

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

WILLIAM F. WILLIAMS, IV.
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, WILLIAM F. WILLIAMS, IV., (hereinafter referred to as "Plaintiff" or "Sgt. Williams"), by and through his 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 his 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 2023-00011 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 fifty-two (52). (*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. Sergeant William "Frank" Williams, IV., ("Sgt. Williams") is a thirteen (13) year, well respected, Sworn Law Enforcement Officer who is employed by ALACHUA COUNTY SHERIFF'S OFFICE ("ACSO").
5. In 2013, Sgt. Williams was shot in the line of duty, and survived only to return to his full duties at ACSO less than ninety (90) days later.
6. For the last two (2) years, Sgt. Williams has been a devoted leader to his Patrol Squad Unit, commonly referred to as Team 1, Night Shift ("T1N").
7. Sgt. Williams' responsibilities as a leader assigned to District Two (2), one of the most dangerous zones, is to ensure that the deputies that he leads are safe, motivated, and well-prepared for their shift.
8. Sgt. Williams has had to sit back silently while his Patrol Squad has been decimated due to low staffing numbers, low morale, and unsafe working conditions.
9. On January 23, 2023, Sgt. Williams was served with the first of two (2) notifications that he was under an administrative investigation for violation of Defendant's social media policy. The Administrative Investigation was assigned Tracking Number 2023-00011 ("AI"). (Ex. 1, First Notification of Administrative Investigation, Tracking Number 2023-00011-Complainant Jake Rush, Jan 23, 2023).

10. On the same day, Sgt. Williams was served with a second notification that he was under the AI- the difference between the two (2) notifications was the name of the Complainant who lodged the complaint against him. (Ex. 2, Second Notification of AI- Complainant Kelvin Jenkins, Jan 23, 2023).
11. 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. 3, ACSO- Policy # 122, Disciplinary Procedures, July 15, 2022).
12. 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.
13. 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).
14. 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 his agency for any reason that could lead to disciplinary action, suspension, demotion, or dismissal

(§112.532(1), *Fla. Stat.*).

15. 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 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)(a), *Fla. Stat.*).

16. 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, his Ex. 1, "SHALL be the procedure for investigating a complaint against a Law Enforcement . . . Officer." *Id.*

17. On February 16, 2023, the OPS assigned "Investigator" Virgil Calhoun, called Sgt. Williams' phone to schedule the date and time for Sgt. Williams to come in to OPS to review the AI evidence file and to be interrogated regarding same.

18. Sgt. Williams, along with undersigned Counsel, agreed to the date of March 1, 2023 to conduct the AI evidence review and, barring no Chapter 112, Officers' Bill of Rights violations, to be interrogated.

19. On March 1, 2023, Sgt. Williams and undersigned Counsel arrived at OPS and conducted the AI evidence review. At that time a plethora of Ch. 112 violations had

been brought to both Investigator Calhoun and Investigator Scott Anderson's attention for an opportunity to be cured.

20. After discussion regarding the violations of Sgt. Williams' Officers' Bill of Rights, Investigator Calhoun and Investigator Anderson ultimately refused to cure the violations, or even acknowledge most of them.
21. On March 2, 2023, Sgt, Williams, through undersigned Counsel, served Investigator Calhoun and Defendant with his Notice of Ch. 112 Violations and Invocation of Compliance Review Hearing. (*See* Ex. 4, Notice of Ch. 112 Violations, Mar. 2, 2023; Ex. 5, Notice of Invocation of Compliance Review Hearing, Mar. 2, 2023).
22. Sgt. Williams would later find out that Defendant, and specifically Investigator Calhoun, 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 Sgt. Williams be terminated.
23. OPS did not strictly follow ACSO Policy #122, from the inception of receipt of the Complaints against Sgt. Williams.
24. All of Defendant and Investigator Calhoun's actions while "investigating" Sgt. Williams 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.4).
25. The Officers' Bill of Rights orders the following procedures to be strictly adhered to by both Sgt. Williams and the Defendant while investigating Sgt. Williams 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.*).

26. Pursuant to the Officers' Bill of Rights, Sgt. Williams' sole avenue for redress against the Defendant, and specifically against Inspector Calhoun, for his intentional violations of the law and of his rights while under investigation, is to invoke a "Compliance Review Hearing." (*Id.*).

27. Pursuant to the applicable law, within three (3) working days, Sgt. Williams served his written Notice of Investigators Calhoun's and Anderson's Ch. 112 violations on Defendant and on the Investigators. (*See generally* Ex. 4; Ex. 5).

28. Also within the mandated time frame, Sgt. Williams served his written notice of his invocation of a Compliance Review Hearing. The first written Notice was contained within Ex. 4, dated March 2, 2023, the second in a stand-alone document titled Notice of Invocation of a Compliance Review Hearing, also dated March 2, 2023. (Ex. 5).

29. 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).

30. 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)).

31. Sgt. Williams has demonstrated to Defendant that he 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)).

32. On March 8, 2023, notwithstanding the statutory requirement that all investigative activities cease on March 2, 2023, the date Defendant was properly noticed of Ch. 112 violations and the invocation of a Compliance Review Hearing, Defendant served Sgt. Williams with a Notice of Intent to Terminate. (Ex. 6, Notice of Intent to Terminate, Mar. 8, 2023).
33. At least two (2) other sworn Law Enforcement Officers, one (1) a Sergeant, the other a Captain, 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 Sgt. Williams. (*See* Comp. Ex. 7, Affidavits of Sgt. Kevin Davis and Cpt. Becky Butscher with incorporated Notices of Ch. 112 Violations and Invocation of Compliance Review Hearings, Mar. 13, 2023).
34. Once Sgt. Williams placed Defendant on written Notice on March 2, 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.*).

35. When the Defendant served its Notice of Intent to Discipline Sgt. Williams on March

8, 2023, pursuant to ACSO Policy Directive # 122-Disciplinary Procedures, the AI opened against Sgt. Williams 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. 3, at Sec. XVII (G)).

36. If, at the conclusion of a Compliance Review Hearing, Defendant and Investigator Calhoun are found to have intentionally violated Sgt. Williams' Officers' Bill of Rights, his 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.*).

37. Absent the convening of a Compliance Review Hearing, Sgt. Williams does not have a single avenue for redress of the Defendant's violations of his Officers' Bill of Rights.

38. The next step in the administrative process is for Sgt. Williams 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 Sgt. Williams its

Notice of Intent to Discipline him. Here, the deadline is Monday, March 13, 2023.

39. 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. 3, Sec. XVIII (A)).

40. The "Loudermill" meeting does not allow for review of the Defendant's or the Investigators' violations of the Officers' Bill of Rights, only review of the allegations against Sgt. Williams and whether the noticed discipline will stand.

41. Once the "Loudermill" meeting has taken place and discipline has been issued, the final administrative step that Sgt. Williams has is expressed in ACSO Policy # 383- Appeals Process Provided under Laws of Florida, Chapter 86-342. (*See generally* Ex. 8, Sept. 17, 2020).

42. Sgt. Williams' final administrative step after receiving discipline 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. 8, Sec. VII).

43. The “Career Service Appeal Board” does not have the authority to review Defendant’s and Investigator Calhoun’s violations of Sgt. Williams’ Officers’ Bill of Rights. (*Id.*).
44. There are strict deadlines that Sgt. Williams must comply with to invoke the “Loudermill” meeting and the “Career Service Appeals Board”. However, absent the convening of a Compliance Review Hearing first, the investigative findings and discipline issued against him will stand. He will not have the ability to address the violations of his Officers’ Bill of Rights, in a Compliance Review Hearing, as is the clear intent of the Legislature.

Writ of Mandamus Relief

45. Paragraphs four (4) through forty-four (44) of this Complaint are incorporated by reference as specifically set forth herein.
46. Sgt. Williams requests this Court issue a Writ of Mandamus ordering Defendant to reopen Administrative Investigation-Tracking Number 2023-00011, and to participate in a Compliance Review Hearing.
47. Sgt. Williams has demonstrated that as a sworn Law Enforcement Officer and the subject of an Administrative Investigation, he is entitled to the rights contained within the Officers’ Bill of Rights; specifically, the right to convene a Compliance Review Hearing when his Ch. 112 rights have been violated and he has performed all conditions precedent in a timely fashion. The plain language of the Statutes and

binding case law underscore his 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))).

48. 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 a Compliance Review Hearing. (*See* §112.532(6)(a)(6), *Fla. Stat.*).

