be notified in writing via the Civilian Employee Notice of Administrative Investigation, ACSO 17-20B. The notification will contain the following: [CFA 20.02M; FCAC 7.06M] [PSCAP 1.4.6M]
 1. The nature of the allegations
 2. The employee's rights and responsibilities relative to the investigation
- C. The interview will be conducted during the subject employee's duty time, or as close to as possible; unless immediate action is required due to the seriousness of the investigation.
 1. If the subject employee is on Administrative Suspension at the time of the interview, the interview can be conducted during the hours of 0830 – 1630, Monday thru Friday.
- D. The interview will take place at an ACSO building or at the Office of Professional Standards.
- E. At the beginning of the subject employee's interview, the investigating supervisor or Inspector will identify:
 1. The name, rank and command of the investigating supervisor or Inspector in charge of the investigation.
 2. The investigating supervisor or Inspector conducting the interview.
 3. All persons present during the interview.
- F. All questions directed to the subject employee may be asked by either of the investigating supervisor(s) or Inspector(s).
- G. An employee who is the subject of an Administrative Investigation:

1. Will cooperate with and assist investigating supervisors and Inspectors, recognizing that Administrative Investigations are conducted under the immediate authority of the Sheriff.
 2. Will read and sign the Confidential Administrative Investigation Acknowledgment, ACSO 98-08, prior to answering any questions. [CFA 20.01M E; FCAC 7.05M E]
 - a. An employee who is a subject in an Administrative Investigation and who willfully discloses any information obtained pursuant to the investigation, before such complaint, document, action or proceeding becomes a public record violates ACSO 353 – Standards of Conduct and Violation Levels, V.A.12.
 3. Will read and sign the Garrity Warning, ACSO 95-14, prior to answering any questions.
 - a. An employee who is a subject in an Administrative Investigation and who engages in lying, untruthfulness, misstatement, or fails to respond to, or omit responding to, any question asked fully and truthfully, can be prosecuted for perjury, giving false statements, or obstruction of justice.
- H. Interviews will only be conducted for a reasonable period of time and appropriate rest breaks will be allowed.
- I. The subject employee under investigation will not be subjected to
1. Offensive language
 2. Threats of transfer, dismissal or disciplinary action
 3. Promises of reward as an inducement to answer any questions
- J. The subject employee's interview and all recess periods must be recorded on audio tape or otherwise preserved in such a manner as to allow a transcript to be prepared.
1. If the subject employee wishes to waive this right, they may submit a handwritten or typed response on an Administrative Investigation Response Form, ACSO 00-02B.
 2. A subject employee who completes a written response, in lieu of a recorded interview, shall include the following statement at the conclusion of the written response: *"Under penalty of perjury, I do solemnly swear or affirm that the facts I have stated herein are true."*
- K. There will be no unrecorded questions or statements related to the investigation.
- L. The subject employee will answer truthfully, completely and directly any and all questions asked relating to:
1. Their duties as an employee
 2. Their fitness for duty or the fitness of another employee
 3. The investigation of violations of directives, policies, procedures, rules and regulations
 4. The investigation of violations of state or federal laws or city or county ordinances
- M. All statements, regardless of form, shall be made under oath as provided in s. 92.525, F.S.
- N. Upon completion of the report, and prior to forwarding it to the Sheriff, the investigating supervisor or Inspector shall verify that the contents of the report are true and accurate

based upon his or her personal knowledge, information and belief by including and signing the following statement:

"I, the undersigned, do hereby swear or affirm, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, the contents of this report are true and accurate."

XV. INTERVIEW OF SWORN/CERTIFIED SUBJECT EMPLOYEES

- A. When the subject employee is a law enforcement officer or a correctional officer, the investigation will be conducted in accordance with "The Law Enforcement Officers' and Correctional Officers' Bill of Rights." (F.S.S. 112.532 – 112.534)
- B. An employee under an Administrative Investigation by OPS or a supervisor will be notified in writing via the Sworn Employee Notice of Administrative Investigation, ACSO 17-20A. The notification will contain the following: [CFA 20.02M; FCAC 7.06M] [PSCAP 1.4.6M]
 - 1. The nature of the allegations
 - 2. The employee's rights and responsibilities relative to the investigation
- C. The interview will be conducted during the subject employee's duty time, or as close to as possible; unless immediate action is required due to the seriousness of the investigation.
 - 1. If the subject employee is on Administrative Suspension at the time of the interview, the interview can be conducted during the hours of 0830 – 1630, Monday thru Friday.
- D. The interview will take place at an ACSO building or at the Office of Professional Standards.
- E. The subject employee is entitled to bring a representative or counsel to the interview, if they wish.
 - 1. The representative or counsel is entitled to be present during the interview whenever the interview relates to the subject employee's continued fitness for law enforcement duty.
 - 2. The representative or counsel may not interfere with the interview or disrupt the process in any way.
- F. Immediately before the beginning of the subject employee's interview, the subject employee will be:
 - 1. Advised of the nature of the investigation.
 - 2. Advised of the names of all complainants and witnesses.
 - a. If a witness is incarcerated in the Department of the Jail (including Work Release) and may be under the supervision of, or have contact with, the subject employee under investigation, only the names and written statements of the complainant and non-incarcerated witnesses may be reviewed by the subject employee.
 - 3. Given the opportunity to review
 - a. The complainant's statement, regardless of form.
 - b. All witness statements, regardless of form, including all other existing subject employees' statements.

- c. All existing evidence in the investigation: documentation, recordings, statements, incident reports, GPS records, etc., pertinent to the allegations involving the subject employee.
 - d. The subject employee, after being informed of their right to review all witness statements, may voluntarily waive this right and provide a statement at any time.
- G. At the beginning of the subject employee's interview, the investigating supervisor or Inspector will identify
 - 1. The name, rank and command of the investigating supervisor or Inspector in charge of the investigation
 - 2. The investigating supervisor or Inspector conducting the interview.
 - 3. All persons present during the interview
- H. All questions directed to the subject employee shall be asked by or through one (1) investigating supervisor or Inspector, unless the subject employee specifically waives that right and allows both investigating supervisors and Inspectors to ask questions.
- I. An employee who is the subject of an Administrative Investigation:
 - 1. Will cooperate with and assist the investigating supervisors and Inspectors, recognizing that Administrative Investigations are conducted under the immediate authority of the Sheriff.
 - 2. Will read and sign the Confidential Administrative Investigation Acknowledgment, ACSO 98-08, prior to answering any questions. [CFA 20.01M E; FCAC 7.05M E]
 - a. An employee who is a subject in an Administrative Investigation and who willfully discloses any information obtained pursuant to the investigation, before such complaint, document, action or proceeding becomes a public record violates ACSO 353 – Standards of Conduct and Violation Levels, V.A.12.
 - 3. Will read and sign the Garrity Warning, ACSO 95-14, prior to answering any questions.
 - a. An employee who is a subject in an Administrative Investigation and who engages in lying, untruthfulness, misstatement, or fails to respond to, or omit responding to, any question asked fully and truthfully, can be prosecuted for perjury, giving false statements, or obstruction of justice.
- J. Interviews will only be conducted for a reasonable period of time and appropriate rest breaks will be allowed.
- K. The subject employee under investigation will not be subjected to:
 - 1. Offensive language
 - 2. Threats of transfer, dismissal or disciplinary action
 - 3. Promises of reward as an inducement to answer any questions
- L. The subject employee's interview and all recess periods must be recorded on audio tape or otherwise preserved in such a manner as to allow a transcript to be prepared.
 - 1. If the subject employee wishes to waive this right, they may submit a handwritten or typed response on an Administrative Investigation Response Form, ACSO 00-02B.

2. A law enforcement officer or detention officer who completes a written response, in lieu of a recorded interview, shall include the following statement at the conclusion of the written response: *"Under penalty of perjury, I do solemnly swear or affirm that the facts I have stated herein are true."*
- M. There will be no unrecorded questions or statements related to the investigation.
- N. The subject employee will answer truthfully, completely and directly any and all questions asked relating to:
1. Their duties as an employee.
 2. Their fitness for duty or the fitness of another employee.
 3. The investigation of violations of directives, policies, procedures, rules and regulations.
 4. The investigation of violations of state or federal laws or city or county ordinances.
- O. All statements, regardless of form, provided by a law enforcement officer or correctional officer during the course of an investigation of that officer shall be made under oath as provided in s. 92.525, F.S.
- P. Upon completion of the report and prior to forwarding it to the Sheriff, the investigating supervisor or Inspector shall verify that the contents of the report are true and accurate based upon his or her personal knowledge, information, and belief, by including and signing the following statement:
- "I, the undersigned, do hereby swear or affirm, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, the contents of this report are true and accurate, and that I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss. 112.532 and 112.533, Florida Statutes."*

XVI. INVESTIGATIVE FINDINGS

A. Disposition of Findings [PSCAP 1.4.9M]

1. When the investigation is complete, the investigating supervisor or Inspector will classify their findings as follows:
 - a. **Unfounded** – The act or acts complained of did not occur or did not involve ACSO personnel.
 - b. **Not-Sustained** – Insufficient evidence to clearly prove or disprove the allegation/complaint.
 - c. **Sustained** – The preponderance of evidence clearly proves the allegation/complaint.
 - d. **Exonerated** – The act or acts did occur but were justified, lawful and proper.
 - e. **Exonerated Due to Policy Failure** – A finding or conclusion that presents policy, procedure, rule or regulation covering the situation was non-existent or inadequate.

B. Discipline Point Scale/Point Retention

1. OPS will be responsible for tracking the number of disciplinary points accumulated by employees.

2. The disciplinary scale will be utilized when deciding the amount of discipline to be rendered for a violation(s) of ACSO directives, rules, regulations and/or policy.
3. The disciplinary scale is divided into minimum and maximum disciplinary ranges which are based on a point system.
 - a. The points are acquired by determining the level(s) of violation(s) of rule, regulation or policy combined with the number of charges per level. For example, four (4) charges in the Rules/Level Two Violations section would equate to forty (40) discipline points, Discipline Level and Point Scale, ACSO 02-33.
4. After calculating the amount of discipline points, the amount of recommended discipline can be determined by referring to the Formal Discipline Ranges guideline on the Discipline Level and Point Scale, ACSO 02-33.
5. Points will be retained and count toward future disciplinary action.
 - a. Level 1, 2 and 3 violations will be retained for one (1) year from the date discipline is rendered.
 - b. Level 4 and 5 violations will be retained for two (2) years from the date discipline is rendered.
6. Reprimands will count toward future discipline for one (1) year from the date discipline is rendered.

C. Calculating Previously Accumulated Discipline Points

1. Previously sustained Level 1 through 5 violations will be calculated at one-half (½) cumulative point value.
2. Counseling will not count toward any progressive point total but may be used in the progressive discipline process.
3. Violations of Level 1 with one (1) charge have no point value and, as a result, no points will be carried forward.
 - a. However, repetitive Violations of Level 1 will accumulate points based on the Discipline Level and Point Scale, ACSO 02-33.

D. Completed Investigations

1. Before forwarding the Administrative Investigation Report, ACSO 00-02, through the chain of command, the investigating supervisor should ensure that the following paperwork is attached:
 - a. Complainant(s) statements
 - b. Witness(es) statements, if any
 - c. Subject employee(s) statements, if any
 - d. Evidence utilized in the investigation
 - e. Employee Profile received from OPS
2. All completed Administrative Investigations will be forwarded to the Sheriff via the chain of command through OPS.
3. OPS will review all Administrative Investigations prior to forwarding them to the Sheriff. [CFA 20.01M B; FCAC 7.05M B] [PSCAP 1.4.3M]

E. Sheriff's Review

1. Upon receipt of an Administrative Investigation, the Sheriff will review all facts of the case to determine if disciplinary action is warranted.
2. During the review, the Sheriff may ask for additional information.
3. If sufficient grounds are present to warrant disciplinary action, the Sheriff may proceed and take any action deemed appropriate. [CFA 7.03]

XVII. NOTIFICATION OF FINDINGS [CFA 20.01M G; FCAC 7.05M G; CFA 20.04M; FCAC 7.09M]

- A. The subject employee will be provided written notification of the conclusion of the investigation and the Sheriff's disposition.
- B. Notification will be made using either the:
 1. Employee Notice of Findings of Administrative Investigation;
 2. Employee Notice of Intended Disciplinary Action; or the
 3. Employee Notice of Disciplinary Action.
- C. Training, Retraining, and Disciplinary Probation are not appealable actions and do not require an Employee Notice of Intended Disciplinary Action.
- D. The Office of Professional Standards will provide the subject employee's Division Commander with the applicable notice to be delivered.
- E. The subject employee's Division Commander will ensure that the subject employee signs the notice. By signing the notice, the subject employee acknowledges that the notice has been received.
- F. The subject employee's Division Commander will ensure that:
 1. The notice, signed by the subject employee, is returned to the Office of Professional Standards.
 2. A copy of the signed notice is given to the subject employee.
 3. A copy of the signed notice is also distributed to the individuals or bureaus listed on the cc'd portion of the notice.
- G. Once the employee has been notified of the findings and any intended disciplinary action, the investigation is considered closed and becomes public record. It is then available for inspection by ACSO employees and members of the public pursuant to established procedures. See ACSO 827 – Public Records Requests, Section VIII.X for further information.
- H. The Office of Professional Standards will report sustained cases involving Deputies, Detention Deputies and Detention Officers to the Criminal Justice Standards and Training Commission (CJSTC) pursuant to Florida law utilizing CJSTC Form 78 – Internal Investigation Report when the Administrative Investigation involves one (1) or more of the following:
 1. The officer:
 - a. Pleads nolo contendere, pleads guilty, or is convicted of any felony;
 - b. Pleads nolo contendere, pleads guilty, or is convicted of a misdemeanor involving perjury or a false statement;
 - c. Fails to maintain good moral character as defined by Rule 11B-27.0011(4), Florida Administrative Code.

2. The substantiated facts constitute a felony or enumerated misdemeanor offense, whether criminally charged or not, noting whether such crime constitutes a moral character violation; [CFA 20.01M H; FCAC 7.01M H]
3. Failure to maintain good moral character is defined by the Criminal Justice Standards and Training Commission as:
 - a. Any act constituting a felony offense regardless of criminal prosecution;
 - b. A plea of guilty, an adjudication of guilt, or a verdict of guilty after a criminal trial, or any act constituting any of the enumerated misdemeanor offenses as listed in the CJSTC Misdemeanor Moral Character Violations, regardless of criminal prosecution;
 - c. Any principal, accessory, attempt solicitation, or conspiracy, pursuant to Chapter 777, Florida Statutes, where there would have been a felony offense had the crime been committed or completed;
 - d. Any act in any jurisdiction other than the State of Florida, which if committed in the State of Florida would constitute any offense listed in Rule 11B-27.0011(4), Florida Administrative Code.
 - e. Any non-criminal acts or conduct as listed in the CJSTC Non-Criminal Moral Character Violations,
 - f. A certified offer's unlawful injection, ingestion, inhalation, or other introduction of any controlled substance, as defined in Section 893.03, Florida Statutes, into their body as evidenced by a drug test in accordance with Section 112.0455, 440.102, or 944.474, Florida Statutes.

XVIII. DISCIPLINARY HEARING PROCESS [CFA 7.06; FCAC 7.04] [PSCAP 3.6.7M]

A. Pre-Disciplinary Hearing Procedures (Loudermill Hearing)

1. The purpose of the pre-disciplinary hearing (Loudermill Hearing) is to provide the subject employee an avenue of appeal for actions involving termination, demotion or suspension prior to the imposition of discipline.
2. Termination or Demotion
 - a. The subject employee will be afforded the opportunity to meet with the Sheriff or their designee prior to the effective date of the intended termination or demotion, to respond to the charge(s).
 - b. The subject employee is responsible for requesting the Loudermill Hearing and must do so within three (3) working days of receipt of the Employee Notice of Intended Disciplinary Action.
 - c. If the subject employee presents adequate justification, the Sheriff has the authority to amend the intended disciplinary action.
3. Suspensions
 - a. The subject employee will have the opportunity to meet with the Undersheriff or the subject employee's Major/Director/Chief of Staff prior to the effective date of the intended disciplinary action to respond to the charge(s). Subject employees not falling under the overall command of the Undersheriff or a Major/Director/Chief of Staff may request a Loudermill Hearing directly with the Sheriff.

- b. The subject employee is responsible for requesting a Loudermill hearing and must do so within three (3) working days of receipt of the Employee Notice of Intended Disciplinary Action.
- c. Upon completion of the Loudermill Hearing, the Undersheriff or the employee's Major/Director/Chief of Staff will forward to the Sheriff an IOC providing any recommendations for the intended discipline based upon any justification presented by the subject employee.
- d. The Sheriff has the authority to amend the intended disciplinary action.

B. Post-Disciplinary Hearing Procedures

- 1. Upon completion of the Loudermill Hearing, the Sheriff will provide the Office of Professional Standards with the final disciplinary recommendation via an IOC.
- 2. The Office of Professional Standards will then prepare an Employee Notice of Disciplinary Action which outlines the final disciplinary action, and will:
 - a. Forward the Employee Notice of Disciplinary Action to the subject employee's Division Commander.
 - b. Notify the Accounting and Budget Bureau and the Human Resources Bureau if the subject employee is terminated or demoted.
 - c. Notify the Accounting and Budget Bureau and the Human Resources Bureau of the action if the subject employee is suspended or placed on disciplinary probation.
- 3. The subject employee's Division Commander will ensure that:
 - a. The notice, signed by the subject employee, is returned to the Office of Professional Standards.
 - b. A copy of the signed notice is given to the subject employee.
 - c. A copy of the signed notice is distributed to the individuals/bureaus listed on the cc'd portion of the notice.
- 4. The Division Commander is responsible for administering the final disciplinary action.
- 5. For additional information on appealing disciplinary actions for permanent status, full-time employees, see ACSO 383 – Appeals Process Provided under Laws of Florida, Chapter 86-342.

XIX. TRAINING OR REMEDIAL TRAINING CRITERIA [PSCAP 3.6.5M a]

- A. The following criteria may be used as a guideline when using training or remedial training to correct misconduct or lack of performance:
 - 1. The subject employee appears to be deficient in a particular aspect of their job due to lack of knowledge, performance or instruction in the particular job function and informal discipline failed to bring about a positive change.
 - 2. The subject employee violated a directive and/or procedures and the misconduct or lack of performance justifies additional training or remedial training.
- B. Should formal disciplinary action be required, the supervisor will document the circumstances of the infraction on the Administrative Investigation Report, ACSO 00-02.

1. With the exception of termination, training or remedial training may be employed in conjunction with any other recommended disciplinary action.
- C. Training or remedial training conducted in conjunction with any form of discipline may be performed within the bureau/division where the subject employee is assigned or referred to any other training resources as deemed appropriate.

XX. DISCIPLINARY PROBATION/SUSPENSIONS

- A. If a subject employee is placed on Disciplinary Probation, the subject employee's Division Commander will inform the Office of Professional Standards upon the subject employee's successful completion of the probation or in lieu thereof, recommended alternate disciplinary action.
- B. The Office of Professional Standards will notify the subject employee, through his/her chain of command, of any change in probationary status.
- C. Suspension of Exempt Employees – Deductions from pay of exempt employees may be made for unpaid disciplinary suspensions for one (1) or more full days imposed in good faith for infractions of workplace conduct rules.
- D. For additional information on Disciplinary Probation and Disciplinary Suspensions, see ACSO 314 – Employment Status and Actions.

XXI. TERMINATION, EFFECTIVE DATE AND BENEFITS [PSCAP 3.6.8M]

- A. If a subject employee is terminated, he/she will be informed of the effective date of termination and reason(s) therefore on the Employee Notice of Disciplinary Action. [CFA 7.04 A & B; FCAC 7.02 A & B]
- B. The notice will also include the following:
 1. The status of any fringe and retirement benefits accrued at the time of termination.
 2. A statement as to the content of the subject employee's personnel record relating to the termination and response posture to any future pre-employment inquiries received by the ACSO.
 3. A statement related to the subject employee's right to submit information to his/her personnel file to refute or explain the reason for the dismissal. [CFA 7.04 C; FCAC 7.02 C]

XXII. FILES [CFA 7.05 & 20.01M D & E; FCAC 7.03 & 7.05M D & E] [PSCAP 3.6.9 M]

- A. All disciplinary files will be retained in a secured cabinet in the Office of Professional Standards. [PSCAP 1.4.10M] [CFA 20.01M F; FCAC 7.05M F]
- B. Annually, in accordance with ACSO Administrative Reports, ACSO 03-02, the OPS Captain will compile a statistical summary report of the ACSO internal affairs investigations for the previous calendar year.
- C. The report will be submitted to the Sheriff with a copy to the Accreditation Commander and made available to employees, the public and media, upon request. [PSCAP 1.4.11]
- D. All investigative documents related to an employee's sustained allegations of misconduct will be kept for five (5) anniversary years after final disposition.
- E. All investigative documents related to an employee's allegation(s) of misconduct that are subsequently not sustained, unfounded or exonerated will be kept for one (1) anniversary year after final disposition.

- F. The Administrative Investigation Report, ACSO 00-02, and the employee signed discipline paperwork will be filed in the employee's disciplinary file.
- G. An employee's disciplinary file will be kept in the Office of Professional Standards as long as they are employed with the Alachua County Sheriff's Office.
- H. Upon the employee's separation from the ACSO, the employee's disciplinary file will be forwarded to the Human Resources Bureau to become part of the employee's personnel file.
- I. All employee personnel files will be maintained and disposed of in accordance with the State of Florida's General Records Schedule for law enforcement agencies.

Composite Exhibit 2



ALACHUA COUNTY SHERIFF'S OFFICE
Sworn Allegation Sheet

Pursuant to Florida State Statute 112.532, Law enforcement officers' and correctional officers' rights, the following information is presented for your review prior to the taking of your statement:

You will be questioned in reference to the following allegation(s):

Insubordination to Major Yaeger. Subject employee interview is not required.

Complaint and/or Witness Statement(s):

1. Complaint (one page) by Major J. Lance Yaeger alleging Capt. Rebecca Butscher was insubordinate.
2. Statement by Capt. Behl.
3. Statement by Capt. Levy.

Documentation Acquired During the Investigation:

1. Counseling session dated Feb. 13, 2023 involving Capt. Butscher.
2. Electronic mail from Capt. Rebecca Butscher to Major J. Lance Yaeger.
- 3.

COPY

Signature:

ORIGINAL LEFT WITH
YAEGER

Date/Time:

2-22-23

Note:

Your signature acknowledges that you have been advised of the allegation(s) listed and have been given the opportunity to review the listed complaint, witness statement(s) and/or evidence.



ALACHUA COUNTY SHERIFF'S OFFICE
Complaint Intake Form

COMPLAINANT'S INFORMATION			
NAME	Major J. Lance Yaeger	PHONE #	352-367-4061
ADDRESS	2621 SE Hawthorne Rd. Gainesville, FL 32641		

ACSO EMPLOYEE(S) INVOLVED IN INCIDENT	Capt. Rebecca Butscher
DATE and TIME OF INCIDENT	February 13, 2023 11:30

COMPLAINT – Brief description of the incident to include when and where the alleged conduct violation(s) took place.

During a counseling session, Capt. Rebecca Butscher was insubordinate to Major Yaeger.

I swear or affirm that the information I have provided in this statement is the truth and nothing but the truth.

SIGNATURE		DATE	02 14 23
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COPY



ALACHUA COUNTY SHERIFF'S OFFICE
Administrative Investigation Witness Statement Form

TRACKING NUMBER	2023-00036	DATE ASSIGNED	02 / 14 / 23
INVESTIGATING SUPERVISOR	Major Lance Yaeger	DATE OF INCIDENT	02 / 13 / 23
ALLEGED VIOLATION OF DIRECTIVE 353.V	A.7 Insubordination		
WITNESS	Captain Jayson Levy	ID #	0190

You must understand that all information concerning this investigation is to remain confidential until the case becomes public record.

I do understand that this investigation is confidential. Intl. 

ID#	0190	DATE	02 / 15 / 23
-----	------	------	--------------

WITNESS STATEMENT– Detailed and truthful description of the incident.

On February 13, 2023 I was asked by Captain Butscher to accompany her in a meeting with Major Yaeger in his office. Upon entering the office, Major Yaeger and Captain Behl were inside. Captain Butscher sat in an open chair and I stood at the file cabinet next to the door.

Major Yaeger started the conversation to inform Captain Butscher about a discussion from the Command Staff Meeting on February 7th and felt that Captain Butscher was slightly aggressive towards him and felt her non-verbal and verbal communications were disrespectful from her position as a captain to his of a major.

Major Yaeger stated he was going to document this in a corrective counseling session. Captain Butscher scooted her chair up to his desk to accept the paperwork to review it. Major Yaeger stated he would read it to her, and Captain Butscher stated she could read it for herself. Major Yaeger stated he would read it to her and did. After reading it he gave it to Captain Butscher to review and sign. Captain Butscher read it, signed it, and asked for a copy. Major Yaeger exited his office to make a copy for Captain Butscher to take with her.

Upon returning, Major Yaeger sat down and began the conversation again by stating he wanted this working relationship to be a professional one. Major Yaeger stated that even though he is not in Captain Butcher's direct chain of command, he is a Major and she is a Captain and respect needs to flow both ways. Major Yaeger gave Captain Butscher a copy of the Corrective Counseling Session and we both left the Major Yaeger's office.

During the time of this meeting, Captain Butscher was already upset prior to walking in Major Yaeger's office. It is my understanding there is some past issues between both Captain Butscher and Major Yaeger. During the meeting I don't feel that Captain Butscher was being insubordinate, but upset with the situation. There was other issues going on in the near time frame with transfers and poor communication that Captain Butscher felt Major Yaeger did when Captain Butscher was the PIO.

I swear or affirm that the information I have provided in this written statement is the truth and nothing but the truth.

SIGNATURE	Jayson Levy Digitally signed by Jayson Levy Date: 2023.02.15 08:22:01 -05'00'	ID #	0190	DATE	02 / 15 / 23
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COPY



ALACHUA COUNTY SHERIFF'S OFFICE
Corrective Counseling Session

DATE: 02-13-23

TIME: 11:30

TO: Capt.R. Butscher
(Affected Employee)

FROM: Major L. Yaeger
(Supervisor)

RE: Communication with Superiors
(Nature of Incident)

A counseling session was conducted with the above employee regarding the following incident :

Prior to February 7, 2023, on more than one occasion, I visited you in your office in an attempt to address any perceived conflicts in order to strengthen professional relationships.

On February 7, 2023 while sharing information with Chief Inspector Jenkins and yourself regarding a noteworthy arrest, your non-verbal communication and tone of voice indicated you were displeased with having to converse with me. Despite that conversation being very brief, you interrupted me several times to make unnecessary comments.

On February 8, 2023, you sent me an electronic mail in an attempt to set your personal expectation(s) of me as a Major.

A Deputy Sheriff assigned to the Court Security Bureau is prohibited from being insubordinate to a Sergeant assigned to the Uniform Patrol. This same applies for a Captain and Major regardless of the Departments in which they serve.

The ACSO expects you will treat all employees with respect. It is my expectation that you will treat your superiors, me included in a respectful manner at all times.

Future occurrences will result in progressive discipline pursuant to ACSO Policy.

Capt. L. Butscher 113 2-13-23

Employee Signature

Major L. Yaeger #386

Supervisor Signature

COPY

Additional Comments:

[Empty box for additional comments]



ALACHUA COUNTY SHERIFF'S OFFICE
Administrative Investigation Response Form

TRACKING NUMBER	2023-00036	DATE ASSIGNED	02 / 14 / 23
INVESTIGATING SUPERVISOR	Major J. Lance Yaeger	DATE OF INCIDENT	02 / 13 / 23
ALLEGED VIOLATION OF DIRECTIVE 353.V	A.7 Insubordination		
ACCUSED EMPLOYEE	Capt. Rebecca Butscher	ID#	0173

This investigation is strictly administrative in nature. You are entitled to certain rights under FSS 112, one of which is to have your statements audibly recorded. Since you are being ordered to respond to a formal complaint/allegation of misconduct against you, you may write your sworn statement below in lieu of a recorded interview. All of your statements must be complete and truthful. No statement you give can be used against you in a criminal proceeding unless it is found to be untruthful.

I do <input type="checkbox"/> I do not <input type="checkbox"/>	agree to provide a written statement in lieu of a recorded interview. Intl.	ID#	DATE	/ /
---	---	-----	------	-----

You must understand that all information concerning this investigation is to remain confidential until the case becomes public record. If you divulge any information prior to it becoming public record, you may be in violation of ACSO Directive 353.V.A.12 - Communication or Imparting Confidential Information.

I do understand that this investigation is confidential. Intl. _____	ID#	DATE	/ /
--	-----	------	-----

IN DMS LOOK UP "RESPONSE FORM" (ACSO 00-02B) THAT CAN BE EMAILED SEPARATELY

COMPLAINT RESPONSE- Detailed and truthful description of the incident.

Type response here

24 HRS
PREFERRED
IF MORE TIME
NEEDED EMAIL
WILL PROVIDE
RECORDING

Under penalty of perjury, I do solemnly swear or affirm that the facts I have stated herein are true.			
SIGNATURE	ID #	DATE	/ /



ALACHUA COUNTY SHERIFF'S OFFICE
Addendum to Administrative Investigation Response Form

COMPLAINT RESPONSE CONTINUED

[Empty response area]

Yaeger, Lance

From: Yaeger, Lance
Sent: Wednesday, February 8, 2023 1:38 PM
To: Butscher, Becky
Cc: Johns, Amber
Subject: FW: Jail awards
Attachments: 2023.0207.Jail Awards 2021-present.pdf

Schedule an appointment through Amber Johns to meet with me this week.

Major Lance Yaeger
Department of Support Services
Alachua County Sheriff's Office
2621 SE Hawthorne Rd., Gainesville, FL 32641
Cellular (352) 260-7588
Office (352) 367-4061



From: Butscher, Becky <bbutsche@alachuasheriff.org>
Sent: Wednesday, February 8, 2023 10:16 AM
To: Yaeger, Lance <lyaeger@alachuasheriff.org>
Cc: Behl, Kaley <kbehl@alachuasheriff.org>; Barreca, Courtney <cbarreca@alachuasheriff.org>
Subject: FW: Jail awards

Major Yaeger,

When making requests for awards or any information that is maintained or managed within the Public Information Office, I expect to be copied and or notified of such requests so that I do not receive notification such as this after the fact when copied by my Administrative Assistant. Your consideration will be greatly appreciated.

Captain Becky Butscher
Public Information Officer
Cell: 352-260-3768
Office: 352-367-4041

COPY

"Service to the Community First. Commitment to the Employees Always."

From: Yaeger, Lance <lyaeger@alachuasheriff.org>
Sent: Tuesday, February 7, 2023 4:55 PM
To: Keith, Dorian <dkeith@alachuasheriff.org>; Scott, Chad <cscott@alachuasheriff.org>; DeCoursey, Joel

<idecourseyjr@alachuasheriff.org>; Rush, Jacob <jrush@alachuasheriff.org>; Watson, Clovis Jr.
<cwatsonjr@alachuasheriff.org>
Cc: Barreca, Courtney <cbarreca@alachuasheriff.org>; Compton, Laura <lcompton@alachuasheriff.org>; Forgey, Arthur
<aforgey@alachuasheriff.org>; Butscher, Becky <bbutsche@alachuasheriff.org>
Subject: FW: Jail awards

Team,

The below and attached is pretty impressive if you ask me. Looks like the fine men and women at the ASO DOJ saved a lot of lives.

Major Lance Yaeger
Department of Support Services
Alachua County Sheriff's Office
2621 SE Hawthorne Rd., Gainesville, FL 32641
Cellular (352) 260-7588
Office (352) 367-4061



From: Odom, Katheryn <kodom@alachuasheriff.org>
Sent: Tuesday, February 7, 2023 1:56 PM
To: Yaeger, Lance <lyaeger@alachuasheriff.org>
Cc: Behl, Kaley <kbehl@alachuasheriff.org>
Subject: Jail awards

COPY

Good afternoon Major Yaeger,

The list you requested from Captain Behl regarding jail employees who received awards from January 2021 to present is below. The nominations/certificate copies for them are attached.

3/15/21	Lifesaving Award	Detention Officer	Robert	Baker
5/4/21	Lifesaving Award	Detention Officer	Robert	Baker
10/10/22	Lifesaving Award	Detention Officer	Shawn	Boyette
10/20/21	Lifesaving Award	Detention Officer	Johnny	Carr
10/10/22	Lifesaving Award	Detention Officer	Johnny	Carr
5/4/21	Lifesaving Award	Detention Officer	Brian	Corbett
10/20/21	Lifesaving Award	Detention Officer	Victor	Diaz
3/14/22	Lifesaving Award	Detention Deputy	Johnny	Echeverri
3/14/22	Lifesaving Award	Detention Officer	Vincent	Edmonds

7/21/21	Lifesaving Award	Detention Officer	Jonathan	Hardin
7/21/21	Lifesaving Award	Detention Officer	Malcolm	Kirtsey
10/14/21	Lifesaving Award	Detention Officer	Thomas	Knowles
10/20/21	Lifesaving Award	Detention Officer	Joseph	Kutner
5/12/21	Lifesaving Award	Detention Officer	Bradley	Miles
5/12/21	Lifesaving Award	Detention Officer	Anthony	Perez
3/14/22	Lifesaving Award	Detention Lieutenant	Glen	Stanley
7/21/21	Lifesaving Award	Detention Officer	Joseph	Stasio
5/12/21	Lifesaving Award	Detention Deputy	Joshua	Wallace
3/14/22	Lifesaving Award	Detention Sergeant	Joshua	Wallace

Additionally, Detention Officers Stasio, Kirtsey, and Hardin were chosen as the 2021 Employees of the Year for the actions that they received Lifesaving Awards for.

Kathryn Odom, Administrative Specialist

Public Information Office

Policy & Accreditation Unit

Alachua County Sheriff's Office

Office Hours: Monday - Thursday 7:00 am to 5:00 pm

☎ (352) 367-4046 | ✉ kodom@acso.us

COPY



ALACHUA COUNTY SHERIFF'S OFFICE
Administrative Investigation Witness Statement Form

TRACKING NUMBER	2023-00036	DATE ASSIGNED	02 / 14 / 23
INVESTIGATING SUPERVISOR	Major Lance Yaeger	DATE OF INCIDENT	02 / 13 / 23
ALLEGED VIOLATION OF DIRECTIVE 353.V	A.7 - Insubordination		
WITNESS	Captain Kaley Behl	ID #	0294

You must understand that all information concerning this investigation is to remain confidential until the case becomes public record.

I do understand that this investigation is confidential. Int. KB ID# 0294 DATE 02 / 14 / 23

WITNESS STATEMENT– Detailed and truthful description of the incident.

On February 13, 2023, Major Lance Yaeger asked me to be a witness to a corrective counseling session that he was conducting with Captain Rebecca Butscher. I went down to his office and seated myself in the corner of the room. Major Yaeger asked Administrative Specialist Amber Johns to call Captain Butscher and ask her to come down to his office. Shortly thereafter, Captain Butscher arrived, along with Captain Jayson Levy. Captain Butscher announced that she was bringing Captain Levy into the meeting as a witness. Major Yaeger told Captain Butscher that I was present as a witness, to which she replied, "You have your witness, I have mine." She also stated that she had previously spoken with Colonel Chad Scott and he told her that she didn't have to speak to Major Yaeger.

Major Yaeger shut the door to his office and took his seat. Captain Levy stood against the wall for the entire meeting while Captain Butscher and I sat in the available chairs. Captain Butscher asked Major Yaeger if she had been called down to his office due to a disciplinary matter and Major Yaeger explained it was for a corrective counseling. He took a prepared corrective counseling form and told Captain Butscher that he was going to read it out loud to her. She quickly responded that she could read it for herself and didn't need him to read it to her. Major Yaeger replied by outlining how the meeting was going to occur. He stated that he was going to read the corrective counseling to her and that he would then provide it to her and she could at that point read it for herself if she chose to do so. Major Yaeger then began reading the corrective counseling, which was related to previous interactions he had experienced with her where he considered her tone, demeanor, body language and verbiage to be disrespectful and unprofessional. When he reached a sentence with the words "Court Security," Captain Butscher immediately interrupted and declared that Court Security had nothing to do with her chain of command as if it were irrelevant. Major Yaeger told Captain Butscher not to interrupt him and said that they could have a conversation about the language in the corrective counseling after he was finished. During the meeting, Major Yaeger acknowledged that there had been previous friction/animosity between the two of them, and while he understood that she may not like or respect him as a person that she should still be respectful and professional of the superior rank (Major) in a work environment. Captain Butscher stated that that respect worked both ways and that she intended on having a meeting with the Sheriff, but that Major Yaeger "got to him first." Major Yaeger stated that he wanted the corrective counseling to be the end of the negative interactions, but seemed concerned based on her demeanor during the meeting that it was only going to continue.

After Major Yaeger finished reading the document, he gave it to Captain Butscher. She read it and signed it and asked if "that was all" and Major Yaeger replied yes. Captain Butscher stood up with the form in hand and turned to open the door and leave. Major Yaeger told her to wait because he needed the form back so that he could make her a copy. Captain Butscher gave him the form and he made a copy and returned it. Major Yaeger dismissed us, so we left his office, which concluded the meeting.

I swear or affirm that the information I have provided in this written statement is the truth and nothing but the truth.

SIGNATURE	Captain Kaley Behl	Digitally signed by Captain Kaley Behl DN: cn=Captain Kaley Behl, o=Alachua County Sheriff's Office, ou, email=kbehl@alachuasheriff.org, c=US Date: 2023.02.14 17:37:29 -05'00'		ID #	294	DATE	02 / 14 / 23

COPY



ALACHUA COUNTY SHERIFF'S OFFICE
Addendum to Administrative Witness Statement Form

WITNESS STATEMENT CONTINUED

While I do not know the intimate details of why Major Yaeger and Captain Butscher do not get along, it is no secret that they do not appear to like each other. I also understand that Captain Butscher is likely under a high degree of stress because of several factors such as staffing shortages experienced in Patrol Operations and a high degree of organizational changes, such as only being in the PIO role for a couple of weeks. We are all human and at times, can react negatively, even in what should be a professional environment.

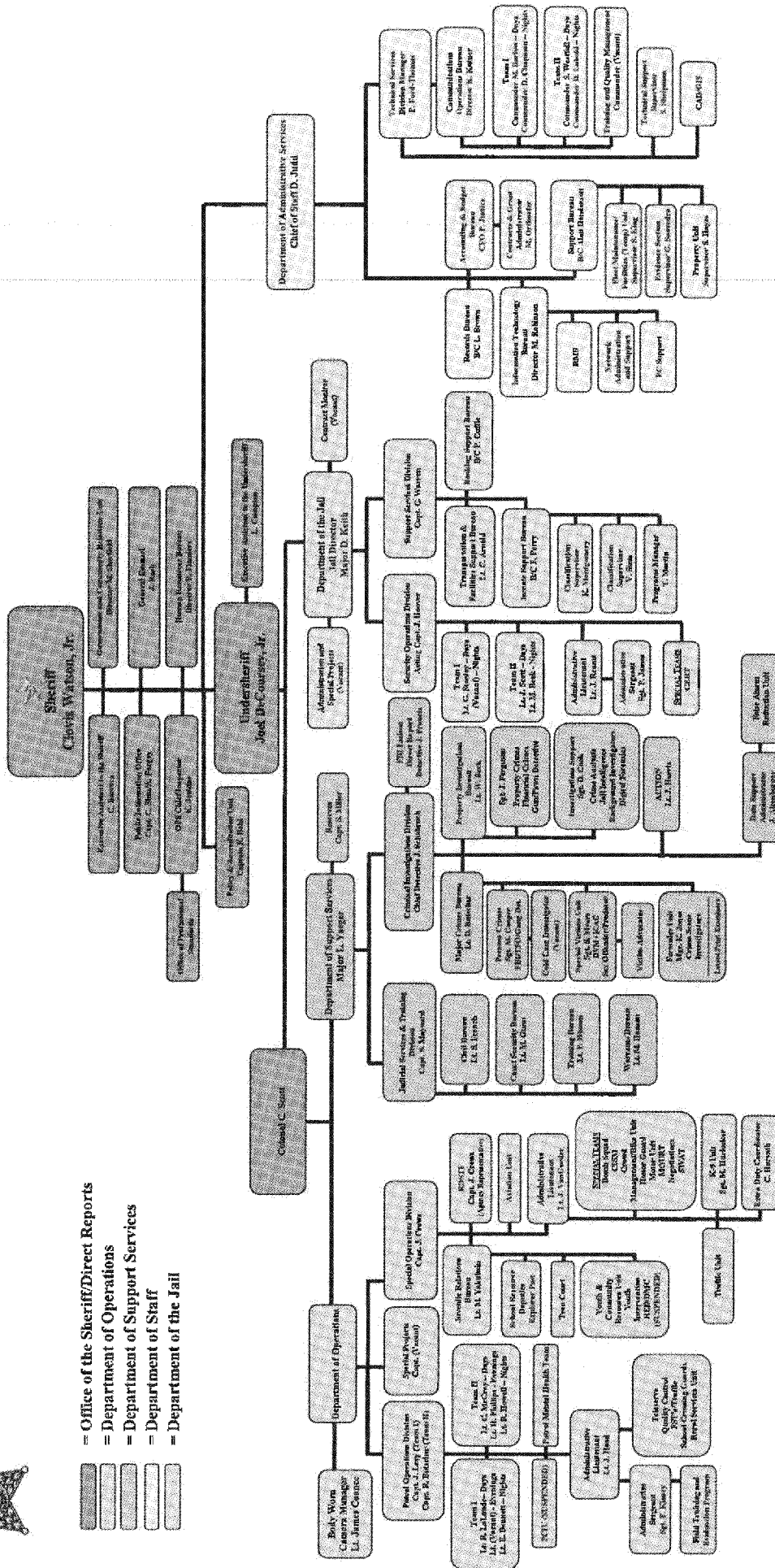
However, I also believe that the Sheriff holds his Command Staff to a higher level of authority and responsibility. We are required to be polite and professional and have the ability to set aside personal feelings in order to interact in respectful way, even if others do not. Captain Butscher did not overtly refuse to sign or comply with Major Yaeger's corrective counseling. However, I did not consider Captain Butscher's verbiage, demeanor, tone and body language during the meeting to be at all professional or respectful of his superior rank or position.

Composite Exhibit 3



ALACHUA COUNTY SHERIFF'S OFFICE
Organizational Chart

- = Office of the Sheriff/Direct Reports
- = Department of Operations
- = Department of Support Services
- = Department of Staff
- = Department of the Jail





ALACHUA COUNTY SHERIFF'S OFFICE
002 – Organizational Structure

PUB: 02/16/23
STATUS: Current

- I. **EFFECTIVE DATE:** January 15, 2023
RESCINDS: ACSO 002 of August 28, 2022
- II. **SCOPE AND PURPOSE** – This directive applies to all Alachua County Sheriff's Office (ACSO) employees and describes the organizational structure of the ACSO.
- III. **DISCUSSION** – The Sheriff has developed certain organizational guidelines designed to enhance the operational efficiency of the ACSO. Should other organizational structures be required within the ACSO, other components may be created if they do not conflict with this directive. The organizational chart depicting the organizational structure of the ACSO will be reviewed and updated as needed. The organizational chart is available to all ACSO employees through PowerDMS and the ACSO website, <https://acso.us/organization/>. [CFA 1.01, FCAC 1.01] [PSCAP 1.1.1M]
- IV. **POLICY** – With the exception of a small number of employees reporting directly to the Office of the Sheriff, the ACSO is divided into four (4) Departments: Operations, Support Services, Jail and Administrative Services. The Departments of Support Services and the Jail are commanded by Directors with the rank of Major. The Department of Operations and Support Services report directly to the Colonel. The Major/Director of the Jail reports directly to the Undersheriff. The Department of Administrative Services is commanded by the Chief of Staff who reports directly to the Sheriff. Each Department is made up of several divisions with the exception of the Department of Administrative Services that is made up of one (1) division and several bureaus. Each division is commanded by a Captain, Chief Detective (CID) or a civilian equivalent that is referred to as Division Commander or Division Manager. Each Division Commander, Division Manager or Chief Detective reports to the Major/Director/Chief of Staff of their respective department, except for the Division Commanders organized within the Department of Operations who report to the Colonel. Divisions may be composed of one (1) or more bureaus commanded by a Lieutenant or civilian equivalent and who may be referred to as Bureau Commanders or Bureau Chiefs. Bureaus may be divided into sections, units or squads and commanded by Sergeants or civilian equivalents. [PSCAP 2.1.2M c]
- V. **FORMS**
Organizational Chart, ACSO 05-08
- VI. **ORGANIZATION**
 - A. **Office of the Sheriff**
 1. Report directly to the Sheriff:
 - a. Undersheriff – Responsible for:
 - i. Executive Assistant to the Undersheriff
 - ii. Colonel – Responsible for:
 - (A) Department of Operations

- (B) Department of Support Services
- iii. Department of the Jail
- b. Executive Assistant to the Sheriff
- c. Director of Government and Community Relations Unit
- d. Chief Inspector [PSCAP 1.4.2M]
 - i. Commands the Office of Professional Standards
 - (A) Staffed by Inspectors and Staff Support personnel who perform the following functions for the Sheriff:
 - (1) Internal investigations
 - (2) Staff inspections and audits
- e. Chief of Staff
 - i. Commands the Department of Administrative Services
- f. Public Information Office
 - i. Performs media and public relations for the Sheriff and on an agency-wide basis,
 - ii. Oversees the Crime Prevention Bureau, and
 - iii. Maintains the ACSO webpage.
- g. Policy and Accreditation Unit
 - i. Policy Unit – Responsible for:
 - (A) Research, development and approval process of new and revised directives
 - (B) Management of the Directive Management System (DMS)
 - (C) Furnishing information and policies the Records Bureau for public information requests
 - ii. Accreditation Unit – Responsible for:
 - (A) Maintenance of CFA Accreditation Process (Law Enforcement)
 - (B) Maintenance of FCAC Accreditation Process (Corrections)
 - (C) Maintenance of the Administrative Reporting System
- h. General Counsel
- i. Human Resources Bureau – Responsible for coordinating:
 - i. Employment Management
 - (A) Recruitment
 - (B) Selection
 - (C) Appointments
 - (D) Transfers
 - (E) Promotions
 - (F) Separations

- (G) Employee Benefits
- (H) Other Human Resource Matters
- ii. Risk Management
 - (A) Recommends implementation of programs to reduce hazards and work-related injuries and accidents. [PSCAP 1.2.1M]

B. Department of the Jail

1. Commanded by the Director of the Jail with the rank of Major, who reports to the Undersheriff and is responsible for the following:
 - a. Support Services Division
 - b. Security Operations Division
 - c. Administration and Special Projects
 - d. Administrative Specialist
2. Support Services Division
 - a. Responsible for support services for the jail including:
 - i. Booking Support Bureau
 - (A) Security and Classification support
 - (1) Bookings and warrant processing
 - (2) File maintenance
 - (3) Fingerprint coordination and criminal history verification
 - (4) Inmate property and money
 - (5) Court coordination and preparation of calendars
 - (6) Release processing/verification
 - (7) Archives and public record requests
 - (B) Registration Office (Hours of operation: Monday-Friday, 1100-1900)
 - (1) Registrations for felons and career offenders
 - (2) Registrations and re-registrations for sex offenders/predators
 - (C) Civilian Lobby Team
 - (1) Perform lobby-related administrative tasks
 - (2) Daily visitation coordination, facility and inmate mail
 - (3) Receptionist duties
 - ii. Inmate Support Bureau
 - (A) Classification Unit
 - (1) Responsible for inmates' housing and levels of control determined by:
 - (a) Counseling
 - (b) Interviewing
 - (B) Programs Unit

- (1) Program Manager
 - (a) Organizes and facilitates programs for the inmates
- (2) Jail Diversion Specialist
 - (a) Screening inmates referred to the Criminal Justice, Mental Health, Substance Abuse Reinvestment program
 - (b) Arranging mental health and substance abuse services with community providers, for inmates eligible for release and in need of these services
- (3) Jail Release Coordinator
- (4) Chaplain/Volunteer Services
 - (a) Provides spiritual counseling
 - (b) Coordinates chaplaincy volunteer programs
- iii. Transportation and Facilities Support Bureau
 - (A) Transportation Unit – Responsible for the transportation of inmates to:
 - (1) Court
 - (2) Outside medical appointments
 - (3) Other authorized locations
 - (B) Facilities Services Unit – Responsible for jail institutional supply:
 - (1) Ordering
 - (2) Receiving
 - (3) Warehousing
 - (4) Distributing
 - (5) Laundering of inmates':
 - (a) Personal and issued clothing
 - (b) Linen and bedding
 - (6) Coordinating all:
 - (a) Sheriff's Inmate Work Crew
 - (b) Food service work
 - (c) General inmate labor
 - (d) Key control
 - (e) Facility inspections
 - (C) Kitchen Security Section – Responsible for security in food service areas

3. Security Operations Division

- a. Responsible for all aspects of the inmates':
 - i. Care
 - ii. Custody

- iii. Control
 - b. Consists of two (2) teams pertaining to a 12-hour day work schedule:
 - i. Team I
 - ii. Team II
 - c. Each Team has two (2) shifts:
 - i. Night Shift: 1900 to 0700 hours
 - ii. Day Shift: 0700 to 1900 hours
 - d. Cell Extraction Response Team (CERT)
- 4. Administration and Special Projects Captain
 - a. Reports directly to the Director of the Jail
 - b. Handles the designation of special projects by the Director of the Department of the Jail.
- 5. Contract Monitor
 - a. Responsible for the administrative oversight of contracts with the Department of the Jail which includes but it not limited to:
 - i. Medical
 - ii. Food Service
 - iii. Commissary
 - b. Administrative oversight of such contracts includes:
 - i. Adherence to applicable state and federal law, agency policy, Florida Model Jail Standards and accreditation standards.
 - ii. Handling of complaints related to contract vendors
 - iii. Contract renewals, requests for proposals (RFP's) and/or transmittals,
 - iv. Billing monitoring

C. Department of Operations

- 1. Reports to the Colonel and contains the following Divisions and functions:
 - a. Patrol Operations Division
 - b. Special Operations Division
 - c. Body Worn Camera Manager
- 2. Patrol Operations Division
 - a. Patrol Operations Commanders – Responsible for:
 - i. First response to calls for service
 - ii. Preliminary and follow-up investigations
 - iii. Preventative patrol
 - iv. General law enforcement duties
 - v. Traffic enforcement
 - vi. Vice and narcotics enforcement

- vii. Quality Control
- viii. Teleserve – Responsible for:
 - (A) Calls for service by phone
 - (B) Missing person preliminary follow-up investigations
- ix. Field Service Technicians/Traffic
- x. School Crossing Guards
- b. Each district consists of two (2) teams pertaining to a twelve (12) hour day work schedule with one (1) eight (8) hour day per pay period:
 - i. Team 1
 - ii. Team 2
 - iii. Each Team has three (3) shifts:
 - (A) Day Shift: 0600 to 1800 hours
 - (B) Evening Shift: 1400 to 0200 hours
 - (C) Night Shift: 1800 to 0600 hours
- c. Patrol Criminal Interdiction Unit (PCIU) (Suspended)
- d. Rural Services Unit
- e. FTD's
 - i. Field Training Programs
 - (A) A standardized Field Training Deputy program is used to provide consistency to the field training of deputy trainees
 - (B) A Field Service Technician program is used to assist the agency in conducting investigations/interviews, traffic crashes, etc., either independently or as part of a coordinated effort with a deputy sheriff
 - (C) Supervisor Training programs are provided for sworn/certified staff as determined by the agency within one (1) year of their promotion to first line supervisors.
- f. Patrol Operations Mental Health Team

3. Special Operations Division

- a. Special Operations Commander – Responsible for:
 - i. Juvenile Relations Bureau – Responsible for:
 - (A) School Resource Deputies
 - (B) Explorer Post
 - (C) Teen Court
 - ii. Youth and Community Resource Unit (Suspended)
 - (A) Racial and Ethnic Disparity (RED), Disproportionate Minority Confinement (DMC) and Youth Dialog Initiatives
 - iii. Aviation Unit – Provides air support
 - iv. Extra Duty Coordinator

- v. K-9 Unit
 - (A) Performs:
 - (1) Search and tracking missions
 - (2) Bombs and explosives searches
 - (3) Clearing of buildings
 - (4) Other K-9 functions
 - (B) K-9 deputies are assigned to teams and shifts of the Special Operations Division.
 - (1) The K-9 unit supervisor is responsible for:
 - (a) Training
 - (b) Administrative functions

vi. Traffic Unit

vii. Regional Domestic Security Task Force (RDSTF) Agency Representative

viii. Special Teams

- (A) Bomb Squad
- (B) CISM
- (C) Crowd Management/Bike Unit (CMT)
- (D) Honor Guard
- (E) Marine Operations/Underwater Recovery Team (MO/URT)
- (F) Motor Unit
- (G) Negotiations Response Team (NRT)
- (H) Mental Health Team (Patrol Operations)
- (I) Special Weapons and Tactics (SWAT)

4. Body Worn Camera Manager – Facilitates and manages the body worn camera program.

5. Special Projects Captain

D. Department of Support Services [PSCAP 2.1.2M c]

1. Commanded by the Director of the Department of Support Services with the rank of Major who is responsible for the following Divisions and Bureaus:

- a. Criminal Investigations Division
- b. Judicial Services and Training Division
- c. Reserve Unit – See ACSO 165 – Reserve Unit for further information.