49. A Compliance Review Hearing is the sole remedy that Sgt. Williams has to address the violation of his rights, absent Court intervention he will forever be barred from any remedy addressing Defendant's violations.

50. Wherefore, Sgt. Williams respectfully requests this Court mandate Defendant to reopen Administrative Investigation-Tracking Number 2023-00011, and participate in a Compliance Review Board.

Injunctive Relief

51. Paragraphs four (4) through forty-four (44) of this Complaint are incorporated by reference as specifically set forth herein.

52. Sgt. Williams 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. He 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.

53. 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)).

54. 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. 7*).

55. Sgt. Williams 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.

56. The plain language of the Officers’ Bill of Rights and the applicable case law are the foundation for Sgt. Williams’s clear legal right to his 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).

57. Sgt. Williams has no other adequate remedy at law as this Court has the exclusive jurisdiction to cease Defendant's unlawful actions.
58. Sgt. Williams will suffer irreparable harm if he 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 his personnel file. The presence of which could preclude him from obtaining employment at a different law enforcement agency, or worse yet, could be used against him in a hearing in front of the Criminal Justice Standards and Training Commission if he were ordered to appear for a probable cause hearing as to why his 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 him.
59. Sgt. Williams will also suffer irreparable harm if he 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, he 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, he has zero ability to have a fair and impartial review of Defendant's conduct and if appropriate, the Investigator's removal from his AI.
60. Sgt. Williams has demonstrated that he has no other adequate remedy at law to address the violations of his Officers' Bill of Rights, other than the convening of a

Compliance Review Hearing.

61. 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.
62. 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.
63. Wherefore, Sgt. Williams respectfully requests injunctive relief as specified in paragraph fifty-two (52).

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 he 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, §§112.531-112.534.

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 Sgt. Williams served his 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 Sgt. Williams, Defendant and Investigator Calhoun, violated Sgt. Williams' Officer Bill of Rights. Once Sgt. Williams completed all conditions precedent including providing written notice of the violation of his 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 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. § 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 his 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 his Ch. 112 rights. Therefore, because Defendant refuses to comply with the law, Sgt. Williams 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 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. § 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, Sgt. Williams requests the Court mandate that the Defendant re-open the AI against him 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 HIS 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.

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 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.

2.

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.

3.

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.

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 he seeks.

CONCLUSION

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

THIS SPACE INTENTIONALLY LEFT BLANK

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.



Date:

3/13/2023

Plaintiff, Sergeant William F. Williams, IV.

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 fifty-two (52) and grant any other relief as the Court deems appropriate.

Dated this 13th day of March, 2023.

BOBI J. FRANK, P.A.

By:


Bobi J. Frank

Attorney at Law

Bobi@bfranklaw.com

14839 Main Street

Alachua, Florida 32615

Tele.: 352-639-4117

Fax: 352-639-4118

Email: Eservice@bfranklaw.com

Secondary: Legal@bfranklaw.com

Composite Exhibit 1



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 Lalonde #402
Inspector's/Supervisor's Printed Name / ID

Rh Lh #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
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.
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 #
Subject Employee's Name and ID #

1/23/23 1121
Date/Time
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
-------------------------	------------------------------------	------	------

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	BNH768 ✓
Shotgun and Ammunition	AS	
ACSO Issued Rifle and Magazines	1, 3	AC 2022306 ✓
Taser and Cartridges	1	X400 CD MF ✓
ID Bond Card/Badge Case	1	BOND CARD ✓
Employee Security Key Card	1	JUST BOND CARD
Keys		6B13, 6A20-24, 6-B-6, V24 209 NOTED 16/4
Portable Radio	1	481C QM 9801 ✓
Agency-Issued Cell Phone/Computer	0	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 Hobble		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-Vehicle	
CPR Mask		Laptop		Stinger (Resrve 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

Distribution: Original to Property/Facilities Unit Supervisor; Copy to Employee
 Originator: Office of Professional Standards

Exhibit 2



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.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 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 269</u> Inspector's/Supervisor's Printed Name / ID	<u>LT. [Signature] 764</u> Inspector's/Supervisor's Signature	<u>1/23/23</u> Date
<u>[Signature] 1164</u> Subject Employee's Signature		<u>1/23/2023 - 18412rs</u> Date
Distribution made by: <u>Inspector [Signature] #337</u> Name/ID#		<u>1/23/2023</u> Date

Exhibit 3



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.

- g. Upon a subject signing the Fast Track Discipline Response Form, ACSO 12-02, the supervisor shall complete the Fast Track Discipline Agreement, ACSO 12-01, and forward the agreement and response forms through the Chain of Command for signatures and recommendations.
2. FTD Phase II – Chain of Command Recommendations
 - a. The subject employee's performance history, previous discipline history and carry over discipline points, if any, with the agency shall be considered.
 - b. The FTD will go through the Chain of Command for signatures and recommendations, and then returned to the subject employee within ten (10) calendar days.
 3. FTD Phase III – Final Review and Acceptance of FTD
 - a. The subject employee has five (5) calendar days to review the finalized Fast Track Discipline Agreement, ACSO 12-01, indicate whether or not they agree with the recommended discipline and sign the form. If the employee indicates they do not agree to the recommended discipline or if the FTD is not returned back to the supervisor within five (5) calendar days, the employee will be deemed to have waived this process and the investigation will proceed.
 - b. Once Phase III is completed and agreed upon by the subject employee, the FTD is:
 - i. Closed
 - ii. Becomes public record
 - iii. Is available for inspection by employees and members of the public pursuant to establishment procedures.
 - c. By agreeing to the recommended discipline and signing the Fast Track Discipline Agreement, ACSO 12-01, the subject employee agrees that:
 - i. The member is participating in the FTD process freely and without any expressed or implied threat, promise or intimidation.
 - ii. The member does not wish to contest the factual allegations in the complaint.
 - iii. The member waives their rights under Chapter 112, F.S. "*Law Enforcement Officers' and Correctional Officers' Rights.*"
 - iv. The employee waives any and all further appeals concerning the investigation and discipline imposed through this agreement.
 - v. Discipline imposed as a result of any agreement may be used for purposes of progressive and cumulative discipline for future disciplinary action.
 - vi. If applicable, the member must still participate in a witness interview concerning the same investigation involving another subject employee.
 - d. This FTD shall serve as the Employee Notice of Intended Disciplinary Action as well as the Employee Notice of Disciplinary Action and shall not establish binding precedent on the Sheriff in other cases.
 - e. A copy of the signed FTD will be sent to the:
 - i. Subject Employee

- 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 ($\frac{1}{2}$) 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.

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 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 "Sgt. Williams", is written above the number "1164".

Date: 3/2/2023

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

Exhibit 5

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

Composite Exhibit 6



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

**ALACHUA COUNTY SHERIFF'S OFFICE
OFFICE OF PROFESSIONAL STANDARDS
EMPLOYEE PROFILE**

COPY

Employee: Williams, William F. Date: 1/23/2023
 Position/Rank: Sergeant Employee ID#: 1164
 Current: 23-00011 -
 Date of Hire: 3/29/2010 Investigation: Social Media

CURRENTLY ON PROBATION YES NO

Carryover Points as of 3/2/2023 00

**THIS SHEET MUST BE ATTACHED TO THE ADMINISTRATIVE
INVESTIGATION REPORT.**

However, do not assign it a page number within the investigation
(It is simply an attachment).