2. Criminal Investigations Division

- a. Major Crimes Bureau – Responsible for:
 - i. General follow-up investigations
 - ii. All major criminal investigations
 - iii. It is divided into the following sections:

- (A) Persons Crimes – Responsible for investigating:
 - (1) Homicides
 - (2) Robberies
 - (3) Other personal crimes
 - (4) Cold Case Investigator
 - (a) Responsible for investigating cold cases
- (B) Special Victims Unit
 - (1) Responsible for investigating crimes that involve special victims follow up including:
 - (a) Domestic Violence/Mediation
 - (b) TF/ICAC Unit/Child Sexual Predator
 - (c) Sexual Offender/Predator Tracking
 - (d) Sexual Battery
 - (e) Sex Offenders
 - (f) Child Abuse
 - (g) Some crimes against the elderly
 - (2) Victim Advocates
 - (a) Victims Services Unit
 - (b) Community Outreach
 - (c) Special Projects
- (C) Forensics Unit – Responsible for:
 - (1) Collection, documentation and analysis of physical evidence identified in major crime scenes.
 - (2) Assisting in photography and collection of digital and Forensic evidence in search warrants.
 - (3) Attending autopsies.
 - (4) Providing Forensic testimony in depositions and trials.
 - (5) Conducting NIBIN testing on firearms retained by the Sheriff's Office.
 - (6) Maintaining fingerprint records database on all persons arrested in Alachua County.
 - (7) Processing and comparing latent prints collected from crime scenes.
 - (8) Maintaining all photographic records of crime scenes investigated by the Sheriff's Office.
 - (9) Conducting crime scene processing training for all CST/FST's and local agencies.
 - (10) Providing liaison between the Sheriff's Office and Florida Department of Law Enforcement Forensic Labs.

(11) Providing assistance to outside agencies with collection, documentation and analysis of physical evidence with their crime scenes when requested.

- b. Property Investigations Bureau – Responsible for:
 - i. Property and Financial Crimes – Responsible for investigating crimes in Alachua County involving:
 - (A) Burglaries
 - (B) Larcenies
 - (C) Credit Card Fraud/Forgeries and other financial crimes
 - (D) Pawn/Firearms
 - (E) Other criminal acts involving property
 - ii. Investigations Support Unit – Includes:
 - (A) Crime Analyst
 - (B) Jail Intelligence
 - (C) Background Investigations
 - (D) Digital Forensics
- c. Alachua County Traffic Interdiction Organized Narcotics (and Violent Crimes Unit) (ACTION) – Responsible for:
 - i. Criminal Narcotics Investigations
 - ii. Criminal Vice Operations Activity
- d. FBI JTTF Liaison – Direct Report to Chief Detective
- e. Data Support Administrator
 - i. False Alarm Reduction Unit (FARU) – Responsible for:
 - (A) The administration of the Alachua County and the City of Gainesville False Burglar and Fire Alarm Ordinances.

3. Judicial Services and Training Division

- a. Civil Bureau – Responsible for:
 - i. Serving civil processes
 - ii. Executing enforceable and non-enforceable writs
- b. Court Security Bureau – Responsible for:
 - i. Providing bailiffs and building security for:
 - (A) The Alachua County Criminal Justice Centers
 - (B) Family Civil Courthouse
 - (C) Other county owned buildings
- c. Training Bureau – Responsible for:
 - i. Coordinating in-service and specialized training
 - ii. Agency liaison with the Santa Fe College Institute of Public Safety Academy

- d. Warrants Bureau – Responsible for:
 - i. Executing criminal arrest warrants
 - ii. Executing civil arrest orders
 - iii. Transporting prisoners
 - iv. Maintaining active arrest warrant information
 - v. Issuing criminal summons

E. Department of Administrative Services

1. Technical Services Division [PSCAP 1.1.1M 7 2.1.2M c]

- a. Communications Operations Bureau – Responsible for receiving and processing all calls for:
 - i. Public safety response
 - ii. Assistance
 - iii. Information
 - iv. CALEA PSCAP Communications Accreditation Process
 - v. Combined Communications Center
 - (A) Serves as the primary answering point for all 9-1-1 calls in Alachua County.
 - (B) Telecommunicators:
 - (1) Answer incoming telephone calls received on:
 - (a) 9-1-1 lines
 - (b) Administrative non-emergency lines
 - (c) Various other sources
 - (2) Are trained and certified to provide life-saving pre-arrival medical treatment instructions to callers as the first component of pre-hospital care prior to the arrival of fire-rescue responders.
 - (3) Classify and route calls via computer for dissemination to law enforcement and fire-rescue personnel.
 - (4) Research and provide criminal justice data to law enforcement responders to enhance the safe and effective handling of law enforcement incidents.
- vi. Training Quality Management Specialist – Responsible for:
 - (A) Communications Training – Responsible for:
 - (1) Coordination of employee training and all continuing education/certification requirements.
 - (2) Assisting the Human Resources Bureau with recruitment and selection activities.
 - (3) Promotional processes.
 - (B) Quality Assurance – Responsible for:
 - (1) Quality management and improvement

- (2) In-service training
- (3) Individual performance improvement plans
- (4) Trending and center-wide performance improvement
- (5) Maintenance of International Academies of Emergency Dispatch (IAED) Accreditations

b. Radio Systems Unit

- i. Supervised by the Technical Support Supervisor.
- ii. Controls the ACSO and Alachua County Board of County Commissioners' radio maintenance programs.
 - (A) Operational readiness of all radio communications equipment.
 - (B) Issuance of portable and mobile radios.
 - (C) Issuance of cellular telephones and administrative paging management.
- iii. Mobile Communications Vehicle
- iv. Combined Communications Center facility issues
- v. Coordinating operational readiness of back-up communications capabilities and equipment in cooperation with the CAD/GIS unit and the Information Technology Bureau

c. CAD/GIS Unit

- i. Manages the Computer Aided Dispatch system, including its map and reference information.
- ii. Provides research and statistical analysis of data stored in CAD.

2. Information Technology Bureau – Responsible for:

a. Network Administration and Support Unit – Responsible for:

- i. Evaluating, implementing and supporting the information technologies necessary for the various components of the ACSO to effectively perform their duties
- ii. The specification, acquisition and maintenance of all network components

b. PC Support – Responsible for:

- i. The specification, acquisition and maintenance of computer systems/hardware, software components and peripheral devices throughout the ACSO
- ii. Issuance and accountability of the agencies in-car laptops and maintenance of the system that supports them

c. Records Management System (RMS)

3. Accounting and Budget Bureau – Responsible for:

- a. All governmental accounting functions of the ACSO in accordance with Governmental Accounting Standards
- b. All functions related to:

- i. Payroll
 - ii. Accounts payable
 - iii. Accounts receivable
 - iv. Trust funds
 - v. Purchasing
 - vi. Contracts and Grants Administration
 - vii. Budget
 - c. Preparing the annual financial statements for the Auditor General
 - d. Hosting the annual external independent audit
4. Records Bureau – Responsible for criminal and juvenile records:
- a. Customer Service
 - i. Public Records Information
 - ii. Fingerprinting Services
 - iii. Notary Public Services
 - iv. Switchboard and Call Routing
 - v. Emergency Injunctions Services
 - vi. Countywide Courier Services
 - vii. Report Collection
 - viii. Compromised Identity and Criminal History Issues
 - b. FCIC/NCIC Information Management
 - c. Uniform Crime Reporting
 - d. Records Management
 - i. Receiving
 - ii. Storage
 - iii. Retrieval
 - iv. Disposal
5. Support Bureau
- a. Fleet Maintenance Unit
 - i. All aspects of acquiring, issuing and maintaining ACSO vehicles
 - ii. Installation and maintenance of associated equipment
 - b. Property/Facilities Unit – Responsible for:
 - i. Maintaining a central supply warehouse system for issued ACSO property and supplies with office locations in the ACSO Administrative Complex and the Department of the Jail
 - ii. Coordinating facility-related issues for the ACSO
 - iii. "Trusty" or pod workers for building and grounds maintenance

c. Evidence Section – Responsible for:

- i. Security and control of seized, recovered, and evidentiary property, as well as abandoned, lost, or found property, in the custody of the ACSO.**

Exhibit 4



(O) 352-639-4117 | (F) 352-639-4118
bobi@bfranklaw.com | bfranklaw.com
14839 Main Street Alachua,
Florida 32615

**Notice of Intentional Chapter 112 Violations Committed by Major Lance Yaeger- Tracking
Number 2023-00036**

On behalf of Captain Rebecca Butscher, this is your Formal Notice, pursuant to The Officers' Bill of Rights, of multiple Chapter 112, *Florida Statutes*, violations that you intentionally committed as the "Investigating Supervisor," investigation tracking number – 2023-00036. The named subject of the Administration Investigation is Captain Rebecca Butscher.

Pursuant to §112.534, Failure to Comply; Official Misconduct, the following procedures shall apply to this matter:

- (1) If any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the following procedures apply. For purposes of this section, the term "law enforcement officer" or "correctional officer" includes the officer's representative or legal counsel, except in application of paragraph (d).
 - (a) The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer's notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.
 - (b) If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer's refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.
 - (c) Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.
 - (d) Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed, unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances and facts surrounding the alleged intentional violation. The compliance review panel shall

be made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional officers who are active from the same law enforcement discipline as the officer requesting the hearing. Panel members may be selected from any state, county, or municipal agency within the county in which the officer works. The compliance review hearing shall be conducted in the county in which the officer works.

(e) It is the responsibility of the compliance review panel to determine whether or not the investigator or agency intentionally violated the requirements provided under this part. It may hear evidence, review relevant documents, and hear argument before making such a determination; however, all evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the officer. The investigative materials are considered confidential for purposes of the compliance review hearing and determination.

FACTUAL BASIS

On February 14, 2023, you completed a Complaint Intake Form listing yourself as the Complainant filing a charge of insubordination against Capt. Butscher.

VIOLATION

112.533 (1)(a) Every law enforcement agency and correctional agency shall establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall be the procedure for investigating a complaint against a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary.

112.533 (1)(b)(2)- [. . . W]hen a conflict is identified with having an investigator conduct the investigation of an officer of the same employing agency . . . or the agency's investigator is the subject of, or a witness in

ACSO Policy # 122- Disciplinary Procedures, Section XI (A)(1)-Complainants should be referred to the immediate supervisor of the subject employee. (3) The Supervisor will obtain a statement from the complainant. (5) Once the Complaint is received by ACSO, the subject employee's chain of command will either: a. Conduct the Administrative Investigation, or; b. Depending on the nature of the complaint, request OPS handle the investigation.

You listed yourself as the Complainant. Pursuant to Agency Policy, you should refer your own Complaint to Captain Butscher's direct Supervisor, which you are not. Equally, any reasonable interpretation of the statutory language cited above requires you to refrain from conducting any investigation in which you are also the complainant and witness. This is a direct conflict of interest. Finally, Captain Butscher's direct chain of command shall conduct the Administrative Investigation or request OPS to handle the investigation. You are not in Capt. Butscher's direct chain of command.

FACTUAL BASIS

On February 14, 2023, you completed a Complaint Intake Form listing yourself as the Complainant. You merely stated “[d]uring a counseling session, Capt. Rebecca Butscher was insubordinate to Major Yaeger.”

VIOLATION

§112.532(d)-The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.

You ordered Capt. Butscher to respond to you, in writing, within twenty-four hours. You have failed to properly advise Capt. Butscher regarding the nature of the investigation. She can’t properly respond to a mere statement that she was “insubordinate” without further advisement regarding her actions that are alleged to have been insubordinate. The Complaint Intake Form directs the complainant to provide a “[b]rief description of the incident to include when and where the alleged conduct violation(s) took place. Merely stating that Capt. Butscher was insubordinate to you is unreasonably vague and violates the intent of the legislature when drafting The Officers’ Bill of Rights.

FACTUAL BASIS

On February 22, 2023, you ordered Captain Butscher to your office. At which time, you handed her a packet of items including:

- Sworn Allegation Sheet
- Complaint Intake Form
- Administrative Investigation Witness Statement Form x 2
- Corrective Counseling Session
- Administrative Investigation Response Form
- Addendum to Administrative Investigation Response Form
- Email thread dated February 8, 2023

VIOLATION

112.533 (1)(a) Every law enforcement agency and correctional agency shall establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall be the procedure for investigating a

complaint against a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary.

§112.532(d)-The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.

ACSO Policy # 122-Disciplinary Procedures, Section XV (A)- When the subject employee is a law enforcement officer . . . the investigation will be conducted in accordance with "The Law Enforcement Officers' . . . Bill of Rights. (F.S.S. 112.532-112.535 sic). (B) An employee under an Administrative Investigation by OPS or a supervisor will be notified in writing via the Sworn Employee Notice of Administrative Investigation. ACSO 17-20A. The notification will contain the following: [CFA 20.02M; FCAC 7.06M] [PSCAP 1.4.6M] (1) The nature of the allegations, (2) The employee's rights and responsibilities relative to the investigation.

You failed to provide Capt. Butscher with the mandatory Notice, you failed to properly advise her of the nature of the allegations and, you failed to provide to her the applicable rights and responsibilities, all mandatory actions. The Complaint Intake Form directs the complainant to provide a "[b]rief description of the incident to include when and where the alleged conduct violation(s) took place. You also failed to provide her with all the evidence included in the "investigation" including the audio of the meeting held on February 22, 2023.

FACTUAL BASIS

On February 22, 2023, you ordered Capt. Butscher to your office. You ordered Capt. Butscher to provide to you a written statement in lieu of a recorded interview. Equally, on the Sworn Allegation Sheet you stated "subject employee interview is not required."

VIOLATION

§112.532(d)-The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being

informed of the right to review witness statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.

You do not have the authority to order Capt. Butscher to provide a written statement to you within twenty-four hours-it is her right to waive being formally questioned under oath, not yours. You also do not have the authority to waive Capt. Butscher's right to be questioned as the subject of the investigation-The Officers' Bill of Rights requires a fair and thorough investigation, as does CJSTC standards.

FACTUAL BASIS

On February 22, 2023, you ordered Capt. Butscher to your office. At which time you provided to her merely two (2) Administrative Investigation Witness Statement Forms.

VIOLATION

§112.532(d)-The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.

The statement by Captain Kaley Behl included the fact that "[Capt. Butscher] stated that she had previously spoken with Colonel Chad Scott and he told her that she didn't have to speak to Major Yaeger." This fact contained within the "investigation" clearly identifies Colonel Scott as a witness that shall be interviewed.

If you fail to cure the above identified intentional violations of Chapter 112, *Florida Statutes*, immediately, please advise the Agency Head of this Notice to cure same within three (3) working days. If all noticed violations are not cured, a Compliance Review Hearing shall be conducted within ten (10) working days of the date of this Notice.

PLEASE GOVERN YOURSELF ACCORDINGLY



Date:

February 23, 2023

Bobi J. Frank, Attorney at Law
Florida Bar No.: 0108889
Bobi@BFrankLaw.com

CAPTAIN *Rebecca Butcher* #173

Date:

2-23-23

Captain Rebecca Butcher #173
Alachua County Sheriff's Office

Exhibit 5



(O) 352-639-4117 | (F) 352-639-4118
bobi@bfranklaw.com | bfranklaw.com
14839 Main Street Alachua,
Florida 32615

On behalf of Captain Rebecca Butscher, this is your Formal Notice that a Compliance Review Hearing is being requested. Please see attached Notice of Intentional Chapter 112 Violations Committed by Major Lance Yaeger- Tracking Number 2023-00036 for the written notice of violations.

Pursuant to §112.534, Failure to Comply; Official Misconduct, the following procedures shall apply to this matter:

(1) If any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the following procedures apply. For purposes of this section, the term “law enforcement officer” or “correctional officer” includes the officer’s representative or legal counsel, except in application of paragraph (d).

(a) The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer’s notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.

(b) If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer’s refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.

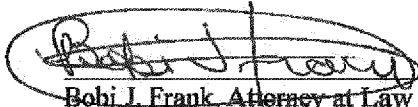
(c) Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.

(d) Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed, unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances and facts surrounding the alleged intentional violation. The compliance review panel shall be made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional

officers who are active from the same law enforcement discipline as the officer requesting the hearing. Panel members may be selected from any state, county, or municipal agency within the county in which the officer works. The compliance review hearing shall be conducted in the county in which the officer works.

(e) It is the responsibility of the compliance review panel to determine whether or not the investigator or agency intentionally violated the requirements provided under this part. It may hear evidence, review relevant documents, and hear argument before making such a determination; however, all evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the officer. The investigative materials are considered confidential for purposes of the compliance review hearing and determination.

Please advise which days are available over the next ten (10) working days to convene the Compliance Review Panel. Equally, please advise who the Agency has selected as its Panel Member.



Bobi J. Frank, Attorney at Law
Florida Bar No.: 0108889
Bobi@BFrankLaw.com

Date: February 27, 2023

Exhibit 6

Bobi Frank

From: Bobi Frank
Sent: Friday, March 3, 2023 12:11 PM
To: lyaeger@alachuasheriff.org
Cc: cwatsonjr@alachuasheriff.org
Subject: Compliance Review Hearing

Importance: High

Hello:

The deadline for the Compliance Review Hearing to be conducted in Captain Butscher's matter is Monday, March 13, 2023. I am available on 3/9 and 3/13. Please advise which day(s) work with your schedule to get this matter scheduled. Equally, please advise of the name of your selected Panel Member.

If you are working on curing the violations, please advise as such. Finally, if you are represented by Counsel in this matter, please forward this correspondence to that individual so that we may communicate.

Thank you, enjoy your day.

Bobi J. Frank
BOBI J. FRANK, P.A.
14839 Main Street
Alachua, Florida 32615
Office: 352-639-4117
Fax: 352-639-4118
BFrankLaw.com

BF BOBI J. FRANK PA

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Exhibit 7

Bobi Frank

From: Rush, Jacob <jrush@alachuasheriff.org>
Sent: Tuesday, March 7, 2023 5:09 PM
To: Bobi Frank
Cc: Barreca, Courtney
Subject: Compliance Review Request under Ch.112

Good afternoon,

The Sheriff has received a request from you for a Compliance Review Hearing under F.S. 112.534 in regard to the following employee:

- Capt. Rebecca Butscher

After review of your letter, Florida Statute, and applicable case law, I must conclude that your allegations and conclusions are mistaken and unfounded in law – none of which qualify for a Compliance Review Hearing.

Please consider this letter notice as required in F.S. 57.105 that your claims are not supported by material facts necessary to establish a claim for which relief may be granted by any court and therefore subject to sanctions for frivolous abuse of the court system pursuant to F.S. 57.105.

Regards,

Jacob A. Rush, Esq.
General Counsel, Alachua County Sheriff's Office
P.O. Box 5489, Gainesville, FL 32627-5489
2621 SE Hawthorne Road, Gainesville, FL 32641
Office: (352) 367-4024 / Fax: (352) 374-1801
jrush@alachuasheriff.org

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Composite Exhibit 8

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF ALACHUA


I, KEVIN DAVIS, being first duly sworn, do hereby state under oath and under penalty of perjury that the following facts are true and correct:

1. My full name is Kevin Davis I am over the age of eighteen (18) years. I have never been convicted of a felony or a crime of dishonesty.
2. I reside in Alachua County, Florida.
3. I am a 21-year sworn Law Enforcement Officer and I have been employed at Alachua County Sheriff's Office ("ACSO") for the entirety of my career.
4. I am currently employed at the ACSO, Patrol Division, with the rank of Sergeant.
5. On January 23, 2023, I was notified by Cpt. Chris Sims and Lt. David Butscher that I was placed under a formal Administrative Investigation-Tracking Number 2023-00010 ("AI").
6. On the same day I was again Noticed by one (1) other ACSO employee, Lt. Eric Hutchinson that I was under the AI. The name of the Complainant against me changed from the first Notice to the Second.
7. On March 2, 2023, I reviewed evidence contained within my AI, and identified a plethora of violations of my Officers' Bill of Rights. (Ch. 112, §§112.531-112.534, *Fla. Stats. (2023)*-collectively referred to as the Officers' Bill of Rights).
8. On March 6, 2023, I timely noticed Investigators Nancy Marzouk and Scott Anderson and Cpt. Kelvin Jenkins, in writing, required by the Officers' Bill of Rights, of the numerous violations of my rights.

9. On March 6, 2023, I also made sure that the multiple Notices were sent directly to Sheriff Clovis Watson, Jr., as well. (Officers' Bill of Rights).
10. Pursuant to the law, Investigators Marzouk and Anderson were supposed to cease all investigative activity against me, attempt to cure the violations, or participate in the convening of a Compliance Review Board. (Officers' Bill of Rights).
11. The Investigators improperly ignored my notice of their Officers' Bill of Rights violations, and have continued their investigation activities.
12. As of the writing of this Affidavit, Investigators Marzouk and Anderson and Sheriff Clovis Watson, Jr., have refused to participate in a Compliance Review Hearing.

After reasonable inquiry and to the best of my knowledge and belief, I certify that the foregoing is true and correct.

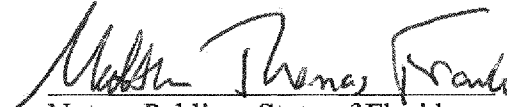
FURTHER AFFIANT SAYETH NOT

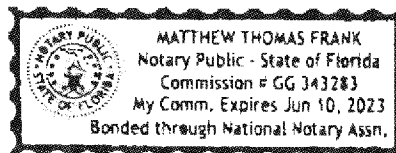


Kevin Davis
Affiant

STATE OF FLORIDA
COUNTY OF ALACHUA

THE FOREGOING INSTRUMENT was acknowledged before me this 13 day of March, 2023, by KEVIN DAVIS, who is personally known to me, or who produced Drivers License as identification in Alachua County, Florida


Notary Public – State of Florida
My Commission expires:





ALACHUA COUNTY SHERIFF'S OFFICE
 Sworn Employee Notice of Administrative Investigation

DATE: January 23, 2023

TRACKING #: 2023-00010

TO: Sergeant Kevin Davis #0437
 Subject Employee's Title, Name and ID #

COMPLAINANT: General Counsel Jacob Rush

An Administrative Investigation has been initiated by the Alachua County Sheriff's Office in reference to an allegation/complaint that you have possibly violated an Alachua County Sheriff's Office Directive.

Date, Location and Nature of Allegations:

On January 20, 2023 this office received a complaint that you are alleged to have committed unfavorable conduct and a violation of the agencies social media policy.

[Empty box for details of the investigation]

You will be notified when to appear at the Alachua County Sheriff's Office to answer questions fully and truthfully, and to present all information and/or evidence relevant to this inquiry when directed by the Inspector/Supervisor in charge of this investigation.

This proceeding will be administrative. Therefore, you are ordered to fully cooperate with the investigation. You are entitled to review the complaint, all interviews and evidence immediately prior to your interview. If you wish, you may have counsel or a representative of your choosing with you during questioning.

All information concerning this investigation is to remain confidential until the case becomes public record. If you divulge information prior to it becoming public record, you are in violation of ACSO Directive 353, V.A.12.

Upon completion of the investigation, you will be notified of the results and action, if any, to be taken.

CRF [Signature]
 Inspector/Supervisor's Print Name / ID
CHRISTOPHER N. STARS

CRF [Signature] 1-23-23
 Inspector/Supervisor's Signature Date

Subject Employee's Signature

Date

Distribution made by: _____
 Name/ID#

Date

Copies: Employee & Division Commander, Employee



ALACHUA COUNTY SHERIFF'S OFFICE
Sworn Employee Notice of Administrative Investigation

DATE: January 23, 2023

TRACKING #: 2023-00010

TO: Sergeant Kevin Davis #0437
Subject Employee's Title, Name and ID #

COMPLAINANT: Chief Inspector Kelvin Jenkins

An Administrative Investigation has been initiated by the Alachua County Sheriff's Office in reference to an allegation/complaint that you have possibly violated an Alachua County Sheriff's Office Directive.

Date, Location and Nature of Allegations:

On January 12, 2023 @ 0531hrs a post was made on the social media platform Facebook by you on your account. Your conduct may constitute violations of ACSO 353.V.C.14 - Unfavorable Conduct and ACSO 353.V.E.1 - Knowledge of Ordinances, Statutes and ACSO Directives as it relates to the social media policy.

You will be notified when to appear at the Alachua County Sheriff's Office to answer questions fully and truthfully, and to present all information and/or evidence relevant to this inquiry when directed by the Inspector/Supervisor in charge of this investigation.

This proceeding will be administrative. Therefore, you are ordered to fully cooperate with the investigation. You are entitled to review the complaint, all interviews and evidence immediately prior to your interview. If you wish, you may have counsel or a representative of your choosing with you during questioning.

All information concerning this investigation is to remain confidential until the case becomes public record. If you divulge information prior to becoming public record, you are in violation of ACSO Directive 353.V.A.12.

Upon completion of the investigation, you will be notified of the results and action, if any, to be taken.

Inspector/Supervisor's Printed Name / ID

Inspector/Supervisor's Signature

Date

Employee's Signature

Date

Supervisor

Date



ALACHUA COUNTY SHERIFF'S OFFICE Receipt of Agency Property

Affected Employee Name: Sergeant Kevin Davis ID#: 2437

Section 1 - Mandatory (As applicable) Supervisor - Check One: ORIGINAL COPY

Item	Quantity	Applicable Serial Numbers/Key Numbers
<input checked="checked" type="checkbox"/> Handgun/Blowgun/Revolver		
<input checked="checked" type="checkbox"/> Shotgun and Ammunition		
<input checked="checked" type="checkbox"/> .40 Smith Rife and Magazines		
<input checked="checked" type="checkbox"/> Taser and Cartridges		
<input checked="checked" type="checkbox"/> HD Hand Cuff/Kidney Case		
<input checked="checked" type="checkbox"/> Employee Sweeney Key Chain		
<input checked="checked" type="checkbox"/> Radio		
<input checked="checked" type="checkbox"/> Portable Radio		
<input checked="checked" type="checkbox"/> Agency-Issued Cell Phone/Computer		

Mandatory Notification made to ITH Mandatory Notification made to HRB
(Section 2 - Optional. As deemed appropriate by the supervisor and in the best interest of the agency.)

*Indicates items issued to long-tenured employees only and may not be applicable to newer employees.