COMPLAINT HISTORY

Tracking #:	21-FC-53	Disposition:	Sustained
Allegation(s):	Preventable Crash	Discipline:	WR - 1 day loss of vehicle
Date:			
Tracking #:	20-FC-85	Disposition:	Sustained
Allegation(s):	Preventable Crash	Discipline:	WR - 1 day loss of vehicle
Date:			
Tracking #:	14-IA-73	Disposition:	Sustained
Allegation(s):	Criminal Conduct	Discipline:	10 days susp, 12 mos probation, Alcohol testing, proof of reinstated DL.
Date:			
Tracking #:	14-FC-42	Disposition:	Sustained
Allegation(s):	Unfavorable Conduct	Discipline:	1 day suspension
Date:			
Tracking #:	14-FC-41	Disposition:	Sustained
Allegation(s):	Reporting Arrests	Discipline:	Written Reprimand
Date:			
Tracking #:	12-FC-128	Disposition:	Sustained
Allegation(s):	Knowledge of ACSO Directives	Discipline:	1 day suspension
Date:			
Tracking #:	12-FC-80	Disposition:	Sustained
Allegation(s):	Relationships - Employees	Discipline:	Written Reprimand
Date:			
Tracking #:	12-FC-57	Disposition:	Sustained
Allegation(s):	Court Related Matters	Discipline:	Written Reprimand
Date:			
Tracking #:	11-FC-56	Disposition:	Sustained
Allegation(s):	Unfavorable Conduct	Discipline:	WR - 6 mos suspension from Extra Duty
Date:			
Tracking #:	11-FC-140	Disposition:	Sustained
Allegation(s):	Vehicle Crash	Discipline:	WR - 1 day loss of vehicle
Date:			

Report run by:

OPS Specialist Kris Ailfrey

Report run on: Mar 02, 2023 at 11:38:45

Total results: 7

Inc. Tracking Number	Inc. Completed date	Inc. Incident type	Act. Action taken	Alg. Allegation	Inc. Disposition	Alg. Finding	Inc. Database row #
22-FC-31	06/22/2022	Administrative Investigation	Written Reprimand	353.VA.07 - Insubordination	Closed - Sustained	Sustained	50
2022-00055	07/20/2022	Administrative Investigation	Suspension Disciplinary Probation	353.VA.07 - Insubordination 353.VA.07 - Insubordination	Closed - Sustained	Sustained Sustained	86
21-FC-51	09/29/2021	Complaint	Termination	353.VA.07 - Insubordination	Closed - Sustained	Sustained	261
21-FC-89	11/02/2021	Administrative Investigation	Disciplinary Suspension	353.VA.07 - Insubordination	Closed - Sustained	Sustained	264
21-IA-64	10/13/2021	Administrative Investigation	Resigned In Lieu of Termination Resigned In Lieu of Termination	353.VA.07 - Insubordination 353.VA.02 - Conduct Unbecoming an Employee	Closed - Sustained	Sustained Sustained	336
21-FC-116	12/28/2021	Administrative Investigation	Disciplinary Suspension Disciplinary Suspension	353.VA.07 - Insubordination 353.VA.07 - Insubordination 353.VA.07 - Insubordination	Closed - Sustained	Sustained Sustained Sustained	342
21-IA-104	11/30/2021	Administrative Investigation	Termination	353.VA.02 - Conduct Unbecoming an Employee	Closed - Sustained	Sustained	434



ALACHUA COUNTY SHERIFF'S OFFICE
Office of Professional Standards
Administrative Investigation Report

CASE NUMBER	2023-00011
ASSIGNED INSPECTOR	Virgil Calhoun
DATE	03/02/2023
ALLEGATION	353 V.A.2 – Conduct Unbecoming an Employee 353 V.A.7 - Insubordination 353 V.C.8 – Criticism of Order
COMPLAINANT	General Counsel Jacob Rush #889 Captain Kelvin Jenkins #0334
INVOLVED EMPLOYEES	Sergeant William Frank Williams IV #1164

WITNESS LIST

Alachua County Sheriff's Employees

Deputy Ryan Depete #1381
Deputy Cody Bierman #2113
Deputy Matthew Freeman #2192
Deputy Krishna Maharaj #1828
Deputy Malcolm Wilson #2016
Sergeant Monica Herrera #1336
Sergeant Philip Mauldin #1173
Lieutenant David Butscher #0303

PREDICATION

On January 11, 2023, Human Resource Director Reshone Flanders e-mailed Personnel Order 23-005 as approved by Sheriff Clovis Watson, Jr. On January 12, 2023, the Alachua County Sheriff's Facebook page released a statement related to the personnel changes. On January 20, 2023, Chief Inspector Kelvin Jenkins was informed, by the Office of the Sheriff, General Counsel Jacob Rush, that Sergeant William Frank Williams IV made comments on Facebook that may be a violation of ACSO Directives. On January 23, 2023, this Inspector was directed to investigate any policy violations.

COMPLAINT

On January 12, 2023, Alachua County Sheriff's Office posted promotions from Personnel Order 23-005 on their public Facebook page. Sergeant William Frank Williams IV responded to the public Facebook post from his personal Facebook account. The content of Sergeant Williams' post is alleged to have violated ACSO 945 – Social Media policy which states, *"All employees must strive to maintain public trust and confidence, not only in our professional actions, but also in our personal and online actions. Any online activity that has the effect of diminishing the public's trust and/or confidence in the ACSO will hinder the efforts of this agency to fulfill our mission."* The Alachua County Sheriff's Office and Sergeant Williams' social media posts were adopted, in its entirety, into this investigation.

This complaint, involving possible violations of ACSO Directive 353 V.A.2 – Conduct Unbecoming an Employee, 353 V.A.7.b – Insubordination and 353 V.C.8 Criticism of Order was initiated.

Directive 353 V.A.2 - "Conduct Unbecoming an Employee – Employees will not engage in any conduct, on duty or off duty and under the color of their authority, so egregious that it has an adverse impact on the ACSO and destroys public respect and confidence in the Office of the Sheriff and its employees. Such conduct will include, but is not limited to, participation in any immoral, indecent or disorderly conduct, or conduct which causes substantial doubts concerning a person's honesty, fairness, or respect for the rights of others or the laws of the state or nation; regardless of whether such act or conduct constitutes a crime."

Directive 353 V.A.7.b – "Insubordination – 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."

Directive 353 V.C.8 – "Criticism of Order – Employees will not publicly criticize instructions or orders they have received from supervisors or superiors. The employee will bring such criticism to his/her supervisor or superior for discussion."

INSPECTOR'S INVESTIGATION

On January 11, 2023, at 1913 hours, Human Resource Director Reshona Flanders e-mailed #ACSO Agency Wide, Personnel Order 23-005. The attached document in the e-mail referenced, *"PROMOTIONS, REORGANIZATION, REASSIGNMENT & APPOINTMENTS"* directing 42 personnel changes. The rank of personnel ranged from majors to deputies. Sheriff Clovis Watson, Jr., approved Personnel Order 23-005 as documented with his signature in green ink. On January 12, 2023, Alachua County Sheriff's Office posted the promotions publicly on the official Alachua County Sheriff's Facebook account.

Alachua County Sheriff's Facebook Post

On January 12, 2023, at 1434 hours, Alachua County Sheriff's Facebook page posted about new promotions and assignments. The following Facebook comment has been reformatted, italicized, and copied in its entirety into this Administrative Investigation.

"Sheriff Clovis Watson Jr. is pleased to announce some changes at the Alachua County Sheriff's Office for 2023. These new promotions and assignments provide growth, opportunity and represent the future of ASO

(2023-00011, Sergeant William Frank Williams IV, ID #1164)

as Sheriff Watson continues to fulfill his vision and promise to the community that will strengthen and improve the agency, the services we offer and the bond we share with the citizens of Alachua County.

Interim Jail Director Dorian Keith is promoted to the rank of Major with assignment of Jail Director in the Department of the Jail.

Chief Detective Jack "Lance" Yaeger is promoted to the rank of Major in the Department of Support Services.

Lieutenant Christopher Sims is promoted to the rank of Captain in the Patrol Operations Division – Team 2.

Lieutenant Jayson Levy is promoted to the rank of Captain in the Patrol Operations Division – Team 1.

Sergeant John Harris is promoted to the rank of Lieutenant in the Criminal Investigations Division – ACTION Unit.

Sergeant Matthew Yakubsin is promoted to the rank of Lieutenant in the Special Operations Division – Juvenile Relations Bureau.

Deputy Taylor Redding is promoted to the rank of Sergeant in the Patrol Operations Division – Team 2 Nights.

Deputy Jered Smith is promoted to the rank of Sergeant in the Patrol Operations Division – Team 1 Nights."

Inspector's Notes

On January 11, 2023, Sergeant William Frank Williams IV, was identified in Human Resource Bureau Chief Reshone Flanders' #ACSO Agency Wide e-mail group receiving Personnel Order 23-005. On January 12, 2023, Sergeant Williams authored a comment from his personal Facebook account and tagged Alachua County Sheriff's Facebook account. Sergeant Williams is identified as "*Frank Williams*" and by the content of his comment on Facebook he is employed by the Alachua County Sheriff's Office. In Sergeant Williams' response to Alachua County Sheriff's initial post he is congratulatory and makes known to the public of "*...34 other seemingly senseless personnel changes that they made effective January 15, 2023 along with these promotions/appointments*" that was not published by Alachua County Sheriff's Facebook account.

Sergeant William Frank Williams IV (Frank Williams) Facebook Post

On January 12, 2023, at 1543 hours, Frank Williams responded to Alachua County Sheriff's Facebook Post. The following Facebook comment was reformatted, italicized and copied in its entirety into this Administrative Investigation.

"Hopefully this shares correctly. Comments are turned off by order of the Alachua County Sheriff which is interesting in itself, but I digress.

Congratulations are in order here. Some of these are deserved and some are not. It's quite disappointing that my agency didn't post the 34 other seemingly senseless personnel changes that they made effective January 15, 2023 along with these promotions/appointments. I would hope that an administration who demands to be involved in everything would reciprocate and at least show transparency. Especially to the public at large whom we serve.

This will be the sixth major reorganization for this administration in approximately one and a half years. For example, on my shift I'm the only remaining supervisor. So they transferred three out of four supervisors to other shifts or divisions and replaced them. If continuity of operations, safety, efficiency, efficacy, and the overall success of the mission were the goal, does it make sense to shake all of the puzzle pieces every time you reach a certain level of completion?

I'm just exhausted from constantly being disappointed by this administration. I'm done suppressing my feelings and my own mental health just to avoid retaliation. Quite literally, this is no different than a domestic violence relationship.

I'll probably find myself transferred or disciplined in some fashion because of this, but I don't give a fuck. I'm tired of my friends, nah family, being treated poorly. Just make sure whomever complains or provides this to the throne room that you spell my name right. And never forget, it's 1164."

Inspector's Notes

Sergeant William Frank Williams IV has been employed as a deputy sheriff with the Alachua County Sheriff's Office since March, 29, 2010. According to the Employee Master Name Index he is identified with the employee number #1164. On July 4, 2021, Deputy Williams was promoted to Sergeant. At the time of the social media allegation, Sergeant Williams was assigned to Team 1 Night Shift, District Two, reporting to Lieutenant David Butscher. Sergeant Williams' peer supervisors were Sergeants Monica Herrera and Philip Mauldin. The following deputies were assigned to Sergeant Williams, District Two: Ryan Depete, Cody Bierman, Matthew Freeman, Krishna Maharaj and Malcolm Wilson. Witness interviews were conducted and transcribed into this investigation.

Lieutenant David Butscher #0303

On February 2, 2023, at 1413 hours, a digitally recorded interview was conducted with Lieutenant David Butscher #0303. The interview was conducted by Inspectors Virgil Calhoun and Scott Anderson at Alachua County Sheriff's Office, Patrol Operations Division.

Lieutenant David Butscher was assigned as the Watch Commander for Team 1 Night Shift between May 2022 until January 2023. Sergeant William Frank Williams IV was assigned to Lieutenant Butscher as one of three first line supervisors. Lieutenant Butscher was asked about Sergeant Williams' work ethic. Lieutenant Butscher responded,

"Uh, Sergeant Frank Williams was very hard worker. Um, went to a lot of calls with his deputies, which a lot of sergeants don't do. Um, he was, uh, normally he would show up on the...uh, god what's it's called, the early warning system for uses of force. Not because he was using unjustified force it was just because he was that active out with his deputies, going out to hot calls, felony stops, be those things. Um, so he was a very good sergeant. He stayed on top of his administrative duties. Um, and the deputies really looked to him.

This inspector asked Lieutenant Butscher if Sergeant Williams' co-workers ever spoke about him in a good or bad way. Lieutenant Butscher said, *"Uh, never a bad way. Uh, they, the three sergeants I had actually worked very well together. Um, and got along great. Uh, we never had an issue as far as the supervisors working together and getting work done for the shift."* Lieutenant Butscher informed this inspector the other two sergeants assigned to him were Philip Mauldin and Monica Hererra.

Lieutenant Butscher was asked if he had any relevant knowledge pertaining to Sergeant Williams' Facebook post. Lieutenant Butscher stated, "I was made aware of it, but I saw it, and I read it uh after I was made aware of it um, and then had a conversation with him when I returned to work." Inspector Anderson asked what the conversation was about. Lieutenant Butscher responded,

"Um, just that, I saw it, um, and I told him from what I read, asking him to take it down, probably wasn't going to happen because of what he said in it. Um, he said I was correct. Um, I did not feel like I could order him to take that down; because, it was posted, obviously, it happened on a day we were off, cause I don't remember exactly when I was made aware."

Lieutenant Butscher had the conversation with Sergeant Williams on the following day they returned to work.

Based on the content of Sergeant Williams' Facebook post, this inspector asked if there was a culture to which Lieutenant Butscher replied,

"I can tell you what my feeling is, is that all of, not everything in that Facebook post um, but frustration. Um, and stress. I can understand because how short staff we are in patrol. Um, we were, you know, weekly sending, uh, emails to the other shifts trying to fill and obviously Frank cares about his people a lot and all people on that shift. Um, and, I felt that stress just like he did because we worry about those deputies, because we knew we were one bad call from not having enough deputies to even answer calls in the rest of the county. Um, and I, I guess for me watching him and just being there also I could see the frustration. Um, and I feel like for him it, it just got to that point where he was frustrated. Um, because when you're fighting just to get enough deputies to be at minimal staffing every day and that's pretty much where we were."

Sergeant Monica Herrera #1336

On February 2, 2023, at 1424 hours, a digitally recorded interview was conducted with Sergeant Monica Herrera #1336. The interview was conducted by Inspectors Virgil Calhoun and Scott Anderson at Alachua County Sheriff's Office, Patrol Operations Division.

Sergeant Monica Herrera was assigned to Team 1 Night Shift in the Patrol Operations Division, reporting to Lieutenant David Butscher. Sergeant Herrera worked with Sergeant William Frank Williams IV on Team 1 Night Shift since he was promoted. Sergeant Herrera stated Sergeant Williams was "very thorough" and "has a good work ethic." Sergeant Herrera explained while Sergeant Williams was at work he was "professional" and had "nothing negative to say about his work ethic or work product."

Lieutenant Anderson asked how Sergeant Williams was as a leader with the deputies. Sergeant Herrera responded,

"I think everyone's leadership styles are constantly changing. Um, the hardest jump, that's is in my opinion is from a deputy to a supervisor. So, you're constantly reevaluating, constantly changes trying to find your own way. I have made mistakes. He has made some mistakes. But he's learned from them. There not bad mistakes. There just, you learn how to interact with people and you learn how to talk to people. You learn how to confront people. Um, I don't have anything negative to say about his supervisory or leadership style."

Sergeant Herrera was asked if Sergeant Williams had any positive things to say. Sergeant Herrera said,

"I have plenty of positive to say...Um, I think that he is an asset to this agency. Um, he motivates...people to work hard and do a good job. I, coming from the shift that we were on, to this shift, that we are working now, the attitude is very different and I attribute that to the leadership styles, of, between the supervisors on night shift that we were on to the dayshift and it is been a very hard experience transitioning to a shift, of people, who don't want to work and you try to motivate them and they still don't want to work."

This Inspector asked Sergeant Hererra if she was aware of Sergeant William's Facebook post. She responded, *"I think everyone is aware of the Facebook post that he made."* Sergeant Hererra was not aware of any disgruntled conversations from Sergeant Williams prior to his Facebook post in her opinion. Sergeant Hererra said, *"I got transferred two days after he made that Facebook post. And I only worked one of those days so I have no way of knowing what he said to his people."*

Sergeant Philip Mauldin #1173

On February 2, 2023, at 1435 hours, a digitally recorded interview was conducted on the phone with Sergeant Philip Mauldin #1173. The interview was conducted by Inspectors Virgil Calhoun and Scott Anderson at Alachua County Sheriff's Office, Patrol Operations Division.

Sergeant Philip Mauldin was assigned to Team 1 Night Shift in the Patrol Operations Division, reporting to Lieutenant David Butscher. Sergeant Mauldin worked on Team 1 Night Shift for approximately a year and half prior to his new assignment in the Juvenile Relations Bureau. Sergeant Mauldin and Sergeant William Frank Williams IV were, *"...both promoted pretty much at the same time and we both went to Team 1 Nights at the same time."* This Inspector asked Sergeant Mauldin how was it working with Sergeant Williams, his work ethic and leadership skills. Sergeant Mauldin said,

"Uhhh, his leadership skills, um, I felt that he did very well. Uh, he's very knowledgeable. He understood case law, um, really well. His background in, um, working in CID when it came to warrants or when it came to working through different cases, uh, very great to have him on. Um, when he worked in ILP, uh different things on those manners. He brought a lot of stuff to the table. Um, working with his, um, guys under him in the south west, and, he led them well. He did a good as far as I could see. I worked on the east side of town, uh, so I did not work hand in hand with him frequently. Um, as far as his leadership skills anytime I was on scene his guys seemed to appreciate him and seemed to follow his directives."