Item	Qty	Item	Qty	Item	Qty	Item	Qty
Bad Hat	1	Police Vest	1	Police Vest	1	Police Vest	1
Bad Hat	1	Police Cap	1	Police Cap	1	Police Cap	1
Bad Hat	1	Police Suspenders	1	Police Suspenders	1	Police Suspenders	1
Bad Hat	1	Police Socks	1	Police Socks	1	Police Socks	1
Bad Hat	1	Police Shorts	1	Police Shorts	1	Police Shorts	1
Bad Hat	1	Police Suspenders	1	Police Suspenders	1	Police Suspenders	1
Bad Hat	1	Police Socks	1	Police Socks	1	Police Socks	1
Bad Hat	1	Police Shorts	1	Police Shorts	1	Police Shorts	1
Bad Hat	1	Police Suspenders	1	Police Suspenders	1	Police Suspenders	1
Bad Hat	1	Police Socks	1	Police Socks	1	Police Socks	1
Bad Hat	1	Police Shorts	1	Police Shorts	1	Police Shorts	1
Bad Hat	1	Police Suspenders	1	Police Suspenders	1	Police Suspenders	1
Bad Hat	1	Police Socks	1	Police Socks	1	Police Socks	1
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Bad Hat	1	Police Socks	1	Police Socks	1	Police Socks	1
Bad Hat	1	Police Shorts	1	Police Shorts	1	Police Shorts	1
Bad Hat	1	Police Suspenders	1	Police Suspenders	1	Police Suspenders	1
Bad Hat	1	Police Socks	1	Police Socks	1	Police Socks	1
Bad Hat	1	Police Shorts	1	Police Shorts	1	Police Shorts	1
Bad Hat	1	Police Suspenders	1	Police Suspenders	1	Police Suspenders	1
Bad Hat	1	Police Socks	1	Police Socks	1	Police Socks	1
Bad Hat	1	Police Shorts	1	Police Shorts	1	Police Shorts	1

Additional Items Collected: _____

Signature & Date of Affected Employee: _____ Signature & Date of Supervisor: _____

Form #A-200 (Rev. 11/01)



(O) 352-639-4117 | (F) 352-639-4118
bobi@bfranklaw.com | bfranklaw.com
14839 Main Street Alachua,
Florida 32615

Notice of Intentional Chapter 112 Violations Committed by Chief Inspector Kelvin Jenkins and Inspectors Nancy Marzouk and Scott Anderson- Tracking Number 2023-00010

On behalf of Sergeant Kevin Davis, this is your Formal Notice, pursuant to the “Officers’ Bill of Rights,” of multiple Chapter 112, *Florida Statutes*, violations that you intentionally committed as the “Chief Inspector” and the assigned “OPS Inspectors,” conducting an Administrative Investigation, investigation tracking number – 2023-00010. The named subject in the Administration Investigation is Sergeant Kevin Davis (“Sgt. Davis”)

Pursuant to §112.534, Failure to Comply; Official Misconduct, the following procedures shall apply to this matter:

- (1) If any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the following procedures apply. For purposes of this section, the term “law enforcement officer” or “correctional officer” includes the officer’s representative or legal counsel, except in application of paragraph (d).
 - (a) The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer’s notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.
 - (b) If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer’s refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.
 - (c) Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.
 - (d) Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed, unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances

and facts surrounding the alleged intentional violation. The compliance review panel shall be made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional officers who are active from the same law enforcement discipline as the officer requesting the hearing. Panel members may be selected from any state, county, or municipal agency within the county in which the officer works. The compliance review hearing shall be conducted in the county in which the officer works.

(e) It is the responsibility of the compliance review panel to determine whether or not the investigator or agency intentionally violated the requirements provided under this part. It may hear evidence, review relevant documents, and hear argument before making such a determination; however, all evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the officer. The investigative materials are considered confidential for purposes of the compliance review hearing and determination.

FACTUAL BASIS

On January 23, 2023, you served Sgt. Davis with a Sworn Employee Notice of Administrative Investigation listing ACSO General Counsel, Jake Rush as the "Complainant." Again, On January 23, 2023, at 13:16 hours, you served Sgt. Davis with a Sworn Employee Notice of Administrative Investigation listing Chief Inspector Kelvin Jenkins as the "Complainant." At the time of service, the Office of Professional Standards ("OPS") had formally opened an Administrative Investigation against Sgt. Davis and had assigned Tracking # 2023-00010 to the matter.

On March 2, 2023, Sgt. Davis was provided two (2) Complaint Intake Forms. One (1) named Kelvin Jenkins as the author and was dated for February 1, 2023. The description of the complaint included naming the Office of the Sheriff as the "person" that made the original "complaint" against Sgt. Davis. This is improper, a specific individual shall be named. The second Complaint Intake Form named Jake Rush as the author and was dated for February 27, 2023. The description of the complaint vaguely recited Jake Rush's description of his job duties as General Counsel of ACSO.

VIOLATION

112.533 (1)(a) Every law enforcement agency and correctional agency shall establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall be the procedure for investigating a complaint against a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary.

112.533 (1)(b)(2)- [. . . W]hen a conflict is identified with having an investigator conduct the investigation of an officer of the same employing agency . . . or the agency's investigator is the subject of, or a witness in

ACSO Policy # 122- Disciplinary Procedures, Section XI (A)(1)-Complainants should be referred to the immediate supervisor of the subject employee. (3) The Supervisor will obtain a statement from the complainant. (4) A complainant's statement may be received

in any form, such as (a). written: letter, e-mail, IOC, Complaint Intake Form, etc. (b.) Verbal, voice recorder, vehicle camera system (VCS) or Body-Worn Camera (BWC) video. (c.) In the event the complainant refuses to submit a written complaint or have their statement recorded, the supervisor will reduce the complainant's allegations to a written form. (5) Once the Complaint is received by ACSO, the subject employee's chain of command will either: a. Conduct the Administrative Investigation, or; b. Depending on the nature of the complaint, request OPS handle the investigation.

ACSO Policy # 122- Disciplinary Procedures, is the "system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall be the procedure for investigating a complaint against a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary." Sgt. Davis was Noticed of being placed under an Administrative Investigation on January 23, 2023. However, the Complaint Intake Forms are dated for February 1, and February 27, evidencing that Policy # 122 was not strictly adhered to at the initial stage of this matter.

In addition to Jake Rush, Chief Inspector Kelvin Jenkins separately listed himself as the Complainant in this matter. Pursuant to Policy, the matter should have been referred to Sgt. Davis' immediate Supervisor for processing according to Agency Policy #122. None of the conditions precedent to opening a formal Administrative Investigation and assigning a tracking number to the matter were completed as mandated by Agency Policy #122. Equally, any reasonable interpretation of the statutory language cited above requires Chief Inspector Kelvin Jenkins, and the OPS office that he supervises to refrain from conducting any investigation in which he is also the complainant or a potential witness. This is a direct conflict of interest.

FACTUAL BASIS

On February 27, 2023, Jake Rush filled out a Complaint Intake Form listing himself as the Complainant. He failed to give a description of the events that he witnessed as the self-identified "Complainant." Additionally, Jake Rush was not interviewed as a witness nor as a Complainant in this matter.

VIOLATION

112.533 (1)(a) Every law enforcement agency and correctional agency shall establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall be the procedure for investigating a complaint against a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary.

§112.532(d)-The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident

under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.

ACSO OPS Operational Manual V (d) Conducting Interviews, Contact the complainant and arrange for a time/date/location for an interview. (f)(6) Uncooperative Witnesses- (a)

If a complainant or civilian witness is unavailable for an interview, fails to appear for a scheduled interview, or flatly refuses to be interviewed, the investigating OPS Inspector should thoroughly document attempts to conduct the interview and then proceed with the remainder of the investigation. (b) Several attempts, to include a written letter from the Investigating OPS Inspector sent by certified mail, should be made before continuing or concluding the investigation. (G) Order of Interviews- (1) The order of interviews will frequently be controlled by the circumstances of the investigation and the type of complaint. (2) All identifiable witnesses shall be interviewed (4) Complainant Interviews- a. Every attempt should be made to record formal interviews with complainants, although it is not mandatory. b. If the complainant refuses to be recorded, ask if they will write out their statement and sign it. c. If a complainant refuses to allow the interview to be recorded and refuses to write their statement, document the refusal and proceed with the interview. d. All testimony shall be under oath or affirmation. e. Investigating OPS Inspectors should begin the interview by verbally reciting the Introduction to Recorded Interview – Witnesses, OPS 01- 04. f. The investigating OPS Inspector should obtain all of the facts and circumstances surrounding the complaint. g. The investigating OPS Inspector should address each allegation in the original complaint. h. The investigating OPS Inspector should note any discrepancies between the original information in the complaint and the statement being made during the interview. i. The investigating OPS Inspector should be certain the complainant has no additional allegations. The complainant should merely be asked if he/she has additional information. j. At the end of the interview, the investigating OPS Inspector should: i. Ask the complainant if they have any additional information that is pertinent to the investigation that has not already been addressed. ii. Ask the complainant if they have any questions. iii. Obtain all witnesses' names, addresses and telephone numbers. iv. Determine the availability of the complainant for follow-up interview. []

At this time, neither Complainant has been interviewed. Chapter 112, § 112.533(1)(a) mandates that an Agency not only have in place policies and procedures for the receipt, processing, and investigation of all complaints, it requires the Agency to strictly follow those policies and procedures while conducting an Administrative Investigation against a sworn Law Enforcement Officer. Sgt. Davis has not been adequately informed of the assertions made against him, and by whom, due to the absence of witness/complainant interviews being conducted.

FACTUAL BASIS

On March 2, 2023, Sgt. Davis' Officer interrogation and evidence review was scheduled to commence at the OPS. At which time, the following items were provided to Sgt. Davis:

- Complaint Intake Form x2- Kelvin Jenkins dated February 1, 2023, Jake Rush dated February 27, 2023.

- Administrative Investigation audio recordings of interviews of Deputy Casey Kumar, Deputy Daniel Heart, Deputy Michael Moore, Deputy Zachary Means and Lt. Heather Phillips, Lt. J.P. Hood.
- Audio Recording of Bobi J. Frank, Esq.
- Sworn Employee Notice of Administrative Investigation- Chief Inspector Kelvin Jenkins
- Administrative Suspension Notice- Chris Sims
- FB Post-Captain Weiner Dog
- FB Comment- Blizzard Post

VIOLATION

112.533 (1)(a) Every law enforcement agency and correctional agency shall establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall be the procedure for investigating a complaint against a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary.

§112.532(d)-The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.

ACSO OPS Operational Manual V (d) Conducting Interviews, Contact the complainant and arrange for a time/date/location for an interview. (f)(6) Uncooperative Witnesses- (a) If a complainant or civilian witness is unavailable for an interview, fails to appear for a scheduled interview, or flatly refuses to be interviewed, the investigating OPS Inspector should thoroughly document attempts to conduct the interview and then proceed with the remainder of the investigation. (b) Several attempts, to include a written letter from the Investigating OPS Inspector sent by certified mail, should be made before continuing or concluding the investigation. (G) Order of Interviews- (1) The order of interviews will frequently be controlled by the circumstances of the investigation and the type of complaint. (2) All identifiable witnesses shall be interviewed . . . (4) Complainant Interviews- a. Every attempt should be made to record formal interviews with complainants, although it is not mandatory. b. If the complainant refuses to be recorded, ask if they will write out their statement and sign it. c. If a complainant refuses to allow the interview to be recorded and refuses to write their statement, document the refusal and

proceed with the interview. d. All testimony shall be under oath or affirmation. e. Investigating OPS Inspectors should begin the interview by verbally reciting the Introduction to Recorded Interview – Witnesses, OPS 01- 04. f. The investigating OPS Inspector should obtain all of the facts and circumstances surrounding the complaint. g. The investigating OPS Inspector should address each allegation in the original complaint. h. The investigating OPS Inspector should note any discrepancies between the original information in the complaint and the statement being made during the interview. i. The investigating OPS Inspector should be certain the complainant has no additional allegations. The complainant should merely be asked if he/she has additional information. j. At the end of the interview, the investigating OPS Inspector should: i. Ask the complainant if they have any additional information that is pertinent to the investigation that has not already been addressed. ii. Ask the complainant if they have any questions. iii. Obtain all witnesses' names, addresses and telephone numbers. iv. Determine the availability of the complainant for follow-up interview. []

ACSO Policy # 122-Disciplinary Procedures, Section XV (A)- When the subject employee is a law enforcement officer . . . the investigation will be conducted in accordance with “The Law Enforcement Officers’ . . . Bill of Rights. (F.S.S. 112.532-112.535 sic). (B) An employee under an Administrative Investigation by OPS or a supervisor will be notified in writing via the Sworn Employee Notice of Administrative Investigation. ACSO 17-20A. The notification will contain the following: [CFA 20.02M; FCAC 7.06M] [PSCAP 1.4.6M] (1) The nature of the allegations, (2) The employee’s rights and responsibilities relative to the investigation.

Sgt. Davis has not been properly advised of the nature of the allegations and was not provided his applicable rights and responsibilities, all mandatory requirements to be completed prior to his interrogation. The Complaint Intake Form directs the complainant to provide a “[b]rief description of the incident to include when and where the alleged conduct violation(s) took place. Jake Rush’s mere recitation of his job duties falls far short of the mandatory description of the incident to be placed within the Complaint Intake Form and then later expounded upon in an interview of the complainant. Also, ACSO OPS Operational Manual, *see above*, requires both Complainants to be interviewed, or their refusals of same properly documented. There are no interviews nor documentation of refusals by the Complainants.

Every witness was questioned about Lance Yaeger, yet Lance Yaeger was not interviewed. Lance Yaeger undoubtedly is a witness in this matter, if not the true Complainant.

Equally, there is body camera footage capturing two (2) interactions with the named subject in this investigation AFTER OPS had opened a formal Administrative Investigation against Sgt. Davis and had assigned a tracking number. Those videos were not provided to Sgt. Davis as part of the investigative file for review prior to his interrogation. Every audio/video of any encounter with the subject officer, once under an Administrative Investigation, can only be described as evidence collected throughout this investigation.

If you fail to cure the above identified intentional violations of Chapter 112, *Florida Statutes*, immediately, please advise the Agency Head of this Notice to cure same within three (3) working days. If all noticed violations are not cured, a Compliance Review Hearing shall be conducted within ten (10) working days of the date of this Notice.

PLEASE GOVERN YOURSELF ACCORDINGLY



Date: March 6, 2023

Bobi J. Frank, Attorney at Law
Florida Bar No.: 0108889
Bobi@BFrankLaw.com



Date: 03/06/23

Sergeant Kevin Davis #0437
Alachua County Sheriff's Office



(O) 352-639-4117 | (F) 352-639-4118
bobi@bfranklaw.com | bfranklaw.com
14839 Main Street Alachua,
Florida 32615

On behalf of Sergeant Kevin Davis, this is your Formal Notice that a Compliance Review Hearing is being requested. Please see attached Notice of Intentional Chapter 112 Violations Committed in Administrative Investigation, Tracking Number 2023-00010 for the written notice of violations.

Pursuant to §112.534, Failure to Comply; Official Misconduct, the following procedures shall apply to this matter:

(1) If any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the following procedures apply. For purposes of this section, the term “law enforcement officer” or “correctional officer” includes the officer’s representative or legal counsel, except in application of paragraph (d).

(a) The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer’s notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.

(b) If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer’s refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.

(c) Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.

(d) Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed, unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances and facts surrounding the alleged intentional violation. The compliance review panel shall be made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional officers who are active from the same law enforcement discipline as the officer requesting

the hearing. Panel members may be selected from any state, county, or municipal agency within the county in which the officer works. The compliance review hearing shall be conducted in the county in which the officer works.

(e) It is the responsibility of the compliance review panel to determine whether or not the investigator or agency intentionally violated the requirements provided under this part. It may hear evidence, review relevant documents, and hear argument before making such a determination; however, all evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the officer. The investigative materials are considered confidential for purposes of the compliance review hearing and determination.

Please advise which days are available over the next ten (10) working days to convene the Compliance Review Panel. Equally, please advise who the Agency has selected as its Panel Member.



Date:

March 6, 2023

Bobi J. Frank, Attorney at Law
Florida Bar No.: 0108889
Bobi@BFrankLaw.com

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF ALACHUA

I, WILLIAM FRANKLIN WILLIAMS, IV., being first duly sworn, do hereby state under oath and under penalty of perjury that the following facts are true and correct:

1. My full name is William Franklin Williams, IV., I am over the age of eighteen (18) years. I have never been convicted of a felony or a crime of dishonesty.
2. I reside in Alachua County, Florida.
3. I am a 13-year sworn Law Enforcement Officer and I have been employed at Alachua County Sheriff's Office ("ACSO") for the entirety of my career.
4. I am currently employed at the ACSO, Patrol Division, with the rank of Sergeant.
5. On January 23, 2023, I was notified by Lt. Richard Lalonde and Cpt. Jason Levy that I was placed under a formal Administrative Investigation-Tracking Number 2023-00011 ("AI").
6. On the same day I was again Noticed by one other ACSO employee, Lt. Eric Hutchinson that I was under the AI. The name of the Complainant against me changed from the first Notice to the Second.
7. On March 1, 2023, I reviewed evidence contained within my AI, and identified a plethora of violations of my Officers' Bill of Rights. (Ch. 112, §§112.531-112.534, *Fla. Stats. (2023)*-collectively referred to as the Officers' Bill of Rights).
8. On March 2, 2023, I timely noticed Investigator Virgil Calhoun in writing, required by the Officers' Bill of Rights, of the numerous violations of my rights.
9. On March 2, 2023, I also made sure that the multiple Notices were sent directly to Sheriff Clovis Watson, Jr., as well. (Officers' Bill of Rights).

10. Pursuant to the law, Investigators Calhoun and Anderson were supposed to cease all investigative activity against me, attempt to cure the violations, or participate in the convening of a Compliance Review Board. (Officers' Bill of Rights).
11. The Investigators improperly ignored my notice of their Officers' Bill of Rights violations, closed the investigation, sustained the allegations against me and it was recommended that I be terminated.
12. On March 8, 2023, I was Noticed with Sheriff Clovis Watson, Jr.'s Intent to Terminate me which was signed By Lt. Eric Hutchinson.
13. As of the writing of this Affidavit, Investigators Calhoun and Anderson and Sheriff Clovis Watson, Jr., have refused to participate in a Compliance Review Hearing.

After reasonable inquiry and to the best of my knowledge and belief, I certify that the foregoing is true and correct.

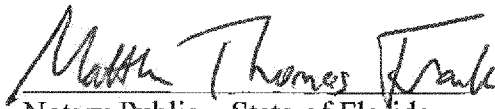
FURTHER AFFIANT SAYETH NOT

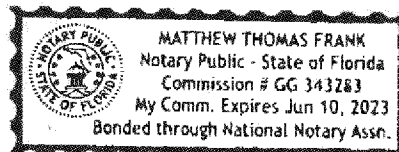


William Franklin Williams, IV.
Affiant

STATE OF FLORIDA
COUNTY OF ALACHUA

THE FOREGOING INSTRUMENT was acknowledged before me this 13 day of March, 2023, by WILLIAM FRANKLIN WILLIAMS, IV., who is personally known to me, or who produced Drivers License as identification in Alachua County, Florida


Notary Public – State of Florida
My Commission expires:





ALACHUA COUNTY SHERIFF'S OFFICE
Sworn Employee Notice of Administrative Investigation

DATE: 1/23/2023

TRACKING #: 2023-00011

TO: Sergeant William Williams #1164
Subject Employee's Title, Name and ID #

COMPLAINANT: General Counsel Jacob Rush

An Administrative Investigation has been initiated by the Alachua County Sheriff's Office in reference to an allegation/complaint that you have possibly violated an Alachua County Sheriff's Office Directive.

Date, Location and Nature of Allegations:

On January 20, 2023, the Office of Professional Standards received a complaint alleging you have committed unfavorable conduct with violations of social media policies.

You will be notified when to appear at the Alachua County Sheriff's Office to answer questions fully and truthfully, and to present all information and/or evidence relevant to this inquiry when directed by the Inspector/Supervisor in charge of this investigation.

This proceeding will be administrative. Therefore, you are ordered to fully cooperate with the investigation. You are entitled to review the complaint, all interviews and evidence immediately prior to your interview. If you wish, you may have counsel or a representative of your choosing with you during questioning.

All information concerning this investigation is to remain confidential until the case becomes public record. If you divulge information prior to it becoming public record, you are in violation of ACSO Directive 353.V.A.12.

Upon completion of the investigation, you will be notified of the results and action, if any, to be taken.

RICHARD LAPOINTE #402
Inspector's/Supervisor's Printed Name / ID

Rh L #402
Inspector's/Supervisor's Signature

1/23/23
Date

Frank #1164
Subject Employee's Signature

1/23/2023
Date

Distribution made by: _____
Name/ID#

Date



ALACHUA COUNTY SHERIFF'S OFFICE
Sworn Employee Notice of Administrative Investigation

DATE: January 23, 2023

TRACKING #: 2023-00011

TO: Sergeant William Williams #1164
Subject Employee's Title, Name and ID #

COMPLAINANT: Chief Inspector Kelvin Jenkins

An Administrative Investigation has been initiated by the Alachua County Sheriff's Office in reference to an allegation/complaint that you have possibly violated an Alachua County Sheriff's Office Directive.

Date, Location and Nature of Allegations:

On January 12, 2023 a post was made on the social media platform Facebook by you on your account. Your conduct may constitute violations of ACSO 353.V.C.14 - Unfavorable Conduct and ACSO 353.V.B.1 - Knowledge of Ordinances, Statutes and ACSO Directives as it relates to the social media policy.

You will be notified when to appear at the Alachua County Sheriff's Office to answer questions fully and truthfully, and to present all information and/or evidence relevant to this inquiry when directed by the Inspector/Supervisor in charge of this investigation.

This proceeding will be administrative. Therefore, you are ordered to fully cooperate with the investigation. You are entitled to review the complaint, all interviews and evidence immediately prior to your interview. If you wish, you may have counsel or a representative of your choosing with you during questioning.

All information concerning this investigation is to remain confidential until the case becomes public record. If you divulge information prior to it becoming public record, you are in violation of ACSO Directive 353.V.A.12.

Upon completion of the investigation, you will be notified of the results and action, if any, to be taken.

<u>LT. Eric Hutchinson 369</u>	<u>LT. [Signature] 769</u>	<u>1/23/23</u>
Inspector's/Supervisor's Printed Name / ID	Inspector's/Supervisor's Signature	Date
<u>[Signature] 1164</u>		<u>1/23/2023 - 184hrs</u>
Subject Employee's Signature		Date
Distribution made by: <u>Inspector [Signature] #337</u>		<u>1/23/2023</u>
Name/ID#		Date



ALACHUA COUNTY SHERIFF'S OFFICE
Employee Notice of Administrative Suspension

Date: 1/23/2023

Tracking #: 2023-00011

TO: Sergeant William Frank Williams IV
FROM: Captain Jayson Levy

Effective immediately, you are placed on **Administrative Suspension with Pay**. While on Administrative Suspension, you will follow the below listed orders:

- You are directed not to perform in any official law enforcement capacity, except by subpoena.
- You will be subject to the same codes, laws and ordinances as are citizens.
- During the hours of 0830 - 1630 hours (Monday through Friday), you will remain at your residence and available for contact by ACSO Supervisors or Inspectors.
- If you need to leave your residence for any reason between the hours of 0830 – 1630 hours (Monday through Friday), you must notify your Division Commander, or their designee, to request their permission to leave your residence. If you wish to take time off, you need to contact your Division Commander, or their designee, for their approval.
- You are not permitted to be on ACSO property unless accompanied and approved by your Division Commander or their designee.
- If directed to appear at an ACSO building, you will be accompanied by an ACSO Supervisor or Inspector while inside the building.
- The following ACSO items shall be surrendered to your Division Commander or their designee upon suspension and a Receipt of Agency Property (ACSO 07-08) will be completed and a copy provided to you:

Mandatory Items Optional Items None

Failure on your part to adhere to the requirements of this order will be considered **insubordination** for which you will be subject to disciplinary action.

RICHARD LALONDS #402
Issuing Supervisor's Name and ID #

1/23/23 1121
Date/Time

Jayson Levy 1164
Subject Employee's Name and ID #

1/23/2023 - 1121hrs
Date/Time

Distribution made by: _____
Name/ID #

Date/Time



ALACHUA COUNTY SHERIFF'S OFFICE

Receipt of Agency Property

Affected Employee Name:	Sergeant William Frank Williams IV	ID#:	1164
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Section 1 - Mandatory (As applicable)

Supervisor - Check One: ORIGINAL COPY

Item	Quantity	Applicable Serial Numbers/Key Numbers
Badges/Badge Holder	1	JUST BADGE ✓
Handgun and 5 Magazines, Ammo	1, 5	BWHR768 ✓
Shotgun and Ammunition	1, 8	
ACSO Issued Rifle and Magazines	1, 3	AC 20223AL ✓
Taser and Cartridges	1	X400 CD MF ✓
ID Bond Card/Badge Case	1	BOND CARD ✓
Employee Security Key Card	1	JUST BOND CARD
Keys		6813, 6A20-24, 6-B-6, V# 4 209 20774-64
Portable Radio	1	481CQM9801 ✓
Agency-Issued Cell Phone/Computer	1	AT RADIO SHOP ✓

Mandatory Notification made to ITB

Mandatory Notification made to HRB

Section 2 - Optional (As deemed appropriate by the supervisor and is in the best interest of the agency.)

*Indicates items issued to long-tenured employees only and may not be applicable to newer employees.

Item	Qty	Item	Qty	Item	Qty	Item	Qty
AED		Eye Protection		Pocket Inker		Traffic Vest	
Ball Cap		Flashlight Holder		Radio Case		Traffic Wand	
Biohazard Kit		Gas Mask/Filters		Radio Shoulder Mic		Training Belt	
Body Armor (Soft)		Glove Case		Rain Suit		*Training Jacket-GRY	
Camera/SD Cards		Hand Wash Gel		Riot Helmet		Training Pants - GRN	
Citation Holder		Handcuffs/Keys		Riot Shield		*Training Pants -GRY	
Citations - Paper UTC		Handcuff Case		Ripp Hobbler		Training Shirt - GRN	
Citations - Parking		Handgun Holster		Serving Since Plate		*Training Shirt - GRY	
Citations -Warning		Jacket - Black/Heavy		Spit Mask		Trauma Kit-Personal	
Collar Insignia		Keepers		Stetson Hat		Trauma Kit-Vehiele	
CPR Mask		Laptop		Stinger (Resrvc Dep)		Uniform Shirts - L/S	
CST Kit		Law/Handbook		Stinger Holder		Uniform Shirts - S/S	
Dana Rifle Vest		Mag Pouch		Suitcase Rifle Vest		Uniform Trousers	
Dickies		Map Book		*Sweater		Whistle	
Dog Repellent		Miranda Card		Tac Light/Batteries		Whistle Chain	
Duty Belt		Mourning Badge Cover		Tac Light Belt Clip		Windbreaker	
Ear Protection		Name Plate		Taser Holster			
Ebola Kit		OC Card		Tie			
Emergency Blanket		OC Scabbard		Tie Tac			
Expandable Baton		OC Spray		Traffic Gloves			
Expand. Baton Holder		*PPE Gear		*Traffic Template			

Additional Items Collected:

Signature & Date of Affected Employee

Signature & Date of Supervisor

Items Re-issued:

Signature & Date of Affected Employee

Signature & Date of Property Custodian



ALACHUA COUNTY SHERIFF'S OFFICE
Office of Professional Standards
 Employee Notice of Findings of Administrative Investigation
 and Intended Disciplinary Action - Termination

COPY

Date: March 8, 2023

Tracking #: 23-00011

TO: Sergeant William "Frank" Williams
 FROM: Sheriff Clovis Watson, Jr.
 RE: **INTENDED TERMINATION**

Inspector Virgil Calhoun has completed Administrative Investigation Number 23-00011. Based upon interviews conducted, Inspector Calhoun found the violations of ACSO Directives 353.V.A.2 – Conduct Unbecoming and 353.V.A.7 - Insubordination were **SUSTAINED**. The violation of ACSO Directive 353.C.8 – Criticism of Order was **NOT SUSTAINED**.