Sergeant Mauldin was asked by this Inspector if Sergeant Williams was every derogatory, negative or upset and did he relay such concerns down the chain of command. Sergeant Mauldin said, *"No, no, never around his guys. Never around me..."* Sergeant Mauldin was aware of Sergeant Williams' Facebook post. Sergeant Mauldin was not aware of any concerns Sergeant Williams may have had leading up to the Facebook post. Sergeant Mauldin said,

"No that is why it was very odd. Um, Sergeant Williams is very... is normally, an outspoken individual. Um, for the past two years he kept a lot of things, you know, to himself. Even when other people would say stuff he would normally shake his head and uh, 'yeah I understand.' So, it was... for Sergeant Williams sake, uh, he was pretty quiet with his tenure with me."

Deputy Cody Bierman #2113

On February 10, 2023, at 1655 hours, a digitally recorded interview was conducted with Deputy Bierman #2113. The interview was conducted by Inspectors Virgil Calhoun and Nancy Marzouk at Alachua County Sheriff's Office, Office of Professional Standards.

Deputy Cody Bierman was assigned to Team 1 Night Shift, District 2, assigned to Sergeant William Frank Williams IV. Deputy Bierman was asked how long he worked for Sergeant Williams, and he said, "Um, since he was moved to nights. I been on patrol now for a little over two years, so I probably say a year and a half." Deputy Bierman said, "Yeah" when asked if he was aware of the Facebook post Sergeant Williams made. Deputy Bierman said, "No" when asked if Sergeant Williams talked bad about the agency toward his direct subordinates. This Inspector asked if the Facebook post caused any doubt in the agency being able to serve the citizens of Alachua County, Deputy Bierman said, "No." Deputy Bierman was asked about Sergeant Williams' leadership skills and he replied, "Exceptional." Inspector Nancy Marzouk asked Deputy Bierman if he was friends with Sergeant Williams on Facebook and he replied, "I am." Deputy Bierman was asked by Inspector Marzouk if his opinion had changed about the agency after reading the Facebook post in regards to leadership, he said, "No." Inspector Marzouk asked Deputy Bierman if he still felt comfortable in Sergeant Williams' leadership abilities and he said, "Yeah, absolutely."

Deputy Ryan Depete #1381

On February 10, 2023, at 1702 hours, a digitally recorded interview was conducted with Deputy Depete #1381. The interview was conducted by Inspectors Virgil Calhoun and Nancy Marzouk at Alachua County Sheriff's Office, Office of Professional Standards.

Deputy Ryan Depete was assigned to Team 1 Night Shift, District 2, assigned to Sergeant William Frank Williams IV. Deputy Depete was asked by this Inspector how long he worked for Sergeant Williams. Deputy Depete said, "Since he's been a supervisor, whenever he got promoted. So almost two years." Deputy Depete said, "I have" when asked if he read Sergeant Williams' Facebook post. When Deputy Depete was asked if he knew of any motivation behind Sergeant Williams' Facebook post, he responded, "No, sir." This Inspector asked Deputy Depete if he ever heard Sergeant Williams talking bad about the agency to his subordinates. Deputy Depete replied, "No." Deputy Depete was asked if the Facebook post caused any doubt about the agency's ability to get the job done, he said, "No." Deputy Depete was asked if the Facebook post caused him any doubt about Sergeant Williams ability to supervise or be a leader, he replied, "No, I think they're doing a disservice by having him on suspension though. I'm just... just saying because he, he's actually a leader out on patrol." Deputy Depete was asked how was it working for Sergeant Williams for two years and he said, "Great. He helps us, yeah. He really helps us with all his knowledge from CID and everything."

Deputy Matthew Freeman #2192

On February 10, 2023, at 1708 hours, a digitally recorded interview was conducted with Deputy Freeman #2192. The interview was conducted by Inspectors Virgil Calhoun and Nancy Marzouk at Alachua County Sheriff's Office, Office of Professional Standards.

Deputy Matthew Freeman was assigned to Team 1 Night Shift, District 2, assigned to Sergeant William Frank Williams IV. Deputy Freeman was asked by this Inspector how long he worked for Sergeant Williams. Deputy Freeman said, "Uhhh, beginning of September." Deputy Freeman worked for Sergeant Williams for approximately six months. Deputy Freeman was asked if he was aware of Sergeant Williams' Facebook post, and he said, "Yes." Deputy Freeman was asked if he heard or knew anything leading up to Sergeant Williams making the Facebook post. Deputy Freeman said, "Nope." This Inspector asked Deputy Freeman if he heard Sergeant Williams talk negatively about the agency to his subordinates, he replied, "Nope." Deputy Freeman was asked if he lost confidence in the agency to get their job done based on the Facebook post. Deputy Freeman said, "Nope." A follow-up question was asked if he had any doubt about Sergeant Williams' ability to conduct his job duties based on the Facebook post. Deputy Freeman

said, "No." This Inspector asked if had anything to say such as negative or positive about Sergeant Williams' work ethic. Deputy Freeman responded,

"I been a cop for a minute. This is my first police job. I been in the military before. I've had a lot of supervisors... Franks...top of the list for sure. He's a good dude. He's uh, good supervisor. I don't think that this post reflects his actual ability to, uh, supervise."

This Inspector asked Deputy Freeman if he had anything further to bring forth. Deputy Freeman added, "I did know even know about the post until like, three or four days after it, so...I didn't, I don't know anything." Deputy Freeman was asked how did he find out about the Facebook post, he replied, "...Gossip." Deputy Freeman said he was on Facebook but not friends on Facebook with Sergeant Williams. Deputy Freeman was asked if he had heard or seen the Facebook post, he replied, "I have just heard about it."

Deputy Malcolm Wilson #2016

On February 10, 2023, at 1529 hours, a digitally recorded interview was conducted with Deputy Wilson #2016. The interview was conducted by Inspectors Virgil Calhoun and Nancy Marzouk at Alachua County Sheriff's Office, Office of Professional Standards.

Deputy Malcolm Wilson was assigned to Team 1 Night Shift, District 2, assigned to Sergeant William Frank Williams IV for two weeks. Deputy Wilson was assigned to Sergeant Monica Herrera prior to the January 11, 2023, personnel assignments announcement. Deputy Wilson said he worked for Sergeant Williams for "two weeks" prior to him being placed on Administrative Suspension. Deputy Wilson was asked if he read the Facebook post or was he made aware of it. Deputy Wilson said, "Uh, it was presented to me, um, all over Facebook. It was, I wouldn't say, I wouldn't know who's post it was just screenshoted..." Deputy Wilson confirmed he was on Facebook, but not listed as a Facebook friend. When Deputy Wilson was asked if he did not see the Facebook post himself, then how did he see it, Deputy Wilson responded, "No I didn't see it through Facebook... While I, it wasn't off my Facebook account." This Inspector showed Deputy Wilson a print out of Sergeant Williams' Facebook Post and asked if the post looked familiar, he said, "Yeah." Deputy Wilson was asked if he knew or heard of anything from Sergeant Williams or others on shift that lead up to Sergeant Williams' Facebook post. Deputy Wilson said, "No." Deputy Wilson was aware of the content in Sergeant Williams' Facebook post. This Inspector asked Deputy Wilson if the language in Sergeant Williams' Facebook post was ever spoken to his subordinates and he replied, "Not to me." Deputy Wilson was asked if he ever heard of similar language as a third party, he responded, "No." When Deputy Wilson was asked if the Facebook post caused any doubt in his opinion about how the agency is run, he said, "No." Deputy Wilson was asked if the Facebook post put any doubt in his mind about Sergeant Williams' ability to lead. Deputy Wilson said,

"The ability to lead no. I don't think, uh, he's a great supervisor, uh...as far as a person I mean, you get what you get out from out of Frank, but I know that you know sometime, but as far as a supervisor I cannot take that away from him. He's probably one of the best supervisors doing it right now."

Inspector Nancy Marzouk asked Deputy Wilson if it was his request to leave the district he was in. Deputy Wilson said,

"No...So...it was said...alright. Me and Frank didn't see eye to eye. Like on a... outside, like professional thing, like we couldn't really get along unless it was dealing with work. So... when Monica left it was brought to my attention probably go to another district because he was supposed

to go to the Northwest, I was going to go to the Southwest. So, we did not have to coincide with each other as far as work."

Deputy Wilson and Sergeant Williams got along professionally but outside of work they did not. This Inspector asked why they did not get along outside of work. Deputy Wilson said, *"Um, I guess our personalities didn't match."* This Inspector asked Deputy Wilson how he knew their personalities did not match. Deputy Wilson said, *"Um, there have been times, like after a call we would talk and have conversations and it wasn't bad it was just like I just knew like, like you know, sometimes he just didn't feel like talking, or sometimes you know, was kind of like work and that was it."*

Inspector Marzouk asked Deputy Wilson if he could categorize the differences in theories or approaches to getting the job done. Deputy Wilson said, *"It wasn't nothing bad. That made me feel like he couldn't like, like he didn't feel like I couldn't do the job and I didn't feel like he couldn't supervise it was just like, we just, I just."* Inspector Marzouk interjected and said, *"operate at different speeds"* to which Deputy Wilson continued, *"Right. It was just different. Like the way he portrayed it should have been done a certain way, I portrayed it to be done another way. Which the solution would have been the same just another avenue... My avenues worked for Herrera but didn't work for Frank."*

Deputy Wilson concluded the interview by saying, *"He can articulate and he took care of his people as far as like making sure everybody has what they need... For instance, I didn't have a flashlight one time, he went a grabbed a flashlight out of his car when he did not have to but he did..."*

Deputy Krishna Maharaj #1828

On February 15, 2023, at 1502 hours, a digitally recorded interview was conducted with Deputy Maharaj #1828. The interview was conducted by Inspectors Virgil Calhoun and Scott Anderson at Alachua County Sheriff's Office, Office of Professional Standards.

Deputy Krishna Maharaj was assigned to Team 1 Night Shift, District 2, assigned to Sergeant William Frank Williams IV. Deputy Maharaj worked for Sergeant Williams for approximately one year. Deputy Maharaj was asked if he was aware of the Facebook post and he said, *"I am."* Deputy Maharaj confirmed he has a Facebook account and is friends with Sergeant Williams on Facebook. This Inspector asked if he noticed any motivations leading up to Sergeant Williams making the Facebook post. Deputy Maharaj responded, *"No."* Deputy Maharaj was asked if any bad or negative complaints were discussed down to Sergeant Williams' subordinates, he replied, *"No."* Deputy Maharaj said, *"Nope"* when asked if the Facebook post caused any doubts about the agency. This Inspector asked if Sergeant Williams' Facebook post caused any doubt about his leadership as a District 2 supervisor, Deputy Maharaj said, *"Not at all. Anytime a high priority call comes out I like to have him there."* Deputy Maharaj explained Sergeant Williams' work ethic,

"When it comes to tactics and being able to articulate something, that's, that's the guy. I mean...I've, like I been working for him for a year, roughly. Um, I've learned a lot from him and when it comes to doing things a certain way, the right way, and how to articulate what you're doing in a report. Approaching a scene, handling a scene, everybody going home at the end of the night. He, he knows his stuff. I'd give him that for sure. There's no doubt about that."

Sergeant William Frank Williams IV #1164

On March 1, 2023, at 1300 hours, a digital recorded interview was scheduled to be conducted with Sergeant Williams #1164 at the Alachua County Sheriff's Office, Office of Professional Standards. Sergeant Williams arrived with representative, Bobi J. Frank. Inspectors Virgil Calhoun and Scott Anderson were present.

Sergeant William Franks Williams IV was scheduled for an interview on March 1, 2023. Sergeant Williams arrived on time and with representative Bobi J. Frank. Sergeant Williams and Ms. Frank were afforded the opportunity to review all evidence and witness statements in respect to the allegation. At the conclusion of their review, Ms. Frank claimed Florida Statue 112 violations. The scheduled interview with Sergeant Williams' was not conducted.

Inspector's Notes

This administrative investigation has been ordered by the chain of command to be submitted without an interview of the subject employee, Sergeant William Frank Williams IV.

As of the filing of this administrative investigation, Sergeant Williams' Facebook post was still active and has not been deleted.

FINDINGS OF FACT

- Sergeant William Frank Williams IV has been employed as a deputy sheriff with the Alachua County Sheriff's Office since March, 29, 2010.
- On July 4, 2021, Deputy William Frank Williams IV was promoted to Sergeant.
- Facebook is a social media and networking site where users can interact with other users by posting, reacting to, and sharing content with other users.
- Sergeant William Frank Williams IV is identified as "*Frank Williams*" and by the content of his comment on Facebook he is employed by the Alachua County Sheriff's Office.
- SmartCOP Employee/Unit Master File Identified "1164" as "*Williams, William Frank IV*"
- On January 11, 2023, Human Resource Bureau Chief Reshone Flanders e-mailed, #ACSO Agency Wide, Personnel Order #23-005. Sergeant William Frank Williams IV is listed in the hashtag with the e-mail *Williams, Frank* (fwilliams@alachuasheriff.org).
- On January 12, 2023, at 1434 hours, Alachua County Sheriff's Facebook Page posted an announcement of the promotions and assignments.
- On January 12, 2023, at 1543 hours, Sergeant William Frank Williams IV (Frank Williams) replied on his Facebook page linking his comments to the Alachua County Sheriff's Facebook page.
- The content of Sergeant Williams' post challenged the mission of the Alachua County Sheriff's Office in a public confrontation against Alachua County Sheriff's Facebook post which states,

"Sheriff Clovis Watson Jr. is pleased to announce some changes at the Alachua County Sheriff's Office for 2023. These new promotions and assignments provide growth, opportunity and represent the future of ASO as Sheriff Watson continues to fulfill his vision and promise to the community that will strengthen and improve the agency, the services we offer and the bond we share with the citizens of Alachua County."

Sergeant Williams response,

"...This will be the sixth major reorganization for this administration in approximately one and a half years. For example, on my shift I'm the only remaining supervisor. So they transferred three out of four supervisors to other shifts or divisions and replaced them. If continuity of operations, safety, efficiency, efficacy, and the overall success of the mission were the goal, does it make sense to shake all of the puzzle pieces every time you reach a certain level of completion?"

- Sergeant William Frank Williams is aware of potential policy violations as he states, *"I'll probably find myself transferred or disciplined in some fashion because of this, but I don't a fuck."*
- Interviews were conducted with Sergeant William Frank Williams IV's, shift commander, co-workers and subordinates. Sergeant Williams has high remarks from his subordinates such as Deputy Malcolm Wilson's statement *"...one of the best supervisors doing it right now."* Deputy Krishna Maharaj said, *"Not at all. Anytime a high priority call comes out I like to have him there."* Deputy Matthew Freeman stated, *"I been a cop for a minute. This is my first police job. I been in the military before. I've had a lot of supervisors... Franks...top of the list for sure. He's a good dude. He's uh, good supervisor."*
- Directive Management System audit was conducted of Sergeant William Frank Williams IV policy review. Directive 945 – Social Media was signed by him in May 2017 and October 2011. Directive 945 is not pending review as of this investigation.

INSPECTOR'S FINDINGS

To assess ACSO Directive 353 V.A.2 – Conduct Unbecoming an Employee, 353 V.A.7.b – Insubordination and 353 V.C.8 Criticism of Order, this Inspector referred specifically to ACSO Directive 945 – Social Media and 353 – Standards of Conduct and Violation Levels. Those directives were applied to the following findings as derived from the facts discovered during this investigation:

ACSO Direct 945 – Social Media, IV states,

"POLICY – Employees using any form of social media or social networking, including but not limited to: Facebook, Twitter, LinkedIn, Foursquare, YouTube, Instagram, Police Pulse, The Squad Room, Usenet groups, online forums, message boards, or bulletin boards, blogs and other similarly developed formats, shall not use them in any way which detracts from the mission of the ACSO, tarnishes the reputation of the ACSO, reflects negatively on your position as an employee of the ACSO, or in a manner that violates any ACSO directive. Any such online actions will be viewed as a direct violation of this policy, as well as any other applicable directive."