In view of the above, it is the Sheriff's intention to terminate your employment with the Alachua County Sheriff's Office. If you would like to discuss this matter, or wish to express reasons why you feel this action should not be taken, you may contact the Human Resources Bureau at 352-367-4037 by 1600 hours on the third business day after receipt, to schedule an appointment to meet with Sheriff Clovis Watson, Jr. or his designee.

The following ACSO Mandatory/Optional items pursuant to Receipt of Departmental Property (see attached) shall be surrendered to your Division Commander or designee upon intended termination pursuant ACSO Directive 382.VI.C:

Mandatory Items **Optional Items**

LT Eric Hutchinson [Signature]
 Issuing Supervisor - Print and Sign Name

3/8/23
 Date

[Signature] 1164
 Sergeant W. Frank Williams, ID #1164

3/8/23 - 1503hrs
 Date

CW-JS/kda

Original: Office of Professional Standards

cc: Captain Jayson Levy
 Employee's Personnel File

Accounting and Budget Bureau
 Human Resources Bureau

Distribution made by: _____
 Name/ID #

_____ Date



(O) 352-639-4117 | (F) 352-639-4118
bobi@bfranklaw.com | bfranklaw.com
14839 Main Street Alachua,
Florida 32615

Notice of Intentional Chapter 112 Violations Committed by Chief Inspector Kelvin Jenkins and Inspectors Virgil Calhoun and Scott Anderson- Tracking Number 2023-00011

On behalf of Sergeant William “Frank” Williams, this is your Formal Notice, pursuant to the “Officers’ Bill of Rights,” of multiple Chapter 112, *Florida Statutes*, violations that you intentionally committed as the “Chief Inspector” and the assigned “OPS Inspectors,” conducting an Administrative Investigation, investigation tracking number – 2023-00011. The named subject in the Administration Investigation is Sergeant William “Frank” Williams (“Sgt. Williams.”

Pursuant to §112.534, Failure to Comply; Official Misconduct, the following procedures shall apply to this matter:

(1) If any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the following procedures apply. For purposes of this section, the term “law enforcement officer” or “correctional officer” includes the officer’s representative or legal counsel, except in application of paragraph (d).

(a) The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer’s notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.

(b) If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer’s refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.

(c) Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.

(d) Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed, unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances

and facts surrounding the alleged intentional violation. The compliance review panel shall be made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional officers who are active from the same law enforcement discipline as the officer requesting the hearing. Panel members may be selected from any state, county, or municipal agency within the county in which the officer works. The compliance review hearing shall be conducted in the county in which the officer works.

(e) It is the responsibility of the compliance review panel to determine whether or not the investigator or agency intentionally violated the requirements provided under this part. It may hear evidence, review relevant documents, and hear argument before making such a determination; however, all evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the officer. The investigative materials are considered confidential for purposes of the compliance review hearing and determination.

FACTUAL BASIS

On January 23, 2023, you served Sgt. Williams with a Sworn Employee Notice of Administrative Investigation listing ACSO General Counsel, Jake Rush as the “Complainant.” Again, On January 23, 2023, at 18:41 hours, you served Sgt. Williams with a Sworn Employee Notice of Administrative Investigation listing Chief Inspector Kelvin Jenkins as the “Complainant.” At the time of service, the Office of Professional Standards (“OPS”) had formally opened an Administrative Investigation against Sgt. Williams and had assigned Tracking # 2023-00011 to the matter.

On March 1, 2023, Sgt. Williams was provided two (2) Complaint Intake Forms. One (1) named Kelvin Jenkins as the author and was dated for February 1, 2023. The description of the complaint included naming the Office of the Sheriff as the “person” that made the original “complaint” against Sgt. Williams. The second Complaint Intake Form named Jake Rush as the author and was dated for February 27, 2023. The description of the complaint vaguely recited Jake Rush’s description of his job duties as General Counsel of ACSO.

VIOLATION

112.533 (1)(a) Every law enforcement agency and correctional agency shall establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall be the procedure for investigating a complaint against a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary.

112.533 (1)(b)(2)- [. . . W]hen a conflict is identified with having an investigator conduct the investigation of an officer of the same employing agency . . . or the agency’s investigator is the subject of, or a witness in

ACSO Policy # 122- Disciplinary Procedures, Section XI (A)(1)-Complainants should be referred to the immediate supervisor of the subject employee. (3) The Supervisor will obtain a statement from the complainant. (4) A complainant’s statement may be received

in any form, such as (a). written: letter, e-mail, IOC, Complaint Intake Form, etc. (b.) Verbal, voice recorder, vehicle camera system (VCS) or Body-Worn Camera (BWC) video. (c.) In the event the complainant refuses to submit a written complaint or have their statement recorded, the supervisor will reduce the complainant's allegations to a written form. (5) Once the Complaint is received by ACSO, the subject employee's chain of command will either: a. Conduct the Administrative Investigation, or; b. Depending on the nature of the complaint, request OPS handle the investigation.

ACSO Policy # 122- Disciplinary Procedures, is the "system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall be the procedure for investigating a complaint against a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary." Sgt. Williams was Noticed of being placed under an Administrative Investigation on January 23, 2023. However, the Complaint Intake Forms are dated for February 1, and February 27, evidencing that Policy # 122 was not strictly adhered to at the initial stage of this matter.

In addition to Jake Rush, Chief Inspector Kelvin Jenkins separately listed himself as the Complainant in this matter. Pursuant to Policy, the matter should have been referred to Sgt. Williams' immediate Supervisor for processing according to Agency Policy #122. None of the conditions precedent to opening a formal Administrative Investigation and assigning a tracking number to the matter were completed as mandated by Agency Policy #122. Equally, any reasonable interpretation of the statutory language cited above requires Chief Inspector Kelvin Jenkins, and the OPS office that he supervises to refrain from conducting any investigation in which he is also the complainant or a potential witness. This is a direct conflict of interest.

FACTUAL BASIS

On February 27, 2023, Jake Rush filled out a Complaint Intake Form listing himself as the Complainant. He failed to give a description of the events that he witnessed as the self-identified "Complainant." Additionally, Jake Rush was not interviewed as a witness nor as a Complainant in this matter.

VIOLATION

112.533 (1)(a) Every law enforcement agency and correctional agency shall establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall be the procedure for investigating a complaint against a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary.

§112.532(d)-The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident

under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.

ACSO OPS Operational Manual V (d) Conducting Interviews, Contact the complainant and arrange for a time/date/location for an interview. (f)(6) Uncooperative Witnesses- (a) If a complainant or civilian witness is unavailable for an interview, fails to appear for a scheduled interview, or flatly refuses to be interviewed, the investigating OPS Inspector should thoroughly document attempts to conduct the interview and then proceed with the remainder of the investigation. (b) Several attempts, to include a written letter from the Investigating OPS Inspector sent by certified mail, should be made before continuing or concluding the investigation. (G) Order of Interviews- (1) The order of interviews will frequently be controlled by the circumstances of the investigation and the type of complaint. (2) All identifiable witnesses shall be interviewed (4) Complainant Interviews- a. Every attempt should be made to record formal interviews with complainants, although it is not mandatory. b. If the complainant refuses to be recorded, ask if they will write out their statement and sign it. c. If a complainant refuses to allow the interview to be recorded and refuses to write their statement, document the refusal and proceed with the interview. d. All testimony shall be under oath or affirmation. e. Investigating OPS Inspectors should begin the interview by verbally reciting the Introduction to Recorded Interview – Witnesses, OPS 01- 04. f. The investigating OPS Inspector should obtain all of the facts and circumstances surrounding the complaint. g. The investigating OPS Inspector should address each allegation in the original complaint. h. The investigating OPS Inspector should note any discrepancies between the original information in the complaint and the statement being made during the interview. i. The investigating OPS Inspector should be certain the complainant has no additional allegations. The complainant should merely be asked if he/she has additional information. j. At the end of the interview, the investigating OPS Inspector should: i. Ask the complainant if they have any additional information that is pertinent to the investigation that has not already been addressed. ii. Ask the complainant if they have any questions. iii. Obtain all witnesses' names, addresses and telephone numbers. iv. Determine the availability of the complainant for follow-up interview. []

At this time, neither Complainant has been interviewed. Chapter 112, § 112.533(1)(a) mandates that an Agency not only have in place policies and procedures for the receipt, processing, and investigation of all complaints, it requires the Agency to strictly follow those policies and procedures while conducting an Administrative Investigation against a sworn Law Enforcement Officer.

FACTUAL BASIS

On March 1, 2023, Sgt. Williams' Officer interrogation and evidence review was scheduled to commence at the OPS. At which time, the following items were provided to Sgt. Williams:

- Complaint Intake Form x2- Kelvin Jenkins dated February 1, 2023, Jake Rush dated February 27, 2023.

- Administrative Investigation audio recordings of interviews of Deputy Cody Bierman, Deputy Krishna Maharaj, Deputy Matthew Freeman, Deputy Malcolm Wilson, Deputy Ryan Depete, Sgt. Monica Herrera, Sgt. P.J. Mauldin and Lt. David Butscher.
- Personnel Order 23-005 (PDF 1)
- Sgt. Williams Policy Review (Excel 1)
- William Williams Facebook (Picture 1)
- MNI_1164 Picture
- FB_1 through FB_4 (Facebook Pictures 4)
- ACSO Agency Wide_Williams (Picture 1)

VIOLATION

112.533 (1)(a) Every law enforcement agency and correctional agency shall establish and put into operation a system for the receipt, investigation, and determination of complaints received by such agency from any person, which shall be the procedure for investigating a complaint against a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges, notwithstanding any other law or ordinance to the contrary.

§112.532(d)-The law enforcement officer or correctional officer under investigation must be informed of the nature of the investigation before any interrogation begins, and he or she must be informed of the names of all complainants. All identifiable witnesses shall be interviewed, whenever possible, prior to the beginning of the investigative interview of the accused officer. The complaint, all witness statements, including all other existing subject officer statements, and all other existing evidence, including, but not limited to, incident reports, GPS locator information, and audio or video recordings relating to the incident under investigation, must be provided to each officer who is the subject of the complaint before the beginning of any investigative interview of that officer. An officer, after being informed of the right to review witness statements, may voluntarily waive the provisions of this paragraph and provide a voluntary statement at any time.

ACSO OPS Operational Manual V (d) Conducting Interviews, Contact the complainant and arrange for a time/date/location for an interview. (f)(6) Uncooperative Witnesses- (a) If a complainant or civilian witness is unavailable for an interview, fails to appear for a scheduled interview, or flatly refuses to be interviewed, the investigating OPS Inspector should thoroughly document attempts to conduct the interview and then proceed with the remainder of the investigation. (b) Several attempts, to include a written letter from the Investigating OPS Inspector sent by certified mail, should be made before continuing or concluding the investigation. (G) Order of Interviews- (1) The order of interviews will frequently be controlled by the circumstances of the investigation and the type of complaint. (2) All identifiable witnesses shall be interviewed . . . (4) Complainant Interviews- a. Every attempt should be made to record formal interviews with complainants, although it is not mandatory. b. If the complainant refuses to be recorded, ask if they will write out their statement and sign it. c. If a complainant refuses to allow

the interview to be recorded and refuses to write their statement, document the refusal and proceed with the interview. d. All testimony shall be under oath or affirmation. e. Investigating OPS Inspectors should begin the interview by verbally reciting the Introduction to Recorded Interview – Witnesses, OPS 01- 04. f. The investigating OPS Inspector should obtain all of the facts and circumstances surrounding the complaint. g. The investigating OPS Inspector should address each allegation in the original complaint. h. The investigating OPS Inspector should note any discrepancies between the original information in the complaint and the statement being made during the interview. i. The investigating OPS Inspector should be certain the complainant has no additional allegations. The complainant should merely be asked if he/she has additional information. j. At the end of the interview, the investigating OPS Inspector should: i. Ask the complainant if they have any additional information that is pertinent to the investigation that has not already been addressed. ii. Ask the complainant if they have any questions. iii. Obtain all witnesses' names, addresses and telephone numbers. iv. Determine the availability of the complainant for follow-up interview. []

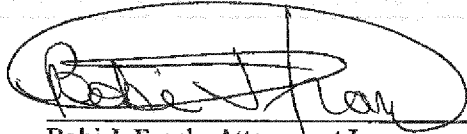
ACSO Policy # 122-Disciplinary Procedures, Section XV (A)- When the subject employee is a law enforcement officer . . . the investigation will be conducted in accordance with “The Law Enforcement Officers’ . . . Bill of Rights. (F.S.S. 112.532-112.535 sic). (B) An employee under an Administrative Investigation by OPS or a supervisor will be notified in writing via the Sworn Employee Notice of Administrative Investigation. ACSO 17-20A. The notification will contain the following: [CFA 20.02M; FCAC 7.06M] [PSCAP 1.4.6M] (1) The nature of the allegations, (2) The employee’s rights and responsibilities relative to the investigation.

Sgt. Williams has not been properly advised of the nature of the allegations and was not provided his applicable rights and responsibilities, all mandatory requirements to be completed prior to his interrogation. The Complaint Intake Form directs the complainant to provide a “[b]rief description of the incident to include when and where the alleged conduct violation(s) took place. Jake Rush’s mere recitation of his job duties falls far short of the mandatory description of the incident to be placed within the Complaint Intake Form and then later expounded upon in an interview of the complainant. Also, ACSO OPS Operational Manual, *see above*, requires both Complainants to be interviewed, or their refusals of same properly documented. There are no interviews nor documentation of refusals by the Complainants.

Equally, there is body camera footage capturing two (2) interactions with the named subject in this investigation AFTER OPS had opened a formal Administrative Investigation against Sgt. Williams and had assigned a tracking number. Those videos were not provided to Sgt. Williams as part of the investigative file for review prior to his interrogation. Every audio/video of any encounter with the subject officer, once under an Administrative Investigation, can only be described as evidence collected throughout this investigation.

If you fail to cure the above identified intentional violations of Chapter 112, *Florida Statutes*, immediately, please advise the Agency Head of this Notice to cure same within three (3) working days. If all noticed violations are not cured, a Compliance Review Hearing shall be conducted within ten (10) working days of the date of this Notice.

PLEASE GOVERN YOURSELF ACCORDINGLY

A handwritten signature in black ink, appearing to read "Bobi J. Frank", is enclosed within a hand-drawn oval.

Date: March 2, 2023

Bobi J. Frank, Attorney at Law
Florida Bar No.: 0108889
Bobi@BFrankLaw.com

A handwritten signature in black ink, appearing to read "Frank Williams", is written above the number "1164".

1164 Date: 3/2/2023

Sergeant William "Frank" Williams #1164
Alachua County Sheriff's Office

On behalf of Sergeant William “Frank” Williams, this is your Formal Notice that a Compliance Review Hearing is being requested. Please see attached Notice of Intentional Chapter 112 Violations Committed in Administrative Investigation, Tracking Number 2023-00011 for the written notice of violations.

Pursuant to §112.534, Failure to Comply; Official Misconduct, the following procedures shall apply to this matter:

(1) If any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the following procedures apply. For purposes of this section, the term “law enforcement officer” or “correctional officer” includes the officer’s representative or legal counsel, except in application of paragraph (d).

(a) The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer’s notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.

(b) If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer’s refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.

(c) Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.

(d) Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed, unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances and facts surrounding the alleged intentional violation. The compliance review panel shall be made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional

officers who are active from the same law enforcement discipline as the officer requesting the hearing. Panel members may be selected from any state, county, or municipal agency within the county in which the officer works. The compliance review hearing shall be conducted in the county in which the officer works.

(e) It is the responsibility of the compliance review panel to determine whether or not the investigator or agency intentionally violated the requirements provided under this part. It may hear evidence, review relevant documents, and hear argument before making such a determination; however, all evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the officer. The investigative materials are considered confidential for purposes of the compliance review hearing and determination.

Please advise which days are available over the next ten (10) working days to convene the Compliance Review Panel. Equally, please advise who the Agency has selected as its Panel Member.



Date: March 2, 2023

Bobi J. Frank, Attorney at Law
Florida Bar No.: 0108889
Bobi@BFrankLaw.com

Exhibit 9



(O) 352-639-4117 | (F) 352-639-4118
bobi@bfranklaw.com | bfranklaw.com
14839 Main Street Alachua,
Florida 32615

March 8, 2023

Jacob A. Rush, Esq.
General Counsel, Alachua County Sheriff's Office
P.O. Box 5489
Gainesville, Florida 32627-5489
2621 SE Hawthorne Road
Gainesville, Florida 32641

Re: Notice of Intent to Invoke Court Intervention- Response to ACSO's Denial of Invocation of Compliance Review Board pursuant to Chapter 112, §§112.531-534 "Officers' Bill of Rights" Florida Statutes.

Delivery via electronic mail: jrush@alachuasheriff.org

Dear Mr. Rush:

As you know, I represent Captain Rebecca Butscher ("Cpt. Butscher") in Alachua County Sheriff's Office ("ACSO" or the "Agency")- Administrative Investigation, Tracking Number 2023-00036, wherein she is the named subject and Major Lance Yaeger is the named Complainant and "Investigating Supervisor."

On February 22, 2023, Major Lance Yaeger ordered Capt. Butscher to attend a meeting in his office during which he revealed that he filed a Complaint against her for allegedly being insubordinate to him. During the same meeting, he revealed that he assigned the "investigation" to himself and performed the investigation against her, himself. Major Lance Yaeger concluded the meeting by ordering Cpt. Butscher to respond to his "Complaint" against her in writing, within twenty-four (24) hours. None of the aforementioned actions comply with Agency policies and directives governing the receipt, processing, and investigation of a complaint against an Officer.

The evidence produced in and, the communications that occurred during, that meeting revealed that Cpt. Butscher was a subject of an investigation wherein numerous Ch. 112 violations had occurred. Pursuant to law, within twenty-four (24) hours, Cpt. Butscher filed her Notice of

Intentional Chapter 112 violations committed by Major Lance Yaeger. She did so in strict compliance with the obligations of Ch. 112, §112.534, which mandates the following:

(1) If any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the following procedures apply. For purposes of this section, the term "law enforcement officer" or "correctional officer" includes the officer's representative or legal counsel, except in application of paragraph (d).

(a) The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer's notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.

(b) If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer's refusal to respond to further investigative questions does not constitute insubordination or any similar type of policy violation.

Fla. Stat.

Upon failure of ACSO specifically, Major Lance Yaeger, to advise of his intent to cure the violations, Cpt. Butscher, through undersigned Counsel, then filed her Notice that she would be invoking her right to convene a Compliance Review Board. Again, she did so in fastidious compliance with the mandates of Ch. 112, §112.534, which requires the following:

(c) Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.

(d) Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed, unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances and facts surrounding the alleged intentional violation. The compliance review panel shall be made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional officers who are active from the same law enforcement discipline as the officer requesting the hearing. Panel members may be selected from any state, county, or municipal agency within

the county in which the officer works. The compliance review hearing shall be conducted in the county in which the officer works.

I am in receipt of your e-mail dated March 7, 2023, in response to my Client's Notice of invoking her right to a Compliance Review Board, dated February 27, 2023. Your correspondence includes ACSO's refusal to comply with the express, unambiguous mandates of the applicable Statute. The Agency does not dispute that Cpt. Butscher strictly complied with the law and the conditions precedent to filing her Notice of Invocation of Compliance Review Hearing rather, inexplicably, you express that you have improperly stepped into the shoes of the Compliance Review Panel and have concluded that Cpt. Butscher's "allegations and conclusions are mistaken and unfounded in law – none of which qualify for a Compliance Review Hearing."

The "Officers' Bill of Rights" is a compilation of laws that are rights that apply solely to "Officers" not the employing agencies that they work for. The legislature has decided that "[w]henver a law enforcement officer or correctional officer is under investigation and subject to interrogation by members of his or her agency for any reason that could lead to disciplinary action, suspension, demotion, or dismissal . . ." there shall be a series of requirements that are strictly adhered to by the Agency throughout the administrative investigation of the officer. *Fla. Stat.*, §112.532(1).

Explicitly, the "Officers' Bill of Rights" commands the following:

(d) Unless otherwise remedied by the agency before the hearing, *a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed*, unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances and facts surrounding the alleged intentional violation. The compliance review panel shall be made up of three members: one member selected by the agency head, one member selected by the officer filing the request, and a third member to be selected by the other two members. The review panel members shall be law enforcement officers or correctional officers who are active from the same law enforcement discipline as the officer requesting the hearing. Panel members may be selected from any state, county, or municipal agency within the county in which the officer works. The compliance review hearing shall be conducted in the county in which the officer works.

(e) *It is the responsibility of the compliance review panel to determine whether or not the investigator or agency intentionally violated the requirements provided under this part.* It may hear evidence, review relevant documents, and hear argument before making such a determination; however, all evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the officer. The

investigative materials are considered confidential for purposes of the compliance review hearing and determination.

Fla. Stat., §112.534(d)(e).

The clear-cut language in the Statute does not provide for any discretionary review by the Agency's attorney prior to complying with the order to either cure the violations, or participate in the convening of a Compliance Review Hearing. Any other interpretation of the unambiguous language contained within the Statute is, at best, unreasonable and without any legal foundation.

It is clear that ACSO has a non-discretionary, ministerial duty to convene a Compliance Review Hearing when one is properly invoked pursuant to the "Officers' Bill of Rights."

As further evidence of my interpretation of the unequivocal directive contained within the Statute requiring that the Agency participate in the invocation of a Compliance Review Hearing, I have attached an Order from Leon County Circuit Judge Charles W. Dodson ordering, under a similar fact pattern, a State Agency as follows:

This Court finds that Petitioner is entitled to extraordinary relief to compel the Respondent to convene a Complaint Review Board and a Compliance Review Hearing. **Petitioner has demonstrated a clear legal right to the Compliance Review Hearing. The Respondent has not demonstrated that the statute in question provides any discretion to Respondent in granting a Compliance Review Hearing. This Court agrees that the act of convening the Compliance Review Hearing is entirely ministerial, and must be convened pursuant to Petitioner's request,** which this Court finds sufficiently complied with Florida Statutes 112.534.

Accordingly, it is ORDERED and ADJUDGED that:

1. Mandamus relief is hereby GRANTED.
2. Respondents have thirty (30) days to convene a Complaint Review Board and conduct a Compliance Review Hearing for Petitioner, pursuant to Florida Statutes 112.532(2) and 112.534(1).

See Court Order Glisson v. Florida Department of Corrections, Case Number 2015 CA 001593, May 26, 2016.

Regarding the deadline to convene a Compliance Review Panel and conduct a Hearing the law requires the following: **a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed.** *Fla. Stat.* §112.534(d). Here, the deadline is Monday, March 13, 2023.

In the spirit of good faith, professionalism and, judicial economy I will agree to extend the time-frame to conduct the Compliance Review Hearing another ten (10) working days making the new, agreed upon deadline March 27, 2023.

As you know, this investigation shall be tolled as follows:

The running of the limitations period is tolled during the time that the officer's compliance hearing proceeding is continuing beginning with the filing of the notice of violation and a request for a hearing and ending with the written determination of the compliance review panel or upon the violation being remedied by the agency.

Fla. Stat. §112.532(6)(a)(6)

In a final attempt to prevent court intervention, I welcome further communication regarding ACSO's intent to comply with the applicable laws cited herein prior to the original deadline of March 13, 2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Bobi J. Frank", is enclosed within a hand-drawn oval. The signature is somewhat stylized and cursive.

Bobi J. Frank
Attorney at Law

Enc. Court Order *Glisson v. Florida Department of Corrections*, Case Number 2015 CA 001593, May 26, 2016.

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

DOUG GLISSON,

Petitioner,

v.

CASE NO. 2015 CA 001593

**JULIE JONES, SECRETARY OF THE
FLORIDA DEPARTMENT OF CORRECTIONS,
JEFFERY BEASLEY, and
FLORIDA DEPARTMENT OF CORRECTIONS,**

Respondent.

ORDER GRANTING EXTRAORDINARY RELIEF

THIS CAUSE came before the Court on November 23, 2015, for an evidentiary hearing. The Court, having heard the arguments and reviewed the evidence admitted at the November 23, 2015 hearing, and being otherwise fully advised in the premises, the Court makes the following findings and rulings.

In February of 2015, Petitioner was placed under an internal affairs investigation by the Respondent. (Petitioner's Exhibit A). Petitioner subsequently requested that investigative interviews cease, as he determined that the rights and privileges that he is afforded under the Policeman's Bill of Rights in Florida Statutes 112.532 were being violated, and that he requested a Complaint Review Board and a Compliance Review Hearing. (Petitioner's Exhibit B and C). Respondent has denied his request for a Complaint Review Board with a Compliance Review Hearing. (Petitioner's Exhibit E). This petition for extraordinary relief followed.

Mandamus is an extraordinary common law remedy used to enforce an established legal right by compelling a person in an official capacity to perform a ministerial duty required by law. *Pace v. Singletary*, 633 So.2d 516 (Fla. 1st DCA 1994). In order to be entitled to mandamus


relief, the Petitioner must establish that he has a clear legal right to the requested action, that the Respondent has a clear legal duty to perform the requested action, and that no other adequate legal remedy exists. *Turner v. Singletary*, 623 So. 2d 537, 538 (Fla. 1st DCA 1993).

This Court finds that Petitioner is entitled to extraordinary relief to compel the Respondent to convene a Complaint Review Board and a Compliance Review Hearing. Petitioner has demonstrated a clear legal right to the Compliance Review Hearing. The Respondent has not demonstrated that the statute in question provides any discretion to Respondent in granting a Compliance Review Hearing. This Court agrees that the act of convening the Compliance Review Hearing is entirely ministerial, and must be convened pursuant to Petitioner's request, which this Court finds sufficiently complied with Florida Statutes 112.534.

Accordingly, it is **ORDERED** and **ADJUDGED** that:

1. Mandamus relief is hereby **GRANTED**.
2. Respondents have thirty (30) days to convene a Complaint Review Board and conduct a Compliance Review Hearing for Petitioner, pursuant to Florida Statutes 112.532(2) and 112.534(1).

DONE and **ORDERED** on this 26th day of May, 2016.



CHARLES W. DODSON
Circuit Judge

Copies to:

SERVICE LIST

Ryan J. Andrews, Esq.
Law Offices of Steven R. Andrews, P.A.
822 Monroe Street
Tallahassee, Florida 32303

Jamie Ito
Assistant Attorney General
The Capitol, Suite PL-01
Tallahassee, FL 32399-1050

Composite Exhibit 10



COPY

ALACHUA COUNTY SHERIFF'S OFFICE
Office of Professional Standards
Employee Notice of Intended Disciplinary Action - Suspension

Date: March 6, 2023

Tracking #: 23-00036

TO: Captain Rebecca Butscher

FROM: Sheriff Clovis Watson, Jr.

RE: INTENDED DISCIPLINE

It is the Sheriff's intention to suspend you without pay for two, (2) days, (sixteen, (16) hours), and place you on Disciplinary Probation for twelve, (12) months for the violation of ACSO Directive 353.V.A.7 – Insubordination, which was **SUSTAINED**. The violation is regarding an incident, which occurred on February 13, 2023, for your display of disrespectful behavior during a corrective counseling session.

If you would like to discuss this matter, or wish to express reasons why you feel this action should not be taken, you may contact HR Director Reshone Flanders at 352-367-4037 by 1600 hours on the third business day after receipt, to schedule an appointment to meet with Undersheriff Joel DeCoursey, Jr. Failure to do so will be deemed a waiver of this opportunity, and you will be notified in writing of the commencement dates of such action.

Captain Kelvin Jenkins #204
~~CAPTAIN REBECCA BUTSCHER~~
Issuing Supervisor - Print and Sign Name

3-8-23
Date

CAPTAIN L. Rebecca Butscher #173
Captain Rebecca Butscher, ID #173

3-8-23
Date

CW-KJ/kda

Original: Office of Professional Standards

cc: Colonel Chad Scott
Employee's Personnel File
Human Resources Bureau

Distribution made by: _____
Name/ID #

Date



COPY

ALACHUA COUNTY SHERIFF'S OFFICE Administrative Investigation Cover Sheet

TRACKING NUMBER	2023-00036	DATE ASSIGNED	02 / 14 / 23
ASSIGNED SUPERVISOR	Major J. Lance Yaeger	DATE OF INCIDENT	02 / 13 / 23

ACCUSED EMPLOYEE(S)	Name	Captain Rebecca Butscher	ID #	0173
	Name	N/A	ID #	N/A
	Name	N/A	ID #	N/A

DOCUMENTATION

	Attached		Attached
Administrative Investigation Report	<input checked="" type="checkbox"/>	Increased Patrol Request	<input type="checkbox"/>
Admin. Investigation Witness Statement Form	<input checked="" type="checkbox"/>	Inmate Disciplinary Report	<input type="checkbox"/>
Administrative Investigation Response Form	<input type="checkbox"/>	Inter-office Correspondence	<input type="checkbox"/>
Authorization for Release of Medical Records	<input type="checkbox"/>	Jail Incident Report	<input type="checkbox"/>
Body-Worn/Vehicle Camera Video	<input type="checkbox"/>	Offense Incident Report	<input type="checkbox"/>
BOLOS or e-Agents Reports	<input type="checkbox"/>	Other Agency's Report	<input type="checkbox"/>
CAD Call Printout	<input type="checkbox"/>	Photographic Lineup	<input type="checkbox"/>
CAD History: Address	<input type="checkbox"/>	Photographs: Accident	<input type="checkbox"/>
CAD History: Deputy	<input type="checkbox"/>	Photographs: Crime Scene	<input type="checkbox"/>
CAD History: Person	<input type="checkbox"/>	Photographs: Injuries	<input type="checkbox"/>
CAD History: Unit	<input type="checkbox"/>	Photographs: Other	<input type="checkbox"/>
CAD History: Vehicle	<input type="checkbox"/>	Recordings: COB Phone Line	<input type="checkbox"/>
Complaint Intake Form	<input checked="" type="checkbox"/>	Recordings: Radio Traffic	<input type="checkbox"/>
Daily Activity Report	<input type="checkbox"/>	Recordings: Jail Phone System	<input type="checkbox"/>
Daily Attendance Roster	<input type="checkbox"/>	Use of Force Report	<input type="checkbox"/>
Duty Post Roster	<input type="checkbox"/>	Traffic Citations	<input type="checkbox"/>
E-mails	<input checked="" type="checkbox"/>	Supervisor's Report of Injury/Illness	<input type="checkbox"/>
ExecuTime: Timesheets	<input type="checkbox"/>	Traffic Crash Report	<input type="checkbox"/>
ExecuTime: Time-off Requests	<input type="checkbox"/>	Transcripts	<input type="checkbox"/>
Extra Duty: Employee Schedule	<input type="checkbox"/>	Corrective Counseling	<input checked="" type="checkbox"/>
Extra Duty: Work Order	<input type="checkbox"/>	Sworn Allegation Sheet	<input checked="" type="checkbox"/>
Extra Duty: Invoice	<input type="checkbox"/>	Confidential Administrative Investigation Acknowledgement	<input checked="" type="checkbox"/>
Extra Duty: Payroll	<input type="checkbox"/>	Garrity Warning	<input checked="" type="checkbox"/>
Field Training Records	<input type="checkbox"/>	Intro to Recorded Interview/Garrity Warning- Subject Employee	<input checked="" type="checkbox"/>
HTE Payroll Module: Check Detail	<input type="checkbox"/>		<input type="checkbox"/>
HTE Payroll Module: Hours Detail	<input type="checkbox"/>		<input type="checkbox"/>

CONFIDENTIAL INFORMATION

DHSMV Intranet Records Info. System (IRIS)	<input type="checkbox"/>	Medical Records	<input type="checkbox"/>
Driver & Vehicle Information Database (DAVID)	<input type="checkbox"/>	Inmate Medical Records	<input type="checkbox"/>
FCIC/NCIC	<input type="checkbox"/>		<input type="checkbox"/>
FDLE Transaction Archive Report (TAR)	<input type="checkbox"/>		<input type="checkbox"/>
LINDAS	<input type="checkbox"/>		<input type="checkbox"/>



ALACHUA COUNTY SHERIFF'S OFFICE

Complaint

Administrative Investigation Report

In DMS look up Complaint Intake Form, ACSO 00-02D, that can be emailed to a complainant.

TRACKING NUMBER	2023-000036			DATE ASSIGNED	02 / 14 / 23	
NATURE OF COMPLAINT	Insubordination			DATE OF INCIDENT	02 / 13 / 23	
COMPLAINT TAKEN BY	Major J. Lance Yaeger	ID#	0386	BY PHONE <input type="checkbox"/>	IN PERSON <input type="checkbox"/>	OTHER <input checked="" type="checkbox"/>
INVESTIGATING SUPERVISOR	Major J. Lance Yaeger			DATE ASSIGNED	02 / 14 / 23	
ALLEGED VIOLATION OF DIRECTIVE 353.V	A.7 Insubordination					

PERSON'S INFORMATION

COMPLAINANT	Name	Major J. Lance Yaeger	R/S: W/M	DOB:	11 / 09 / 73
	Address	2621 SE Hawthorne Rd.	Contact #	352-367-4061	
	City/State	Gainesville, Fl.	Zip Code	32641	
ACCUSED EMPLOYEE(S)	Name	Capt. Rebecca Butscher	ID #	173	
	Name	N/A	ID #	N/A	
	Name	N/A	ID #	N/A	
WITNESS(ES)	Name	Capt. Behl	Contact #	352-367-3030	
	Name	Capt. Levy	Contact #	352-367-4069	
	Name	N/A	Contact #	N/A	
	Name	N/A	Contact #	N/A	

COMPLAINT – Brief description of the incident to include who received initial complaint, when and where alleged conduct violation(s) took place.

Major Yaeger conducted a counseling session with Captain Rebecca Butscher. This counseling took place in Major Yaeger's office at the ACSO on February 13, 2023 in the presence of Captain Behl and Captain Levy. During that counseling session Capt. Rebecca Butscher was insubordinate to Major Yaeger.

INVESTIGATIVE SUMMARY – Summary of all information gathered to include interviews, statements and other facts.

On or around February 7, 2023, by telephone I contacted Captain Behl in an effort to educate myself about the ACSO DOJ lifesaving award nominations such as who received and maintained them. Through Captain Behl, Ms. Odom, the Administrative Specialist to the PIO and P&A, sent related data to Captain Behl and me via email at 1:56 pm. At 4:55 pm, I forwarded the aforementioned email to members of the ACSO Command Staff including Captain Rebecca Butscher. That email read, "Team, The below and attached is pretty impressive if you ask me. Looks like the fine men and women at the ASO DOJ saved a lot of lives."

On February 8, 2023, at 10:16, I received an email from Captain Rebecca Butscher. That email was addressed to me. Captain Behl and Executive Assistant Courtney Barreca were carbon copied. In that email Captain Rebecca Butscher stated, "Major Yaeger, When making requests for awards or any

information that is maintained or managed within the Public Information Office, I expect to be copied and or notified of such requests so that I do not receive notification such as this after the fact when copied by my Administrative Assistant. Your consideration will be greatly appreciated." At 1:38 pm I sent Captain Rebecca Butscher an email which read, "Schedule an appointment through Amber Johns to meet with me this week."

Captain Butscher worked on Thursday February 9, 2023.

The following week, on the morning of Monday February 13, 2023, my Administrative Specialist verified Captain Rebecca Butscher did not schedule a meeting with me as requested. Later that day, at approximately 11:00, I learned that Captain R. Butscher was prepared to meet with me. At approximately 11:30 I summoned Captain Behl into my office. I then summoned Captain Rebecca Butscher. Captain Rebecca Butscher arrived with Captain Jayson Levy. Captain Rebecca Butscher briskly walked into my office and asked, in a defiant tone, if I had discipline for her. I replied that I had a corrective counseling prepared for her. I asked why Captain Levy was present. Captain Rebecca Butscher stated that she did not wish to speak with me without a witness. I replied Captain Behl was there as a witness. Captain Rebecca Butscher, in a defiant tone stated, "you have a witness and I have mine." Although not mandated to do so, I allowed Captain Levy to remain. I obtained a prepared [written] counseling. I explained that I was going to read it out loud, allow Captain Rebecca Butscher to review it and then ask her to sign it. Captain Rebecca Butscher, again in a defiant tone demanded I simply provide the statement to her adding she would read it for herself. In a professional tone I explained that I was going to read it out loud and then allow her to review it before signing it. While reading the corrective counseling, Captain Rebecca Butscher interrupted me during the second paragraph and asked for clarification regarding the date and event. I elaborated informing her that her disrespectful attitude occurred on February 7, 2023 immediately preceding the last Command Staff meeting in the Patrol Squad Room (PSR). As I finished reading the first sentence in the fourth paragraph, Captain Rebecca Butscher again interrupted me insulting me with words to the effect, "what's CSB have to do with anything?" I replied, "let me finish." During the counseling, I was forced to ask Captain Butscher to, "stop speaking so I can finish" [without interruption]. After I read the counseling, I handed it to Captain Rebecca Butscher. Captain Rebecca Butscher signed the statement and asked if I was done. I replied in the affirmative. Captain Butscher quickly stood up to leave, turned away and headed to the door with the signed counseling. I asked Captain Rebecca Butscher to stop and explained that I was keeping the written counseling. She turned back around and provided it to me. I added I would provide her with a copy, which I did immediately.

I explained that my superiors were aware of my intentions to administer a written counseling to Captain Rebecca Butscher. Captain Rebecca Butscher replied with words to the effect, "I wanted to speak with Sheriff too but you got to him first."

I explained that I wanted our relationship to be professional and appropriate. I explained that I hoped this counseling was the end of any insubordination adding that I was slightly pessimistic based upon her attitude, demeanor and tone at the time of the counseling. I told Captain Butscher that I did not want to converse further at that very moment adding that I feared her attitude would continue to decline. I told Captain Butscher that I, "welcomed" any follow-on conversation in the near future so long as it was, "professional and tactful." I also explained that I wanted us to be on the same team.

Once dismissed, Captain Butscher left abruptly. Captain Levy then exited and before getting to the door, Captain Levy looked back at Captain Behl and I while offering a facial expression which indicated he was shocked by Captain Butcher's behavior.

Throughout the counseling session, Captain Butcher's tone was defiant and insubordinate. While reading the statement, I periodically looked up at her noting she was leaning forward towards me with a facial expression consistent with anger. I also noted she intensely stared at me.

Consequently, I instructed Captains Behl and Levy to provide written statements regarding their observations during the aforementioned.

On February 14, 2023, while dropping off her witness statement, Captain Behl verbally expressed her disappointment in Captain Butcher's behavior during the counseling session adding she would never treat an animal in the manner in which Captain Rebecca Butscher treated me. Captain Behl noted Captain Butscher staring at me intensely adding she believed Captain Butscher was going to knock over the plant on my desk to come over my desk where I sat. Captain Behl provided a two-page witness statement form which was digitally signed.

Captain Levy provided a one-page witness statement that was digitally signed.

On February 22, 2023, while in the presence of Captain S. Maynard, I summoned Captain Butscher into my office. The following is a synopsis of the interaction with Captain Rebecca Butscher which was recorded by a digital, audio recording device:

Captain Butscher asked what the meeting was about. I explained I was conducting a formal investigation. Captain Rebecca asked if the matter regarded an Administrative Investigation to which she was the subject employee. I replied, "That's correct." Captain Butscher stated she would like representation before making any statements adding she would only sign the Confidentiality Agreement but nothing more. I replied that she was not required to make any statements adding I was not going to ask her to do so. I explained that it was possible I would question her at a later time adding, "after you've had a chance to consult with counsel or representation or something to that affect. So I don't plan on asking you questions right now... I'm going to give you the opportunity to provide a recorded or written statement. You'll be afforded, certainly the opportunity to consult with counsel or a representative before doing that." I then read the Sworn Allegation Sheet which indicated the allegation was, "Insubordination to Major Yaeger. Subject employee interview is not required." Captain Rebecca reviewed the document and signed it. Captain Rebecca Butscher then asked if this [investigation] was a result of the preceding counseling session. Captain Butscher asked, "I was insubordinate during that counseling session? Is that what you are saying?" I replied that I didn't want to speak about the investigation but added, "you are being investigated for insubordination."

I read the applicable documents and provided Captain Butscher copies while doing so. Captain Butscher requested a copy of all the documents. I indicated she had copies and asked her to verify she had them. Captain Butscher went through the documents I provided her and replied, "I do." After reading the Administrative Response Form, I provided it along with a continuation form to Captain Butscher. The header was completely filled in listing the allegation, "A.7 Insubordination" also listing, "Capt. Rebecca Butscher" as the Accused Employee.

I stated words to the effect, "I am not going to ask you to do this now, I am going to give this [Administrative Investigation Response Form] to you to take along with all the other documents that you have. What I am going to ask you to do is please, within 24 hours bring this back if you wanna complete the written one [response] or you'll also of course more than welcome to come back for a recorded interview. I just need to know what you want to do preferably within 24 hours..."

After 24 hours I did not receive a response regarding the opportunity to provide a written or recorded statement.

CONCLUSION – Explain how and why you arrived at your decision and your recommended discipline.

Captain Rebecca Butscher's actions led to informal discipline (a counseling session from Major Yaeger to Capt. Rebecca Butscher). During that counseling session on 2/13/23, in the presence of two witnesses, Captain Butscher's [verbal and nonverbal] communication was disrespectful to Major Yaeger thus a formal investigation was initiated.

Based upon this conclusion, I find that Captain Rebecca Butscher committed the violation of:

A.7- Insubordination- LEVEL 5

Recommended Discipline: Termination

My recommendation for termination is based upon the following facts:

The Alachua County Sheriff's Office is a paramilitary organization that has a designated command structure. A Major is superior to a Captain. It is imperative to the good order and discipline of the agency that Captain Rebecca Butscher, a member of the Sheriff's Command Staff, set the example for others to follow regarding respect to superiors.

ACSO Policy 353.V.A.7 regards:

Insubordination – Employees will promptly obey any lawful order of a superior.

- a. Should any lawful order given by a supervisor or superior conflict with a previous order, the employee receiving the order will promptly and respectfully call attention to such a conflict, or order, for the benefit of the supervisor or superior issuing the order. If the supervisor or superior does not change the order to alleviate such a conflict, the order will stand and will be obeyed by the employee receiving the order.
- b. Insubordination will be defined as "failure to submit to authority" and will include, but not be limited to, any failure or deliberate refusal to obey a lawful order given by a superior or relayed by an employee of the same or lesser rank or any disrespectful, insolent or abusive language or action toward a superior whether in or out of the presence of the superior.

"I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss. 112.532 and 112.533, Florida Statutes.

SIGNATURE		ID # 0386	DATE 02/24/23
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SUPERVISOR FINDINGS

In DMS look up "Supervisor's Findings" form (ACSO 00-02C) for additional pages

TRACKING NUMBER	2023-00036	ACCUSED EMPLOYEE	Capt. Rebecca Butscher	ID #:	0173
ALLEGED VIOLATION OF DIRECTIVE 353.V			A.7 Insubordination		
UNFOUNDED: Act or acts did not occur or did not involve ACSO employee.					<input type="checkbox"/>
NOT SUSTAINED: Insufficient evidence to clearly prove or disprove the allegation/complaint.					<input type="checkbox"/>
SUSTAINED: Preponderance of evidence clearly proves the allegation/complaint.					<input checked="" type="checkbox"/>
EXONERATED: Act or acts did occur, but were justified, lawful and proper.					<input type="checkbox"/>
EXONERATED DUE TO POLICY FAILURE: A finding of conclusion that present directive, policy, procedure, rule or regulation covering the situation was non-existent or inadequate.					<input type="checkbox"/>

RECOMMENDED DISCIPLINE

CURRENT POINTS	+CARRYOVER POINTS	= TOTAL POINTS	DISCIPLINE RANGE		
50	0	50			
TRAINING OR RETRAINING	<input type="checkbox"/>	LOSS OF VEHICLE	<input type="checkbox"/>	days	
WRITTEN REPRIMAND	<input type="checkbox"/>	PROBATION	<input type="checkbox"/>	months	
CHANGE IN ASSIGNMENT	<input type="checkbox"/>	SUSPENSION	<input type="checkbox"/>	days	hours
		DEMOTION	<input type="checkbox"/>	to	
		TERMINATION	<input checked="" type="checkbox"/>	DATE	2 / 27 / 23

		DISCIPLINE LEVEL AND POINT SCALE									
		NUMBER OF CHARGES									
		1	2	3	4	5	6	7	8	9	10
LEVELS	1	0	10	20	30	40	50	60	70	80	90
	2	10	20	30	40	50	60	70	80	90	100
	3	20	40	60	80	100	120				
	4	30	60	90	120	180					
	5	50	100	150	200						


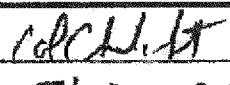
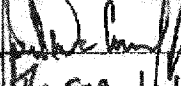

POINTS	MINIMUM DISCIPLINE	MAXIMUM DISCIPLINE	DISCIPLINARY PROBATION
0-9	-----	Written Reprimand	-----
10-19	Written Reprimand	One Day Suspension	-----
20-29	Written Reprimand	Two Day Suspension	-----
30-39	One Day Suspension	Three Day Suspension	-----
40-49	Two Day Suspension	Five Day Suspension	-----
50-59	Two Day Suspension	Termination	-----*
60-69	Three Day Suspension	Termination	Two - Three Months
70-79	Five Day Suspension	Termination	Four - Five Months
80-99	Ten Day Suspension	Termination	Six - Eight Months
100+	Fifteen Day Suspension	Termination	Nine - Twelve Months

* A level five violation is an automatic 12 months of disciplinary probation.

** If the employee's performance or lack of performance causes harm, the potential for harm, or impedes the good working order of the ACSO, the Sheriff may impose disciplinary probation outside of the matrix.

ACKNOWLEDGEMENT

TRACKING NUMBER	2023-00036	ACCUSED EMPLOYEE	Capt. Rebecca Butscher	ID #:	0173
ALLEGED VIOLATION OF DIRECTIVE 353.V			A.7 Insubordination		

AUTHORITY	SIGNATURE	ID#	DATE	RECOMMENDATION
SERGEANT/ SUPERVISOR				
Comments:				
LIEUTENANT/ BUREAU CHIEF				
Comments:				
CAPTAIN/ DIV. MANAGER				
Comments:				
MAJOR/DIRECTOR/CHIEF OF STAFF		0386	02/24/23	Termination
Comments:	Sustained ref A.7 Insubordination- LEVEL 5			
COLONEL		003	2/24/23	Two DAY Suspension.
Comments:	THERE WERE NO CALLOVER POINTS.			
CHIEF INSPECTOR	Capt. K. Weidner 224 02/01/23 See below			
Comments:	2 Day Suspension w/o pay; No commensurate points (previous)			
UNDERSHERIFF		002	03/02/2023	Sustained Insubordination
Comments:	The expectations for the rank of Captain is high, in order to maintain standards in the chain of command. Eighty Hours of suspension without pay + Probation			
SHERIFF		1101	DATE	5/2/2023
SHERIFF'S COMMENTS:	Two day (2) suspension without pay, 12 months disciplinary probation.			

(DO NOT WRITE BELOW THIS AREA - FOR OPS USE ONLY)

- Letter of Findings sent to complainant
- Copy sent to accused member
- Entered into IA TRAK

Date/Initials: _____
 Date/Initials: _____
 Date/Initials: _____

Distribution: Original to OPS via chain of command
 Originator: Office of Professional Standards
 Directives Linked: ACSO 122; 145; 808; OPS Manual



ALACHUA COUNTY SHERIFF'S OFFICE
Discipline Level and Point Scale

		DISCIPLINE LEVEL AND POINT SCALE									
		NUMBER OF CHARGES									
		1	2	3	4	5	6	7	8	9	10
L E V E L S	1	0	10	20	30	40	50	60	70	80	90
	2	10	20	30	40	50	60	70	80	90	100
	3	20	40	60	80	100	120				
	4	30	60	90	120	180					
	5	50	100	150	200						

POINTS	MINIMUM DISCIPLINE	MAXIMUM DISCIPLINE	DISCIPLINARY PROBATION
0-9	-----	Written Reprimand	-----
10-19	Written Reprimand	One Day Suspension	-----
20-29	Written Reprimand	Two Day Suspension	-----
30-39	One Day Suspension	Three Day Suspension	-----
40-49	Two Day Suspension	Five Day Suspension	-----
50-59	Two Day Suspension	Termination	-----*
60-69	Three Day Suspension	Termination	Two – Three Months
70-79	Five Day Suspension	Termination	Four – Five Months
80-99	Ten Day Suspension	Termination	Six – Eight Months
100+	Fifteen Day Suspension	Termination	Nine – Twelve Months

* A level five violation is an automatic 12 months of disciplinary probation.

** If the employee's performance or lack of performance causes harm, the potential for harm, or impedes the good working order of the ACSO, the Sheriff may impose disciplinary probation outside of the matrix.

Points will be retained and count toward future disciplinary action. Level 1, 2, and 3 violations will be retained for one year from the date discipline is rendered. Level 4 and 5 violations will be retained for two years from the date discipline is rendered.

Exhibit 11



ALACHUA COUNTY SHERIFF'S OFFICE

383 – Appeals Process Provided under Laws of Florida, Chapter 86-342

PUB: 06/29/22
STATUS: Current

- I. **EFFECTIVE DATE:** September 17, 2020
RESCINDS: ACSO 383 of February 14, 2012
- II. **SCOPE AND PURPOSE** – This directive applies to all Alachua County Sheriff's Office (ACSO) personnel and establishes policy and procedures for the use of a Career Service Appeals Board and a Complaint Review Board. This policy is illustrative and nothing in this policy is intended to create or remove from the provisions of Laws of Florida Chapter 86-342. Any conflict between ACSO policy and the law will be construed in favor of the law. [PSCAP 3.6.7M]
- III. **POLICY** – Permanent status full-time employees will be afforded all rights provided by Laws of Florida Chapter 86-342. This chapter provides procedures for appealing disciplinary actions and complaints against employees, as well as establishing and providing for the appointment of the Career Service Appeals Board and/or Complaint Review Board. [PSCAP 3.6.7M]
- IV. **FORMS**
Career Service Appeals Board Chairperson Agreement, ACSO 95-30
Career Service Appeals Board Witness Payment Approval, ACSO 95-31
Career Service Appeals Board/Complaint Review Board Waiver of Fifteen Day Requirement, ACSO 94-02.
Career Service Appeals Board Rules and Guidelines, ACSO 07-03
- V. **ADMINISTRATIVE PROCEDURES FOR CAREER SERVICE APPEALS BOARD** [CFA 7.06; FCAC 4.14; PSCAP 3.6.7M]
 - A. The authority to set Administrative rules and guidelines is vested in the Sheriff in Laws of Florida Chapter 86-342, as stated in Section 1, Subsection 4.
 - B. The rules and guidelines are promulgated in Career Service Appeals Board Rules and Guidelines, ACSO 07-03, and this document is maintained in the Office of Professional Standards Operational Manual and the Human Resources Bureau. The rules and guidelines contained therein are not exclusive; the Sheriff reserves the right to amend them as he/she sees fit, subject only to Laws of Florida–Chapter 86-342, and any revisions thereto. Members chosen to either a Career Service Appeals Board or a Complaint Review Board must agree to abide by the rules and guidelines set forth in Career Service Appeals Board Rules and Guidelines prior to being allowed to sit on either Board.
 - C. The chairperson selected to a Career Service Appeals Board must agree to abide by the rules and guidelines set forth in the Career Service Appeals Board Rules and Guidelines. Career Service Appeals Board Chairperson Agreement, ACSO 95-30, will be used to document same.
 - D. For the purpose of the appeals process, a suspension day will be calculated as eight (8) hours.

VI. CAREER SERVICE APPEALS BOARD [CFA 7.06, FCAC 7.04]

- A. Designed for the purpose of hearing appeals of permanent employees arising from disciplinary action brought under Alachua County Sheriff's Office directives or procedures which result in dismissal, suspension, demotion or reduction in pay; provided that reprimands, oral or written and suspensions of two (2) working days or less will not be appealable to a Board; provided however, that no more than one (1) such disciplinary action of suspension may occur within one (1) calendar year (365 days) without the right to appeal.
- B. Employees wishing to appeal the Sheriff's decision must file a written notice of appeal with the Sheriff by submitting an IOC to the Human Resources Bureau Director no later than three (3) working days after the employee is notified of the disciplinary action on which the appeal is based. Additionally, the appeal notice will contain the name of two (2) board members selected by the employee.
- C. Upon receipt of a written notice of appeal, the Sheriff will call an ad hoc Career Service Appeals Board made up of five (5) law enforcement officers assigned within Alachua County. The Board will be comprised of:
 1. Two (2) members selected by the Sheriff.
 2. Two (2) members selected by the employee.
 3. A fifth member selected by the other four (4) members with the concurrence of the Sheriff and the employee.
- D. The fifth member will serve as Chairperson of the Board. The Human Resources Bureau Director will sit on the Board as an ex-officio member, but will have no vote.
- E. The Board must meet and conduct a hearing on the appeal within fifteen (15) working days after receipt of a written notice of appeal by the Sheriff. Any postponement or delay must be agreed to in writing by both the employee calling the Board and the Sheriff using the Career Service Appeals Board/Complaint Review Board Waiver of 15-Day Requirement.
- F. Prior to meeting for the purpose of conducting a hearing on the appeal, the Board will meet to compile a list of witnesses to be called, documents to be subpoenaed, and to set a date for the hearing. Both the Sheriff and the employee will provide a list of persons they intend to call as witnesses, except rebuttal witnesses, to the Board at this meeting through the ranking officer in charge of the Human Resources Bureau.

VII. ACTION OF THE CAREER SERVICE APPEALS BOARD

- A. The Career Service Appeals Board will, by majority vote, dispose of the appeal for which it was appointed by making findings of fact and issuing a written decision. Such decision will either sustain or not sustain the disciplinary action being appealed.
- B. If the disciplinary action by the Sheriff is not sustained by the Career Service Appeals Board, the Career Service Appeals Board will order such remedial action as is appropriate, which may include reinstatement with back pay ***including repayment of any wages lost due to a suspension without pay*** and may modify any personnel disciplinary action which was the subject of the appeal.