Sergeant Williams undermines the public respect and detracts from the mission of ACSO by stating, *"If continuity of operations, safety, efficiency, efficacy, and the overall success of the mission were the goal, does it make sense to shake all of the puzzle pieces every time you reach a certain level of completion?"* Sergeant Williams explains, *"I'm just exhausted from constantly being disappointed by this administration,"* and reflects negatively on his position as an employee, *"Quite literally, this is no different than a domestic violence relationship."*

Sergeant Williams is identified by his Facebook post as working for Alachua County Sheriff's Office by claiming, *"For example, on my shift I'm the only remaining supervisor"* and *"I'm done suppressing my feelings and my own mental health just to avoid retaliation."* Sergeant Williams claims, *"I'll probably find myself transferred or disciplined in some fashion because of this, but I don't give a fuck."*

The comments made by Sergeant Williams were made public and undermined the mission of the Alachua County Sheriff's Office. As specifically enumerated in Directive 353 V.A.2 - *"Conduct Unbecoming an Employee – Employees will not engage in any conduct, on duty or off duty and under the color of their authority, so egregious that it has an adverse impact on the ACSO and destroys public respect and confidence in the Office of the Sheriff and its employees..."*

Based on official documents and interviews related to this investigation, this Inspector was able to establish a preponderance of evidence that a violation of ACSO Directive 353 V.A.2 – Conduct Unbecoming an Employee – is **SUSTAINED**

Sergeant Williams publicly uses disrespectful language in his Facebook post, *"I'll probably find myself transferred or disciplined in some fashion because of this, but I don't give a fuck. I'm tired of my friends, nah family, being treated poorly. Just make sure whomever complains or provides this to the throne room that you spell my name right. And never forget, it's 1164."*

As specifically enumerated in Directive 353 V.A.7.b – *"Insubordination – Insubordination will be defined as, "...any disrespectful, insolent or abusive language or action toward a superior whether in or out of the presence of the superior."*

Based on official documents and interviews related to this investigation, this Inspector was able to establish a preponderance of evidence that a violation of ACSO Directive 353 V.A.7.b – Insubordination – is **SUSTAINED**

Sheriff Clovis Watson, Jr., signed Personnel Order 23-005. The order was e-mailed agency wide by Human Resource Director Reshona Flanders. Sergeant Williams was identified in the #ACSO Agency Wide e-mail group. It was established Sergeant Williams knew of the order as he stated in his Facebook post,

"Congratulations are in order here. Some of these are deserved and some are not. It's quite disappointing that my agency didn't post the 34 other seemingly senseless personnel changes that they made effective January 15, 2023 along with these promotions/appointments. I would hope that an administration who demands to be involved in everything would reciprocate and at least show transparency. Especially to the public at large whom we serve."

All of the personnel moves were not documented on the Alachua County Sheriff's Facebook page. Sergeant Williams made the public aware there were *"34 other seemingly senseless personnel changes..."* Sergeant Williams publicly criticized the order he received as documented in his Facebook post.

As specifically enumerated in Directive 353 V.C.8 – “*Criticism of Order – Employees will not publicly criticize instructions or orders they have received from supervisors or superiors. The employee will bring such criticism to his/her supervisor or superior for discussion.*”

Based on official documents and interviews related to this investigation, this Inspector was able to establish a preponderance of evidence that a violation of ACSO Directive 353 V.C.8 Criticism of Order – is **SUSTAINED**

OFFICIAL DOCUMENTS

This Inspector added the below supporting documents, audio and photographs to IA Pro.

1. Sergeant William Frank Williams IV Employee Profile
2. Complaint Intake Form – Captain Kelvin Jenkins
3. Complaint Intake Form – General Counsel Jacob Rush
4. Sergeant William Frank Williams IV Employee Notice of A.I. _A
5. Sergeant William Frank Williams IV Employee Notice of A.I. _B
6. Sergeant William Frank Williams IV Notice of Administrative Suspension
7. Sergeant William Frank Williams IV Sworn Allegation Sheet
8. Sergeant William Frank Williams IV Garrity Warning
9. Lieutenant David Butscher Confidential A.I. Acknowledgement
10. Lieutenant David Butscher Witness Interview
11. Sergeant Monica Herrera Confidential A.I. Acknowledgement
12. Sergeant Monica Herrera Witness Interview
13. Sergeant Philip Mauldin Confidential A.I. Acknowledgement
14. Sergeant Philip Mauldin Witness Interview
15. Deputy Krishna Maharaj Confidential A.I. Acknowledgement
16. Deputy Krishna Maharaj Witness Interview
17. Deputy Cody Bierman Confidential A.I. Acknowledgement
18. Deputy Cody Bierman Witness Interview
19. Deputy Ryan Depete Confidential A.I. Acknowledgement
20. Deputy Ryan Depete Witness Interview
21. Deputy Matthew Freeman Confidential A.I. Acknowledgement
22. Deputy Matthew Freeman Witness Interview
23. Deputy Malcolm Wilson Confidential AI Acknowledgement
24. Deputy Malcolm Wilson Witness Interview
25. Facebook Snippets (5)
26. Personnel Order 23-005
27. #ACSO Agency Wide Snippet (1)
28. Employee Master Index Snippet (1)
29. DMS Audit (Excel Line #510 and #935)

VERIFICATION PURSUANT TO
FLORIDA STATUTE 92.525

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 willingly 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.


Inspector Virgil Calhoun

MATRIX FOR SUSTAINED VIOLATION(S)

TRACKING NUMBER	2023-00011	ACCUSED EMPLOYEE	Sergeant William Frank Williams IV	ID #:	1164
ALLEGED VIOLATION OF DIRECTIVE 353.V		A.2 - "Conduct Unbecoming an Employee" - Level Five A.7.b - "Insubordination" - Level Five C.8 - "Criticism of Order" - Level Three			
CURRENT POINTS	+CARRYOVER POINTS	= TOTAL POINTS	DISCIPLINE RANGE		
120	00	120	15 Day Suspension to Termination (Level five violation automatic 12-month disciplinary probation)		

UNDERSHERIFF'S RECOMMENDATION

SUSTAINED	<input checked="" type="checkbox"/>	Conduct unbecoming an employee, insubordination, and criticism of order.
NOT SUSTAINED	<input type="checkbox"/>	
UNFOUNDED	<input type="checkbox"/>	
EXONERATED	<input type="checkbox"/>	

UNDERSHERIFF JOEL DECOURSEY, JR.:

Date Signed: 3/7/2023

[Signature] Termination

SHERIFF'S FINDINGS

SUSTAINED	<input checked="" type="checkbox"/>	Conduct unbecoming (Level 5), Insubordination (Level 5)
NOT SUSTAINED	<input checked="" type="checkbox"/>	Criticism of order (Level 3)
UNFOUNDED	<input type="checkbox"/>	
EXONERATED	<input type="checkbox"/>	

Conduct unbecoming (Level 5) sustained: Public rude and vulgar behavior ongoing after his Lt. asked him to take it down. Insubordination (Level 5) sustained: Disrespect to Chain of Command and invitation to discipline for it.
Criticism of order (Level 3) not sustained: The outrageous criticism behavior is the same insubordination. Termination.

#1001
 Clovis Watson, Jr., Sheriff 3/7/2023 **APPROVED** / DISAPPROVED
 Date



ALACHUA COUNTY SHERIFF'S OFFICE
Office of Professional Standards
Administration Investigation Report – Staff Recommendations

Case Number: 23-00011 Subject Employee Name/ID Number: Sgt. W. Frank Williams #437

The completed investigation was forwarded on March 2, 2023, for review and recommendations for disciplinary action as follows:

Authority	Signature	ID #	Date	Findings/Recommendation
Captain/Div. Manager Jayson Levy	Jayson Levy <small>Digitally signed by Jayson Levy Date: 2023.03.08 15:04:02 +05'00'</small>	0190	03/06/2023	5 days susp/12 mos probation
Comments:	<small>353.V.A.2 Conduct Unbecoming an Employee - Sustained, 353.V.A.7.b Insubordination - Not Sustained 353.V.C.8 Criticism of Order - Not Sustained, I do not feel comfortable sustaining several violations when they can all be covered under Conduct Unbecoming an Employee. I agree that Sergeant Williams did make a negative social media post against decisions or actions approved by the Sheriff and he should be disciplined. Sustained one level 5 violation at 50 points. Point Scale 50-59 Two Day Suspension - Termination. I am recommending a 5 day suspension and 12 month disciplinary probation. JLL.</small>			
Major/Chief of Staff				N/A
Comments:				
Colonel Chad Scott	Colonel Chad D. Scott <small>Digitally signed by Colonel Chad D. Scott Date: 2023.03.02 12:06:33 -05'00'</small>	003	03/03/23	Sustained/Termination
Comments:				

Additional Comments:

ADDENDUM BY CHIEF INSPECTOR

I agree disagree with the findings of Inspector Virgil Calhoun

RECOMMENDATION:

Conduct Unbecoming (353.V.A.2)-Sustained; Insubordination (353.V.A.7)-Sustained; Criticism of Order (353.V.C.8)-Sustained

The Subject Employee in question has no current disciplinary carryover points.