- C. No Career Service Appeals Board will have the authority to impose on any employee any disciplinary action which is harsher than that which formed the basis of the appeal.

VIII. POWERS OF THE CAREER SERVICE APPEALS BOARD – In conducting the hearing, the Career Service Appeals Board has the power to administer oaths, issue subpoenas, compel the attendance of witnesses, and require production of books, records, accounts, papers, documents, and testimony. Persons who do not comply with a subpoena or order issued by the Board may be subject to a contempt order by an Alachua County Judge.

IX. REPRESENTATION AT A CAREER SERVICE APPEALS BOARD HEARING

- A. The employee requesting the Career Service Appeals Board has the right to be represented by a person of his/her choice and to present any evidential facts on his/her behalf.
- B. The Sheriff may be represented by a person of his/her choice who will present any evidential facts in his/her behalf.

X. CAREER SERVICE APPEALS BOARD WITNESS FEES

- A. Witnesses to be called by the Career Service Appeals Board must be by concurrence of three (3) of the members of the Board. Witness fees for these and other witnesses will be paid in the following manner:
- B. Witness fees for witnesses called by the Career Service Appeals Board will be paid by the Sheriff upon approval by three (3) Career Service Appeals Board members. The Career Service Appeals Board form Witness Payment Approval, ACSO 95-31, will be used to request same.
 - 1. Witness fees for witnesses called by the employee will be paid by the employee.
 - 2. Witness fees for witnesses called by the Sheriff will be paid by the Sheriff.

XI. COMPLAINT REVIEW BOARD – If any sworn full-time employee is dissatisfied with the decision of the Sheriff regarding disciplinary action resulting from a complaint, he/she may appeal the disciplinary action to a Career Service Appeals Board, or he/she may first request a Complaint Review Board to hear all of the facts contained in the accusation against the employee. The Complaint Review Board is designed to address complaints arising from third party action and not from inter-agency action.

- A. Sworn employees wishing to appeal the findings of the complaint must file a written notice of appeal with the Sheriff by submitting an IOC to the Human Resources Bureau Director no later than three (3) working days after the employee is notified of the disciplinary action on which the appeal is based. Additionally, the appeal notice will contain the names of the two (2) board members selected by the employee.
- B. Upon receipt of a written notice of appeal, the Sheriff will impanel a Complaint Review Board made up of five (5) law enforcement officers assigned full-time within Alachua County. The Board will be comprised of:
 - 1. Two (2) members selected by the Sheriff.
 - 2. Two (2) members selected by the employee.

- 3. A fifth member selected by the other four (4) members with the concurrence of the Sheriff and the employee.
- C. The fifth member will serve as the Chairperson of the Complaint Review Board. The Human Resources Bureau Director will sit on the board as an ex-officio member, but will have no vote.
- D. The Complaint Review Board must meet and conduct a hearing on the appeal within fifteen (15) working days after receipt of an appeal by the Sheriff. Any postponement or delay must be agreed to in writing by both the employee requesting the Complaint Review Board and the Sheriff using the Career Service Appeals Board/Complaint Review Board Waiver of Fifteen Day Requirement, ACSO 94-02.
- E. The Complaint Review Board will hear all the facts contained in the accusation against the sworn employee. The sworn employee will be present during the presentation of all allegations, witnesses and evidence, and will have the right to question the accuser and all witnesses and to present any witnesses in his/her own behalf. The Complaint Review Board will also have the right to question the accuser and all witnesses.

XII. ACTION OF THE COMPLAINT REVIEW BOARD

- A. The Complaint Review Board will determine, only after hearing all of the facts contained in the accusation against the employee, if the complaint against the employee is unfounded, not sustained, sustained, or exonerated. The Complaint Review Board will forward written notice thereof to the Sheriff by submitting an IOC to the Human Resources Bureau Director and to the employee within twenty-four (24) hours after the decision is reached, as well as any recommendation regarding disciplinary action to be taken against the accused. The Sheriff will consult with the employee's chain of command to review the findings and recommendations of the Complaint Review Board, and the Sheriff may take such disciplinary action as he/she deems appropriate.
- B. The decision of the Sheriff with respect to the findings of a Complaint Review Board and resulting disciplinary action may be appealed to a Career Service Appeals Board, if the disciplinary action meets the requirement set forth in Laws of Florida Chapter 86-342, and this policy. If such an appeal is taken, no findings or recommendation of the Complaint Review Board with respect to the case will be considered by the Career Service Appeals Board in its proceedings.

XIII. POWERS OF THE COMPLAINT REVIEW BOARD – Although the accused sworn employee has the right to question the accuser and all witnesses in his/her case, as well as present any witness on his/her behalf, the Board is not empowered to administer oaths, issue subpoenas, compel the attendance of witnesses, or require production of books, records, accounts, papers, documents or testimony.

XIV. REPRESENTATION AT A COMPLAINT REVIEW BOARD – Sworn employees are not entitled to be represented by a person of their choosing in a Complaint Review Board Hearing.

XV. BOARD MEMBERS – Upon accepting appointment to a Career Service Appeals Board and/or a Complaint Review Board, no member will:

- A. Discuss the subject matter of the appeal with the employee calling the Board, the Sheriff, or with any witness unless all Board members are present;

- B. Meet with any representative, or advocate for the employee calling the Board or for the Sheriff;
- C. Discuss the merits of the appeal with Board members until the Board retires for deliberation.

XVI. HUMAN RESOURCES BUREAU DIRECTOR – The Human Resources Bureau Director will serve as the ex-officio member of both Boards, but will have no vote. He/she will be responsible for all administrative functions including but not limited to:

- A. Handling all written notifications and correspondence between Board members, between Board members and the employee requesting the Board, between Board members and the Sheriff, and between the employee and the Sheriff.
- B. Processing subpoenas for witnesses called by the Career Service Appeals Board, the employee and the Sheriff.
- C. Scheduling all witnesses as ordered by the Career Service Appeals Board.
- D. Arranging for all room requirements, equipment and supplies.
- E. Assuring that all Career Service Appeals Board members and advocates and the employee have copies of the internal file and all related correspondence and documentation.

CASE LAW RELIED UPON

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

DOUG GLISSON,

Petitioner,

v.

CASE NO. 2015 CA 001593

**JULIE JONES, SECRETARY OF THE
FLORIDA DEPARTMENT OF CORRECTIONS,
JEFFERY BEASLEY, and
FLORIDA DEPARTMENT OF CORRECTIONS,**

Respondent.

ORDER GRANTING EXTRAORDINARY RELIEF

THIS CAUSE came before the Court on November 23, 2015, for an evidentiary hearing. The Court, having heard the arguments and reviewed the evidence admitted at the November 23, 2015 hearing, and being otherwise fully advised in the premises, the Court makes the following findings and rulings.

In February of 2015, Petitioner was placed under an internal affairs investigation by the Respondent. (Petitioner's Exhibit A). Petitioner subsequently requested that investigative interviews cease, as he determined that the rights and privileges that he is afforded under the Policeman's Bill of Rights in Florida Statutes 112.532 were being violated, and that he requested a Complaint Review Board and a Compliance Review Hearing. (Petitioner's Exhibit B and C). Respondent has denied his request for a Complaint Review Board with a Compliance Review Hearing. (Petitioner's Exhibit E). This petition for extraordinary relief followed.

Mandamus is an extraordinary common law remedy used to enforce an established legal right by compelling a person in an official capacity to perform a ministerial duty required by law. *Pace v. Singletary*, 633 So.2d 516 (Fla. 1st DCA 1994). In order to be entitled to mandamus


relief, the Petitioner must establish that he has a clear legal right to the requested action, that the Respondent has a clear legal duty to perform the requested action, and that no other adequate legal remedy exists. *Turner v. Singletary*, 623 So. 2d 537, 538 (Fla. 1st DCA 1993).

This Court finds that Petitioner is entitled to extraordinary relief to compel the Respondent to convene a Complaint Review Board and a Compliance Review Hearing. Petitioner has demonstrated a clear legal right to the Compliance Review Hearing. The Respondent has not demonstrated that the statute in question provides any discretion to Respondent in granting a Compliance Review Hearing. This Court agrees that the act of convening the Compliance Review Hearing is entirely ministerial, and must be convened pursuant to Petitioner's request, which this Court finds sufficiently complied with Florida Statutes 112.534.

Accordingly, it is **ORDERED** and **ADJUDGED** that:

1. Mandamus relief is hereby **GRANTED**.
2. Respondents have thirty (30) days to convene a Complaint Review Board and conduct a Compliance Review Hearing for Petitioner, pursuant to Florida Statutes 112.532(2) and 112.534(1).

DONE and **ORDERED** on this 26th day of May, 2016.



CHARLES W. DODSON
Circuit Judge

Copies to:

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FOP, Gator Lodge 67 v. City of Gainesville

FOP, Gator Lodge 67 v. City of Gainesville

Court of Appeal of Florida, First District

September 23, 2014, Opinion Filed

CASE NO. 1D13-4068

Reporter

148 So. 3d 798 *; 2014 Fla. App. LEXIS 14862 **; 39 Fla. L. Weekly D 2035

FRATERNAL ORDER OF POLICE, GATOR
LODGE 67, Appellant, v. CITY OF
GAINESVILLE, FLORIDA, Appellee.**Subsequent History:** Released for Publication
November 7, 2014.Rehearing denied by FOP v. City of Gainesville,
2014 Fla. App. LEXIS 18293 (Fla. Dist. Ct. App.
1st Dist., Oct. 22, 2014)**Prior History:** **[**1]** An appeal from the Circuit
Court for Alachua County. Victor Lawson
Hulslander, Judge.**Core Terms**compliance, investigator, bill of rights, review
hearing, disciplinary action, notice, complaints,
alleged violation, intentional violation, rights, law
enforcement officer, investigative report,
corrections officer, police department, occurring,
notified, agency head, trial court, interrogation,
misconduct, violations, interview, removal, further
involvement, internal affairs, police chief, review
board, review panel, external, remedied**Case Summary****Overview**HOLDINGS: [1]-A compliance review hearing
(CRH) was available to review Law Enforcement
Officers' Bill of Rights (LEOBOR) violations
arising during an investigation irrespective of the
source of the complaint, but a CRH was notavailable to review violations occurring after the
investigation was complete under § 112.534, Fla.
Stat.; [2]-Officer A was not entitled to a CRH since
he did not request one until after the investigation
was complete; [3]-Although a CRH for Officer B
was not barred because he was under investigation
based upon an internal complaint, the CRH was
properly denied as it was not requested until after
the investigation was complete; [4]-Officer B also
was not entitled to a CRH as the failure to provide
him with the polygraph results was remedied before
the hearing was requested; [5]-The failure to
complete the investigation within 180 days was not
an LEOBOR violation.**Outcome**

Judgment affirmed.

LexisNexis® HeadnotesGovernments > Local
Governments > Employees & OfficialsLabor & Employment Law > Collective
Bargaining & Labor Relations > General
OverviewGovernments > State & Territorial
Governments > Employees & OfficialsHNI [📄] **Local Governments, Employees &
Officials**

A compliance review hearing is available to review alleged intentional violations of the Law Enforcement Officers' Bill of Rights arising during an investigation irrespective of the source of the complaint that led to the investigation, but a compliance review hearing is not available to review violations occurring after the investigation is complete.

Civil Procedure > Appeals > Standards of Review > De Novo Review

Governments > Legislation > Interpretation

Civil Procedure > Appeals > Standards of Review > Questions of Fact & Law

Civil Procedure > Appeals > Standards of Review > General Overview

HN2 [📄] **Standards of Review, De Novo Review**

The appellate court reviews issues of the interpretation of a statute de novo because the interpretation of a statute is a pure question of law. Moreover, in determining whether to affirm or reverse the order on appeal, the state's highest court focuses on the result reached by the trial court, not its reasoning.

Governments > Local

Governments > Employees & Officials

Labor & Employment Law > Collective Bargaining & Labor Relations > General Overview

Governments > State & Territorial

Governments > Employees & Officials

HN3 [📄] **Local Governments, Employees & Officials**

The Law Enforcement Officers' (LEO) Bill of Rights affords law enforcement officers and

correctional officers various rights when the officer is subject to an investigation by his or her agency that could result in disciplinary action. § 112.532, Fla. Stat. The rights include the right to be informed of the nature of the investigation and the evidence against the officer before any interrogation; the right to counsel during any interrogation; the right to be notified of the reasons for any disciplinary action before it is imposed; the right to a transcript of any interrogation; the right to a complete copy of the investigatory file; and the right to address the findings in the investigatory report with the agency before the disciplinary action is imposed. § 112.532(1)(d), (1)(g), (1)(i), (4)(a), (4)(b). Additionally, the LEO Bill of Rights prescribes the conditions under which any interrogation of the officer must be conducted, including limitations on the time, place, manner, and length of the interrogation, and restrictions on the interrogation techniques. § 112.532(1)(a), (1)(b), (1)(c), (1)(e), (1)(f).

Governments > Local

Governments > Employees & Officials

Labor & Employment Law > Collective Bargaining & Labor Relations > General Overview

Governments > State & Territorial

Governments > Employees & Officials

HN4 [📄] **Local Governments, Employees & Officials**

Effective July 1, 2009, the broad judicial remedy under § 112.534(1), Fla. Stat. (2008) was replaced with a multi-step process culminating in a "compliance review hearing" before an administrative panel with the authority to award only limited relief: removal of the investigator from further involvement with the investigation of the officer. Ch. 2009-200, § 3, Laws of Fla.

FOP, Gator Lodge 67 v. City of Gainesville

Governments > Local
 Governments > Employees & Officials

Labor & Employment Law > Collective
 Bargaining & Labor Relations > General
 Overview

Governments > State & Territorial
 Governments > Employees & Officials

HN5[🗑️] Local Governments, Employees & Officials

See § 112.534(1), Fla. Stat.

Governments > Local
 Governments > Employees & Officials

Labor & Employment Law > Collective
 Bargaining & Labor Relations > General
 Overview

Governments > State & Territorial
 Governments > Employees & Officials

HN6[🗑️] Local Governments, Employees & Officials

The statutory language of § 112.534(1), Fla. Stat. is clear, and the procedure provided in the statute is straightforward. First, under paragraph (a), the officer under investigation must advise the investigator of the alleged intentional violation of the Law Enforcement Officers' Bill of Rights. Then, if the investigator fails to cure the violation or continues the violation, under paragraph (b), the officer must inform the agency head of the alleged violation and the investigator must stop the interview of the officer. Next, under paragraph (c), the officer has three days to file a written notice of violation and request for a compliance review hearing. Finally, under paragraph (d), a compliance review hearing must be held within 10 working days unless the violation is remedied or the officer and the agency mutually agree to a later hearing.

Governments > Local
 Governments > Employees & Officials

Labor & Employment Law > Collective
 Bargaining & Labor Relations > General
 Overview

Governments > State & Territorial
 Governments > Employees & Officials

HN7[🗑️] Local Governments, Employees & Officials

Section 112.534(1)(e), Fla. Stat. establishes the purpose of a compliance hearing: to determine whether or not the investigator or agency intentionally violated the requirements provided under the Law Enforcement Officers' Bill of Rights. A limited remedy is provided in paragraph (g)--removal of the investigator from any further involvement with the investigation of the officer.

Governments > Legislation > Interpretation

HN8[🗑️] Legislation, Interpretation

The appellate court is obligated to give meaning to all parts of a statute and, in doing so.

Governments > Local
 Governments > Employees & Officials

Labor & Employment Law > Collective
 Bargaining & Labor Relations > General
 Overview

Governments > State & Territorial
 Governments > Employees & Officials

HN9[🗑️] Local Governments, Employees & Officials

The appellate court is not persuaded that the Florida legislature intends the compliance review hearing to be a name-clearing hearing (as appears to be the

FOP, Gator Lodge 67 v. City of Gainesville

case with the complaint review boards under § 112.532(2), Fla. Stat.; rather, it is clear from an in toto reading of § 112.534, Fla. Stat. that the exclusive purpose of the compliance review hearing is to remedy violations of the Law Enforcement Officers' Bill of Rights occurring during the investigation by removing the investigator from further involvement in the case.

Governments > Local
 Governments > Employees & Officials
 Labor & Employment Law > Collective Bargaining & Labor Relations > General Overview
 Governments > State & Territorial
 Governments > Employees & Officials

HNI9 **Local Governments, Employees & Officials**

Section 112.532, Fla. Stat. broadly provides, without qualification or exemption, that the rights listed in that statute are available whenever a law enforcement officer or correctional officer is under investigation for any reason. § 112.532(1). This language is clear and unambiguous and cannot be reasonably construed to support the proposition that all of the rights afforded by the Law Enforcement Officers' Bill of Rights are limited to investigations arising out of external complaints.

Governments > Local
 Governments > Employees & Officials
 Labor & Employment Law > Collective Bargaining & Labor Relations > General Overview
 Governments > State & Territorial
 Governments > Employees & Officials

HNI11 **Local Governments, Employees & Officials**

Section 112.532, Fla. Stat. contains no qualifications or exemptions from the requirement that the rights contained in § 112.532 apply to any interrogation of a police officer by members of his agency if the investigation could lead to disciplinary action, demotion, or dismissal of the officer.

Governments > Local
 Governments > Employees & Officials
 Labor & Employment Law > Collective Bargaining & Labor Relations > General Overview
 Governments > State & Territorial
 Governments > Employees & Officials

HNI12 **Local Governments, Employees & Officials**

Nothing in § 112.534, Fla. Stat. ties the availability of a compliance review hearing to the source of the complaint. Instead, the statute provides a remedy when an agency or investigator fails to comply with the requirements of the Law Enforcement Officers' (LEO) Bill of Rights. § 112.534(1). Although courts have held that some portions of the LEO Bill of Rights apply only to external complaints, it would make no sense to construe § 112.534 to provide for compliance review hearings only to remedy alleged violations arising out of investigations of external complaints because the source of the complaint has no bearing on most of the rights afforded by the LEO Bill of Rights.

Governments > Local
 Governments > Employees & Officials
 Labor & Employment Law > Collective Bargaining & Labor Relations > General Overview
 Governments > State & Territorial
 Governments > Employees & Officials

HNI3 [📄] Local Governments, Employees & Officials

The 180-day period in § 112.532(6)(a), Fla. Stat. does not apply to internal complaints. The purpose of the complaint review boards in § 112.532(2) is to provide the officer a means to vindicate his actions and reputations against claims made by persons outside the officer's agency.

Governments > Local

Governments > Employees & Officials

Labor & Employment Law > Collective Bargaining & Labor Relations > General Overview

Governments > State & Territorial

Governments > Employees & Officials

HNI4 [📄] Local Governments, Employees & Officials

The statute providing for confidentiality of complaints against law enforcement officers and correctional officers applies to complaints filed by anyone, whether that person is a member of the public or another agency or the employing agency.

Governments > Local

Governments > Employees & Officials

Labor & Employment Law > Collective Bargaining & Labor Relations > General Overview

Governments > State & Territorial

Governments > Employees & Officials

HNI5 [📄] Local Governments, Employees & Officials

McQuade does not hold that the entire Law Enforcement Officers' (LEO) Bill of Rights is inapplicable to internal complaints. It merely holds

that the 180-day period in § 112.532(6)(a), Fla. Stat. (2008), does not apply to internal complaints. Moreover, because McQuade involves an internal complaint, the fact that the court also states that the remedy in § 112.534, Fla. Stat. (2008), was available to the officer undercuts a broad reading of the decision.

Governments > Local

Governments > Employees & Officials

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HNI6 [📄] Local Governments, Employees & Officials

The McQuade court states that Migliore has been cited broadly for the proposition that the Law Enforcement Officers' Bill of Rights does not apply to investigations initiated by a complaint that originates from within the agency that employs the officer under investigation. That, however, is not the holding of Migliore or the Kelly case cited in McQuade for this proposition.

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HNI7 [📄] Local Governments, Employees & Officials

The narrow issue decided in Migliore is whether the complaint review boards provided for in §

112.532(2), Fla. Stat. (1981), have authority to review disciplinary action taken against an officer. Although the court holds that the boards' purpose is to provide a means for the officer to vindicate his actions and reputation against claims made against him by persons outside the agency which employs him, the court does not purport to limit the application of any other provision of the Law Enforcement Officers' Bill of Rights to external complaints. Indeed, in discussing whether the circuit court had jurisdiction under § 112.534, Fla. Stat. (1981), to review disciplinary action against the officer, the court explains the operation of that statute without any suggestion that the statute's remedy was limited to external complaints. Section 112.534 operates only to immediately restrain violation of the rights of police officers by compelling performance of the duties imposed by §§ 112.531 to 112.533, Fla. Stat.

Governments > Courts > Judicial
Precedent > Dicta

Labor & Employment Law > Collective
Bargaining & Labor Relations > General
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Governments > Local
Governments > Employees & Officials

Governments > State & Territorial
Governments > Employees & Officials

HN18[📄] **Judicial Precedent, Dicta**

The issue in Kelly is not whether the Law Enforcement Officers' (LEO) Bill of Rights applies to internal complaints. Instead, the issue is whether the LEO Bill of Rights applies to an investigator employed by the state attorney. The court holds that the investigator is not covered by the LEO Bill of Rights because he is not a law enforcement officer, as defined in § 112.531, Fla. Stat. Although the court does cite Migliore in a footnote for the proposition that it would appear that all of the LEO Bill of Rights deals specifically with investigations,

complaints, and disciplinary action as a result of claims made against an officer by persons outside the agency that employs him, this statement is classic dicta because it is prefaced by the acknowledgment that it is not necessary to decide the appeal.

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Governments > Employees & Officials

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Governments > State & Territorial
Governments > Employees & Officials

HN19[📄] **Local Governments, Employees & Officials**

Neither McQuade, Migliore, nor Kelly stand for the broad proposition that the Law Enforcement Officers' Bill of Rights only applies when the officer is under investigation based upon an external complaint, and to the contrary, the plain language of §§ 112.532 and 112.534, Fla. Stat. do not limit compliance review hearings based upon the source of the complaint.

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Governments > Employees & Officials

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HN20[📄] **Local Governments, Employees & Officials**

Section 112.534(1)(d), Fla. Stat. indicates that a compliance review hearing need not be held if the alleged violation is otherwise remedied by the

agency before the hearing.

Counsel: Paul A. Donnelly and Christopher B. Deem of Donnelly & Gross, P.A., Gainesville, for Appellant.

Stephanie M. Marchman, Senior Assistant City Attorney, Gainesville, for Appellee.

Judges: WETHERELL, J. PADOVANO, J., CONCURS. MAKAR, J., CONCURS IN PART AND DISSENTS IN PART WITH OPINION.

Opinion by: WETHERELL

Opinion

[*799] WETHERELL, J.

This appeal presents two issues of first impression concerning the availability of compliance review hearings under *section 112.534, Florida Statutes*,¹ to review alleged intentional violations of the rights afforded to law enforcement officers and correctional officers by part VI of chapter 112, Florida Statutes, which is commonly referred to as the Law Enforcement Officers' (LEO) Bill of Rights. The issues are (1) whether an officer under investigation by his or her agency for a disciplinary matter is entitled to a compliance review hearing to review alleged violations of the LEO Bill of Rights occurring after the investigation is complete, and (2) whether a compliance review hearing is available when the investigation is based upon a complaint against the officer from a person within the officer's agency. For the reasons that follow, we hold that *HNI*[*] a compliance review hearing is available to review [*2] alleged intentional violations of the LEO Bill of Rights arising during an investigation irrespective of the source of the complaint that led to the investigation, but that a compliance review hearing is not available to review violations occurring after the investigation

is complete.

I. Factual and Procedural Background

This case arose out of the Gainesville Police Department's investigation of two of its officers, Officer A and Officer B.² Both of the officers are members of the appellant, Fraternal Order of Police, Gator Lodge 67 ("the Union").

A. Officer A

Officer A was the subject of a complaint filed by a public citizen. The internal affairs unit of the police department investigated the complaint and interviewed Officer A. It is undisputed that [*3] Officer A was afforded all of his rights under the LEO Bill of Rights during his interview and the investigation.

After completing the investigation, the investigator sent his report and the proposed disciplinary action forms to an employee in the City of Gainesville's human resources (HR) department to review for compliance with City policy. The HR department [*800] employee suggested several wording changes and additions to the forms, but she did not suggest any changes to the investigative report or the proposed disciplinary action.

The police department thereafter notified Officer A of the proposed disciplinary action: a 30-hour suspension, along with "written instruction and cautioning." After requesting and receiving a copy of the investigative file, Officer A made a public records request for and received his personnel file, whereupon he first learned of the HR department employee's review of the investigative report and disciplinary action forms.

²The parties agreed below to refer to the officers by these pseudonyms even though the City disputed the Union's claim that the identity of the officers was confidential under *sections 112.533(2)(a)* or *112.534(1)(e)*. We express no view as to whether it was necessary or appropriate to refer to the officers by pseudonyms under the circumstances of this case because that issue is not before us.

¹All statutory references are to the 2009 version of the Florida Statutes unless otherwise indicated.

The following day, Officer A submitted a written "Notice of Intentional Violation and Demand for Compliance Review Hearing Pursuant to *Florida Statute 112.534*" to the police chief. The notice alleged that, in violation of *sections 112.532 and 112.533*, Officer A was not provided a complete copy of the [**4] investigative file and that non-law enforcement personnel (namely the HR department employee) participated in the internal affairs investigation. The police chief denied the request for a compliance review hearing based upon Officer A's failure to comply with the procedural requirements in *section 112.534*.

Officer A was subsequently afforded a so-called "Bill of Rights Conference" pursuant to *section 112.532(4)(b)* at which he was given an opportunity to address the findings in the investigative report. Thereafter, the police department imposed the proposed disciplinary action. Officer A unsuccessfully appealed the disciplinary action through the grievance process in the collective bargaining agreement between the City and the Union.

B. Officer B

Officer B was the subject of a complaint filed by a non-law enforcement employee of the police department. The internal affairs unit of the police department investigated the complaint and interviewed Officer B. It is undisputed that Officer B was afforded all of his rights under the LEO Bill of Rights during the interview.

Upon conclusion of the investigation, the investigator prepared a report recommending disciplinary action against Officer B. The police department thereafter gave Officer B notice of the [**5] proposed disciplinary action: a 40-hour suspension and 8 hours of diversity training.

After Officer B was afforded a Bill of Rights Conference to discuss the findings in the investigative report, the police chief directed the internal affairs unit to ask the complainant to

submit to a polygraph examination. The complainant did so, and the police department thereafter notified Officer B of its intent to impose the same disciplinary action contained in the prior notice. The notice also advised Officer B of his right to another Bill of Rights Conference.

On the morning of the second Bill of Rights Conference, Officer B submitted a "notice to come into compliance" to the investigator. The notice alleged the investigation had exceeded the 180-day period provided in *section 112.532(6)(a)* and that the police department violated Officer B's rights under the LEO Bill of Rights by not providing him with the results of the polygraph examination.

Officer B was provided a copy of the polygraph examination results that same day. Nevertheless, later in the day, Officer B submitted a "notice of intentional violation [and] demand for a cure" to the police chief. This notice referred to the notice provided to the investigator earlier that morning and asserted that the internal [**6] affairs unit indicated its intent to continue the alleged violations.

[*801] Several days later, Officer B submitted a written "Notice of Intentional Violation and Demand for Compliance Review Hearing Pursuant to *Florida Statute 112.534*" to the police chief. The notice alleged that, in violation of *sections 112.532 and 112.533*, Officer B was not provided a complete copy of the investigative file (namely, the polygraph examination results) and that the investigation exceeded 180 days. The police chief denied the request for a compliance review hearing based, in part, on the fact that Officer B did not request a hearing until after the investigation was completed and the notice of disciplinary action was issued.

The police department thereafter imposed the proposed disciplinary action against Officer B. The disciplinary action was subsequently overturned through the grievance process in the collective bargaining agreement, and Officer B received back pay for the period that he was suspended.


C. Trial Court Proceedings

The Union filed a complaint for declaratory relief in the circuit court seeking a declaration concerning the police department's obligation to convene compliance review hearings for Officers A and B and other similarly situated [**7] officers. The trial court held an evidentiary hearing on the complaint and thereafter entered a final judgment determining that neither officer (nor "those similarly situated"³) was entitled to a compliance review hearing.

As to Officer A, the trial court reasoned the declaratory judgment action was moot because the only remedy provided in section 112.534 is the "immediate removal of the investigator from involvement in the investigation" and the investigation of Officer A had been completed and he had already served the resulting disciplinary action. As to Officer B, the trial court reasoned that the remedy provided in section 112.534 is not available because the investigation of Officer B resulted from an internal complaint and, based upon *McQuade v. Department of Corrections*, 51 So. 3d 489 (Fla. 1st DCA 2010), "[t]he LEO Bill of Rights is not applicable to complaints that arise [**8] internally to a law enforcement agency."


This appeal followed.


II. Analysis

The issues raised in this appeal involve the proper interpretation of the LEO Bill of Rights, and particularly, section 112.534. HN2[] We review these issues *de novo* because the interpretation of a statute is a pure question of law. See Diamond

³Very little evidence was presented about other allegedly similarly situated officers, and the only finding made by the trial court pertaining to other officers was that, "[a]s to other [Gainesville Police Department] officers, between the effective date of the compliance review panel provisions contained in section 112.534, Florida Statutes, and the conclusion of trial, several requests for a compliance review panel have been made, but none has ever been convened."

Aircraft Indus., Inc. v. Horowitz, 107 So. 3d 362, 367 (Fla. 2013). Moreover, in determining whether to affirm or reverse the order on appeal, we focus on the result reached by the trial court, not its reasoning. See Dade Cnty. Sch. Bd. v. Radio Station WOBA, 731 So. 2d 638, 644-45 (Fla. 1999).

HN3[] The LEO Bill of Rights affords law enforcement officers and correctional officers various rights when the officer is subject to an investigation by his or her agency that could result in disciplinary action. See § 112.532, Fla. Stat. The rights include the right to be informed of the nature of the investigation and the evidence against the officer before any interrogation; the right to counsel during any interrogation; the right to be notified of the [**802] reasons for any disciplinary action before it is imposed; the right to a transcript of any interrogation; the right to a complete copy of the investigatory file; and the right to address the findings in the investigatory report with the agency before the disciplinary action is imposed. See §§ 112.532(1)(d), (1)(g), (1)(i), (4)(a), (4)(b), Fla. Stat. Additionally, the LEO Bill of Rights prescribes the conditions [**9] under which any interrogation of the officer must be conducted, including limitations on the time, place, manner, and length of the interrogation, and restrictions on the interrogation techniques. See §§ 112.532(1)(a), (1)(b), (1)(c), (1)(e), (1)(f), Fla. Stat.

Prior to 2009, a law enforcement officer or correctional officer who was injured by his or her employing agency's failure to comply with the LEO Bill of Rights could petition the circuit court for an injunction to "restrain and enjoin such violation" and to "compel the performance of the duties imposed by [the LEO Bill of Rights]." § 112.534(1), Fla. Stat. (2008). HN4[] Effective July 1, 2009, this broad judicial remedy was replaced with a multi-step process culminating in a "compliance review hearing" before an administrative panel with the authority to award only limited relief: removal of the investigator from further involvement with the investigation of the officer. See Ch. 2009-200, § 3, Laws of Fla.

(amending section 112.534).

A. Availability of a Compliance Review Hearing After the Investigation is Complete

The first issue in this appeal is whether compliance review hearings are available to review alleged intentional violations of the LEO Bill of Rights occurring after the investigation is complete and the agency notifies the officer of the proposed [**10] disciplinary action. Our analysis of this issue begins, and ends, with the plain language of section 112.534, which provides in pertinent part:

(1) INS[*] If any law enforcement agency or correctional agency, including investigators in its internal affairs or professional standards division, or an assigned investigating supervisor, intentionally fails to comply with the requirements of this part, the following procedures apply. . . .

(a) The law enforcement officer or correctional officer shall advise the investigator of the intentional violation of the requirements of this part which is alleged to have occurred. The officer's notice of violation is sufficient to notify the investigator of the requirements of this part which are alleged to have been violated and the factual basis of each violation.

(b) If the investigator fails to cure the violation or continues the violation after being notified by the law enforcement officer or correctional officer, the officer shall request the agency head or his or her designee be informed of the alleged intentional violation. Once this request is made, the interview of the officer shall cease, and the officer's refusal to respond to further investigative questions does [**11] not constitute insubordination or any similar type of policy violation.

(c) Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this

part which are alleged to have been violated and the factual basis of each violation. All evidence related to the investigation must be preserved for review and presentation at the compliance review hearing. For purposes of confidentiality, the compliance review panel hearing shall be considered part of the original investigation.

[*803] (d) Unless otherwise remedied by the agency before the hearing, a compliance review hearing must be conducted within 10 working days after the request for a compliance review hearing is filed, unless, by mutual agreement of the officer and agency or for extraordinary reasons, an alternate date is chosen. The panel shall review the circumstances and facts surrounding the alleged intentional violation. . . . The compliance review hearing shall be conducted in the county in which the officer works.

(e) It is the responsibility of the compliance review panel [**12] to determine whether or not the investigator or agency intentionally violated the requirements provided under this part. It may hear evidence, review relevant documents, and hear argument before making such a determination; however, all evidence received shall be strictly limited to the allegation under consideration and may not be related to the disciplinary charges pending against the officer. The investigative materials are considered confidential for purposes of the compliance review hearing and determination.

(f) The officer bears the burden of proof to establish that the violation of this part was intentional. The standard of proof for such a determination is by a preponderance of the evidence. The determination of the panel must be made at the conclusion of the hearing, in writing, and filed with the agency head and the officer.

(g) If the alleged violation is sustained as intentional by the compliance review panel, the agency head shall immediately remove the

investigator from any further involvement with the investigation of the officer. Additionally, the agency head shall direct an investigation be initiated against the investigator determined to have intentionally violated **[**13]** the requirements provided under this part for purposes of agency disciplinary action. If that investigation is sustained, the sustained allegations against the investigator shall be forwarded to the Criminal Justice Standards and Training Commission for review as an act of official misconduct or misuse of position.

§ 112.534(1), Fla. Stat.

HN6^[7] This statutory language is clear, and the procedure provided in the statute is straightforward. First, under paragraph (a), the officer under investigation must advise the investigator of the alleged intentional violation of the LEO Bill of Rights. Then, if the investigator fails to cure the violation or continues the violation, under paragraph (b), the officer must inform the agency head of the alleged violation and the investigator must stop the interview of the officer. Next, under paragraph (c), the officer has three days to file a written notice of violation and request for a compliance review hearing. Finally, under paragraph (d), a compliance review hearing must be held within 10 working days unless the violation is remedied or the officer and the agency mutually agree to a later hearing.

Paragraph (e) HN7^[7] establishes the purpose of the hearing: "to determine whether or not the investigator or agency intentionally violated the requirements provided **[**14]** under [the LEO Bill of Rights]." The Union contends that this paragraph undercuts the trial court's ruling because it clearly contemplates review of alleged violations by the investigator *or* the agency. The problem with the Union's argument is that it ignores the limited remedy provided in paragraph (g) - removal of the investigator from any further involvement with the investigation of the officer - and it would render meaningless much of the remainder of the statute,

at least with respect to **[*804]** alleged violations by the agency occurring after the investigation is complete.

For example, once the investigation is complete, it would make no sense to require the investigator to be notified and be given an opportunity to cure the violation. But that is what paragraph (a) requires. Likewise, the provisions of paragraph (b) - requiring the interview to cease and providing that the failure to respond to further investigative questions is not grounds for discipline — would serve no purpose if the procedure in section 112.534 was construed to apply to alleged violations occurring after the investigation is complete.

HN8^[7] We are obligated to give meaning to all parts of a statute and, in doing so, we simply cannot accept the Union's argument that a compliance review **[**15]** hearing is available to review alleged violations of the LEO Bill of Rights occurring after the investigation is complete. We recognize that, by construing section 112.534 to apply only to alleged violations occurring during the course of the investigation, the scope of the remedy for violations of the LEO Bill of Rights is considerably more limited than it was prior to 2009. This, however, is a function of the 2009 amendments to section 112.534, which replaced a broad judicial remedy with a narrow administrative remedy. The solution to this problem - to the extent there is one - lies with the Legislature, not the courts.

Here, the trial court correctly concluded that Officer A was not entitled to a compliance review hearing. By the time Officer A requested such a hearing, the investigation of the complaint against him was complete, and the police department had notified him of the proposed disciplinary action. At that point, a compliance review hearing would have been a meaningless exercise because it would not have provided any remedy for the violations alleged by Officer A.

In reaching this conclusion, we have not

overlooked Migliore v. City of Lauderhill, 415 So. 2d 62 (Fla. 4th DCA 1982), approved 431 So. 2d 986 (Fla. 1983), which can be read to support the proposition that the remedy in the prior version of section 112.534 was not limited [**16] to alleged violations of the LEO Bill of Rights occurring during the investigation. Specifically, the court observed that:

This section [section 112.534, Florida Statutes (1981)] operates only to immediately restrain violation of the rights of police officers by compelling performance of the duties imposed by Sections 112.531 to 112.533. Thus, where an officer under investigation is being interrogated without benefit of counsel, the agency may be restrained from violating his right to counsel; if an officer is dismissed without notice, the agency can be compelled to provide the proper notice; and, if an officer is refused review by the complaint review board, under appropriate circumstances, the agency can be compelled to grant such review.

Id. at 65. However, at the time of Migliore (and, until 2009), the remedy provided in section 112.534 was considerably broader than it is now. Compare § 112.534, Fla. Stat. (1981, 2008) (providing for an injunction "to restrain and enjoin" violations of the LEO Bill of Rights and "to compel performance of the duties imposed by [the LEO Bill of Rights]") with § 112.534(1)(g), Fla. Stat. (2009) (explaining that if the alleged violation is sustained by the compliance review panel, the agency "shall immediately remove the investigator from any further involvement with the investigation of the officer" and "direct an investigation [**17] be initiated against the investigator").

[*805] We have also not overlooked the Union's argument that, even after the investigation is complete, the officer should be afforded a compliance review hearing to "clear his name." HN9 [☞] We are not persuaded, however, that the Legislature intended the compliance review hearing to be a name-clearing hearing (as appears to be the

case with the complaint review boards under section 112.532(2)); rather, as explained above, it is clear from an *in toto* reading of section 112.534 that the exclusive purpose of the compliance review hearing is to remedy violations of the LEO Bill of Rights occurring during the investigation by removing the investigator from further involvement in the case.

Finally, we have not overlooked the dissent's argument that section 112.534(1)(g) indicates that the compliance review hearing is intended to serve a dual remedial purpose and that our interpretation of the statute does not give effect to the legislative intent that investigative misconduct be dealt with appropriately, even if first discovered after the investigation is complete. This argument is not without support in the statutory language providing for the investigation of the investigator; however, in our view, such an investigation is merely [**18] ancillary to the purpose of the compliance review hearing because, unlike the removal of the investigator, the investigation of the investigator does not "remedy" the violation of the LEO Bill of Rights and provides no direct benefit to the officer under investigation. Moreover, limiting the availability of compliance review hearings to alleged violations arising during an investigation does not insulate investigative misconduct from review because, as acknowledged by the City at oral argument, nothing precludes an officer who is the subject of an alleged violation occurring after the investigation is complete from filing an internal affairs complaint against the investigator or agency official who committed the violation. See also § 943.1395(6)(a), Fla. Stat. (providing that the Criminal Justice Standards and Training Commission may investigate "verifiable complaints" against certified officers made to the commission).

B. Availability of a Compliance Review Hearing When the Investigation Arises Out of an Internal Complaint

The second issue in this appeal is whether

compliance review hearings are available to review alleged intentional violations of the LEO Bill of Rights arising in an investigation of complaint made by a person within the [**19] officer's agency. Our resolution of this issue begins with statutory language in sections 112.532 and 112.534, but also requires us to consider the *McQuade* decision relied on by the trial court.

Section 112.532 HN10 broadly provides, without qualification or exemption,⁴ that the rights listed in that statute are available "whenever a law enforcement officer or correctional officer is under investigation . . . for any reason." § 112.532(1), Fla. Stat. (emphasis added). This language is clear and unambiguous and cannot be reasonably construed to support the proposition that all of the rights afforded by the LEO Bill of Rights are limited to investigations arising out of external complaints.

Likewise, HN12 nothing in section 112.534 ties the availability of a compliance review hearing to the source of the complaint. Instead, the statute provides a remedy when an agency or investigator "fails to [**806] comply with the requirements of [the LEO Bill of Rights]." § 112.534(1), Fla. Stat. Although courts have held that some portions [**20] of the LEO Bill of Rights apply only to external complaints,⁵ it would make no sense to construe section 112.534 to provide for compliance review hearings only to remedy alleged violations arising out of investigations of external complaints because the source of the complaint has

⁴ See Op. Att'y Gen. Fla. 90-65, 1990 Fla. AG LEXIS 65 (1990) (observing that section 112.532(1) HN11 "contains no qualifications or exemptions from the requirement that the rights contained in s. 112.532, F.S. apply to any interrogation of a police officer by members of his agency if the investigation could lead to disciplinary action, demotion, or dismissal of the officer.").

⁵ See *McQuade*, 51 So. 3d at 494 (holding that HN13 the 180-day period in section 112.532(6)(a) does not apply to internal complaints); *Migliore*, 415 So. 2d at 64 (holding that the purpose of the complaint review boards in section 112.532(2) is to provide the officer a means to vindicate his actions and reputations against claims made by persons outside the officer's agency).

no bearing on most of the rights afforded by the LEO Bill of Rights. See, e.g., § 112.532(1) (rights during interrogation), (4) (right to advance notice of disciplinary action), (5) (protection against retaliation), Fla. Stat. § 112.533(2) (confidentiality of complaints),⁶ (3) (right to inspect personnel file), Fla. Stat.

Having interpreted the applicable statutes, our analysis would typically end here. But, because the trial [**21] court construed this court's decision in *McQuade* to stand for the proposition that "[t]he LEO Bill of Rights is not applicable to complaints that arise internally to a law enforcement agency," our analysis would not be complete without considering that decision.

McQuade was an appeal of a final order of the Public Employees Relations Commission (PERC) dismissing an appeal filed by a correctional officer after he was fired by the Department of Corrections as a result of a complaint made by another correctional officer. See *51 So. 3d at 491*. The officer argued that the Department was barred from taking disciplinary action against him because, in violation of section 112.532(6)(a), Florida Statutes (2008), more than 180 days passed between the date of the complaint and his firing. *Id.* PERC rejected this argument and dismissed the officer's appeal. *Id.* Upon review of the dismissal order, this court affirmed PERC's conclusion that the 180-day period in section 112.532(6)(a) does not apply to internal complaints. *Id. at 490, 495*. This holding was based largely on the Fourth District's decision *Migliore*, which was adopted verbatim by the Florida Supreme Court. *Id. at 493-94*.

The issue in *Migliore* was whether the purpose of the complaint review boards provided for in section 112.532(2), Florida Statutes (1981), was to review

⁶ See Op. Att'y Gen. 83-90, 1983 Fla. AG LEXIS 12 (1983) (concluding that HN14 the statute providing for confidentiality of complaints against law enforcement officers and correctional officers applies to complaints filed by anyone, "whether that person is a member of the public or another agency or the employing agency").

disciplinary action against **[**22]** a law enforcement officer. See 415 So. 2d at 64. The court explained that the only statute providing a possible explanation of the function of the boards is section 112.533, Florida Statutes (1981), which requires each law enforcement agency to have a system to investigate and determine "complaints received by such employing agency." *Id.* Based on this language, the *Migliore* court concluded that the purpose of the complaint review boards is to "provide[e] a law enforcement officer with a means of vindicating his actions and his reputation against unjust and unjustified *claims made against him by persons outside the agency which employs him.*" *Id.* (emphasis added). Accord Op. Att'y Gen. Fla. 86-91, 1986 Fla. AG LEXIS 19 (1986) (explaining that complaint review boards are advisory, not adjudicatory, in nature and are "to be utilized for the disposition of complaints made by persons outside of the **[*807]** law enforcement or correctional officer's agency and not for review of disciplinary action against law enforcement officers").

McQuade reasoned that the 180-day period in section 112.532(6)(a), Florida Statutes (2008), does not apply to internal complaints because the period is triggered by the receipt of a complaint and "[t]he *Migliore* court concluded that a law enforcement's 'receipt' of a complaint, as that language **[**23]** was used in section 112.534,⁷ Florida Statutes (1981), meant its receipt of a complaint from a person outside the agency." *Id.* at 494-95.⁸ The court also explained that PERC

lacked jurisdiction to enforce the LEO Bill of Rights because the "enforcement of its provisions is to be accomplished [under section 112.534(1), Florida Statutes (2008)] through the circuit court, rather than [PERC]." *Id.* at 494.

Contrary to the City's argument in this appeal, HN15[✎] McQuade did not hold that the *entire* LEO Bill of Rights is inapplicable to internal complaints. It merely held that the 180-day period in section 112.532(6)(a), Florida Statutes (2008), does not apply to internal complaints. Moreover, because *McQuade* involved an internal complaint, the fact that the court also stated that the remedy in section 112.534, Florida Statutes (2008), was available to the officer undercuts the trial court's broad reading **[**25]** of the decision. Indeed, the opinion would be internally inconsistent if it, on one hand, it is read to hold that the LEO Bill of Rights is inapplicable to internal complaints but, on the other hand, it explained that the remedy in section 112.534, Florida Statutes (2008), was available to the officer in that case who was the subject of an internal complaint.

We recognize that HN16[✎] the *McQuade* court stated that "*Migliore* has been cited broadly for the proposition that the LEO Bill of Rights does not

⁷This reference to section 112.534 is an apparent scrivener's error because the *Migliore* court was construing the phrase "complaints received by such employing agency" in section 112.533. See 415 So. 2d at 64.

⁸We recognize that *McQuade's* reliance on *Migliore* for this proposition is inconsistent with several opinions in which the Attorney General relied on statutory amendments adopted after *Migliore* to conclude that the language in section 112.533 referring to the receipt of complaints applies to both internal and external complaints. See Op. Att'y Gen. 2000-64, 2000 Fla. AG LEXIS 65 (2000); Op. Att'y Gen. 93-61, 1993 Fla. AG LEXIS 70 (1993); Op. Att'y Gen. 83-90, 1983 Fla. AG LEXIS 12 (1983); see also Mullins v.

Dep't of Law Enforcement, 942 So. 2d 998, 1001 (Fla. 5th DCA 2006) (citing Attorney General Opinion 93-61, 1993 Fla. AG LEXIS 70 for the proposition that the LEO Bill of Rights applies to both internal and external complaints). However, the amendments referred to by the Attorney General did not modify the specific statutory language relied upon by the court in *Migliore*. Compare § 112.533, Fla. Stat. (1981) ("Every agency employing law enforcement **[**24]** officers shall establish and put into operation a system for receipt, investigation, and determination of *complaints received by such employing agency from any person.*") (emphasis added) with § 112.533(1)(a), Fla. Statute (2009) ("Every law enforcement agency and correctional agency shall establish and put into operation a system for the receipt, investigation, and determination of *complaints received by such agency from any person*, which shall be the procedure for investigating a complaint a law enforcement and correctional officer and for determining whether to proceed with disciplinary action or to file disciplinary charges . . .") (emphasis added); see also *McQuade, 51 So. 3d at 494* (noting that the pertinent statutory language construed in that case "is not materially distinguishable" from the statute construed in *Migliore*);

apply to investigations initiated by a complaint that originates from within the agency that employs the officer under investigation." *Id.* at 493 (citing *Kelly v. Gill*, 544 So. 2d 1162 (Fla. 5th DCA 1989)). That, however, was not the holding of *Migliore* or the *Kelly* case [*808] cited in *McQuade* for this proposition.⁹

As discussed above, *HN17* [7] the narrow issue decided in *Migliore* was whether the complaint review boards provided for in *section 112.532(2), Florida Statutes* (1981), had authority to review disciplinary action taken against an officer. See [*26] 415 So. 2d at 64. Although the court held that the boards' purpose was to provide a means for the officer to vindicate his actions and reputation against "claims made against him by persons outside the agency which employs him," *id.*, the court did not purport to limit the application of any other provision of the LEO Bill of Rights to external complaints. Indeed, in discussing whether the circuit court had jurisdiction under *section 112.534, Florida Statutes* (1981), to review disciplinary action against the officer, the court explained the operation of that statute without any suggestion that the statute's remedy was limited to external complaints. See *id.* at 65 (explaining that *section 112.534* "operates only to immediately restrain violation of the rights of police officers by compelling performance of the duties imposed by *Sections 112.531 to 112.533*").

Likewise, *HN18* [7] the issue in *Kelly* was not whether the LEO Bill of Rights applies to internal complaints. Instead, the issue was whether the LEO Bill of Rights applied to an investigator employed by the state attorney. See 544 So. 2d at 1164. The court held that the investigator was not covered by the LEO Bill of Rights because he was not a law enforcement officer, as defined in *section 112.531, Id.* at 1165. Although the court did cite *Migliore* in

a footnote for the proposition that "it would appear that *all* of [the LEO Bill of Rights] deals specifically [*27] with investigations, complaints, and disciplinary action as a result of claims made against an officer by persons outside the agency [that] employs him," *id.* at 1165 n.5 (emphasis in original), this statement was classic dicta because it was prefaced by the acknowledgment that it was "not necessary to decide this appeal." *Id.*

In sum, *HN19* [7] neither *McQuade*, *Migliore*, nor *Kelly* stand for the broad proposition that the LEO Bill of Rights only applies when the officer is under investigation based upon an external complaint, and to the contrary, the plain language of *sections 112.532* and *112.534* do not limit compliance review hearings based upon the source of the complaint. Accordingly, the trial court erred in finding that Officer B was not entitled to compliance review hearing because he was under investigation based upon an internal complaint.

Nevertheless, the trial court reached the correct result because, as was the case with Officer A, Officer B did not request a compliance review hearing until after the internal affairs investigation was concluded and he was notified of the proposed disciplinary action. Furthermore, Officer B would not have been entitled to a compliance review hearing in any event because (1) the police department's failure [*28] to immediately provide him a copy of the polygraph results was remedied before the hearing was requested, see § 112.534(1)(d), *Fla. Stat. HN20* [7] (indicating that a compliance review hearing need not be held if the alleged violation is "otherwise remedied by the agency before the hearing"), and (2) based upon *McQuade*, the police department's alleged failure to complete its investigation of the internal complaint [*809] against Officer B within 180 days is not a violation of the LEO Bill of Rights.

⁹Although the *McQuade* court's citation to *Kelly* was preceded by the "see, e.g." indicator, suggesting that there are other cases that stand for the same proposition, our research failed to locate any other case holding that the LEO Bill of Rights applies only when the officer is under investigation based upon an external complaint.

III. Conclusion

In sum, for the reasons stated above, although the trial court erred in determining that Officer B was

not entitled to a compliance review hearing because he was under investigation based upon an internal complaint, the court correctly determined that neither Officer A nor Officer B was entitled to a compliance review hearing under the circumstances of this case. Accordingly, we affirm the final judgment.

AFFIRMED.

PADOVANO, J., CONCURS. MAKAR, J., CONCURS IN PART AND DISSENTS IN PART WITH OPINION.

Concur by: MAKAR (In Part)

Dissent by: MAKAR (In Part)

Dissent

MAKAR, J. concurring in part, and dissenting in part.

I concur except as to Part II(A) of the majority opinion, which holds that a compliance review hearing is unavailable under *section 112.534, Florida Statutes*, after an agency first provides **[**29]** an investigative report to an officer.

At issue is the remedial scope of *section 112.534*, which is within the "bill of rights" for law enforcement and correctional officers. *See §§ 112.531-535, Fla. Stat. Section 112.534* reflects an overall purpose of providing law enforcement and correctional officers under investigation with process and remedies where "official misconduct" is alleged against their investigators. Portions of *section 112.534* support the conclusion that a key purpose of the compliance review process is to address allegations of intentional violations by investigators discovered before an investigative report is released and to provide a remedy, such as removing the investigator. *See § 112.534(1)(g), Fla. Stat.* ("If the alleged violation is sustained as intentional by the compliance review panel, the

agency head shall immediately remove the investigator from any further involvement with the investigation of the officer."). No dispute exists that officers can raise claims of investigative misconduct prior to the time an investigative report is disclosed to them and that removal of an investigator is available.

Nothing in the statute's language or structure, however, establishes a legislative intention that the compliance review process be limited to only this purpose and this remedial **[**30]** option. Indeed, the statute provides as an additional remedy for intentional violations that an "agency head shall direct an investigation be initiated against the investigator determined to have intentionally violated the requirements provided under this part for purposes of agency disciplinary action." If the agency's investigation sustains the violations, the "sustained allegations against the investigator shall be forwarded to the Criminal Justice Standards and Training Commission for review as an act of official misconduct or misuse of position." *Id.* This additional remedy reflects a legislative intent that confirmed investigative misconduct be dealt with appropriately, even if first discovered upon issuance of an investigative report.

Had the legislature intended to limit this remedial option to only violations discovered before an investigation is complete, it could have said so; but it has not. Missing from the legislative mandate that a compliance review panel "shall review the circumstances and facts surrounding the alleged intentional violation," *see § 112.534(1)(d)*, is statutory language saying that such review may occur only if "the violation was discovered and alleged during the investigation." **[**31]** No such limitation exists. Instead, the language of *section 112.534*, read in conjunction with the remainder **[*810]** of the bill of rights, does not prohibit an officer, who first learns of possible investigative misconduct in such a report, from seeking a compliance review hearing even though the investigative work is deemed complete at that point. Because investigations may be continued or

reopened under section 112.532(6)(b) if new evidence is discovered, drawing a judicial line at too early a point could have the unintended effect of depriving officers of remedies prematurely in some instances.

Given the statute's remedial nature, the better reading of section 112.534 is that the compliance review process is available to adjudge claims of intentional violations if (a) they are discovered before an investigative report is released or, as is the case here, (b) they could not be discovered prior to, but surfaced and were promptly reported immediately after, the initial release of the investigative reports. The statute can serve these two remedial purposes: it can walk and chew gum at the same time.