I recommend 15 days suspension without pay, and 1 year disciplinary probation; Demotion

Authority	Signature	ID #	Date
Chief Inspector Kelvin Jenkins	Captain Kelvin L. Jenkins <small>Digitally signed by Captain Kelvin L. Jenkins Date: 2023.03.08 10:00:08 -05'00'</small>	334	03/06/23



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 LALOWDZ #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 K Allfrey #299
Name/ID #

1/24/2023
Date/Time



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 LaLonde #2102
Inspector's/Supervisor's Printed Name / ID

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

1/23/23
Date

Fred W #1164
Subject Employee's Signature

1/23/2023
Date

Distribution made by: KATHREY #299
Name/ID#

1/23/2023
Date



ALACHUA COUNTY SHERIFF'S OFFICE

Receipt of Agency Property

Affected Employee Name:	Sergeant William Frank Williams IV	ID#:	1164
-------------------------	------------------------------------	------	------

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	BNH1768 ✓
Shotgun and Ammunition	1,3	
ACSO Issued Rifle and Magazines	1,3	AC 2022306 ✓
Taser and Cartridges	1	X400 CD MF ✓
ID Bond Card/Badge Case	1	BOND CARD ✓
Employee Security Key Card	1	JUST BADGE ✓
Keys		6B13, 6A20-24, 6-B-6, VE# 209 NOTED 10/14
Portable Radio	1	481C QM9801 ✓
Agency-Issued Cell Phone/Computer	0	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 Hobbie		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-Vehicle	
CPR Mask		Laptop		Stinger (Resrve 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

Composite Exhibit 7

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.

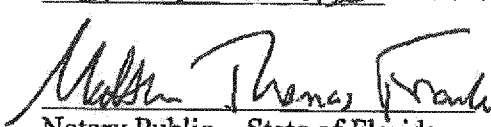
FURTHER AFFIANT SAYETH NOT



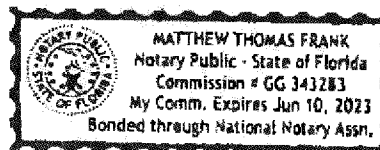
Kevin Davis
Affiant

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 recieved a complaint that you are alleged to have committed unfavorable conduct and a violation of the agencies 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.

CRS: [Signature]
Inspector's/Supervisor's Printed Name / ID
CHRISTOPHER N-SIMS

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

Subject Employee's Signature Date

Distribution made by: _____
Name/ID# Date

Distribution: Original () Copies: Employee's Division Commander, Employee
Originator: OPS
Directive Linked: ACSO 1



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 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.

Inspector's/Supervisor's Printed Name / ID

Inspector's/Supervisor's Signature

Date

Subject Employee's Signature

Date

Distribution made by:

Name/ID#

Date



ALACHUA COUNTY SHERIFF'S OFFICE
Possessors of Access Property

Affected Employee Name: _____ Supervisor: _____
Section I: Mandatory Associations: _____ Superior: ORIGINAL COPY

Item	Quantity	Applicable Serial Numbers/Key Numbers
✓ Police Badge Holder		
✓ Handgun and Magazine, Armoire		
N/A Handgun and Ammunition		
N/A 34 SO Round Rifle and Magazines		
✓ Laser and Chargeurs		
✓ PD Round Case/Batter Case		
✓ Employee Security Key Card		
✓ Key		
✓ Portable Radio		
✓ Agency issued Cell Phone/Computer		

Mandatory Notification made to PFD Mandatory Notification made to HRM

Section II: Unusual (as directed/approved by the supervisor and in the best interest of the agency)

*Indicates Items issued to long-term full employees only and may not be applicable to cover employees

Item	Qty	Item	Qty	Item	Qty	Item	Qty
APD		Eye Protection		Radio		Key	
Ball Bag		Firearm Magazine		Police Vest		Training	
Emergency Kit		Gas Mask/Filter		Police Shotgun/Mag		Training	
Body Armor Plate		Gun Case		Radio		*Training/Books/CD's	
Compass		Hand Truck/Cart		Gun Pistol		Training/Books/CD's	
Compass Holder		Handcuffs/Key		Gun Magazine		Training/Books/CD's	
Compass Paper/Disk		Handcuff Case		Gun Magazine		Training/Books/CD's	
Compass Locking Device		Handgun Holster		Gun Magazine		Training/Books/CD's	
Compass Workbook		Police Radio/Intercom		Gun Magazine		Training/Books/CD's	
Compass Holder		Rope		Gun Magazine		Training/Books/CD's	
Compass		Safety		Gun Magazine		Training/Books/CD's	
Compass		Shirts		Gun Magazine		Training/Books/CD's	
Compass		Shirts/Headphones		Gun Magazine		Training/Books/CD's	
Compass		Shot Gun		Gun Magazine		Training/Books/CD's	
Compass		Shot Gun		Gun Magazine		Training/Books/CD's	
Compass		Shot Gun		Gun Magazine		Training/Books/CD's	
Compass		Shot Gun		Gun Magazine		Training/Books/CD's	
Compass		Shot Gun		Gun Magazine		Training/Books/CD's	
Compass		Shot Gun		Gun Magazine		Training/Books/CD's	
Compass		Shot Gun		Gun Magazine		Training/Books/CD's	
Compass		Shot Gun		Gun Magazine		Training/Books/CD's	
Compass		Shot Gun		Gun Magazine		Training/Books/CD's	
Compass		Shot Gun		Gun Magazine		Training/Books/CD's	
Compass		Shot Gun		Gun Magazine		Training/Books/CD's	
Compass		Shot Gun		Gun Magazine		Training/Books/CD's	
Compass		Shot Gun		Gun Magazine		Training/Books/CD's	
Compass		Shot Gun		Gun Magazine		Training/Books/CD's	
Compass		Shot Gun		Gun Magazine		Training/Books/CD's	
Compass		Shot Gun		Gun Magazine		Training/Books/CD's	

Additional Items Collected

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

Items Returned: _____

Signature & Date of Affected Employee: _____ Signature & Date of Property Custodian: _____



(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.: 0108839
Bobi@BFrankLaw.com



Date: 03/06/23

Sergeant Kevin Davis #0437
Alachua County Sheriff's Office

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, REBECCA BUTSCHER, 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 Rebecca Butscher. 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 30-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 Operations Division, with the rank of Captain.
5. On February 22, 2023, I was notified by Major Lance Yaeger that I was placed under a formal Administrative Investigation-Tracking Number 2023-00036.
6. On February 23, 2023, I timely noticed Major Yaeger, as is required by Statutes commonly referred to as the Officers' Bill of Rights, of their numerous violations of my rights. On February 27, 2023, I made sure that the multiple Notices were sent directly to Sheriff Clovis Watson, Jr., as well. (Ch. 112, §§112.531-112.534, *Fla. Stats.* (2023)-collectively referred to as the Officers' Bill of Rights).
7. Pursuant to the law, Major Yaeger was 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).

8. Major Yaeger improperly ignored my notice of his Officers' Bill of Rights violations, closed the investigation, sustained the allegation against me and, recommended I be terminated.
9. In response to my invocation of a Compliance Review Hearing, ACSO General Counsel stated the following "[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."
10. On March 8, 2023, I received a Notice of Intent to Discipline which was signed by Cpt. Kelvin Jenkins.
11. As of the writing of this Affidavit, Major Yaeger 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

Rebecca Butscher

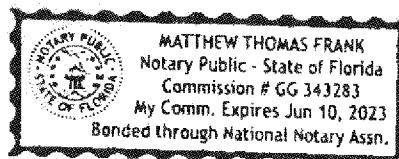
Rebecca Butscher
Affiant

STATE OF FLORIDA
COUNTY OF ALACHUA

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

Matthew Thomas Frank

Notary Public – State of Florida
My Commission expires:





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 Date/Time: 2-22-23
YAEGER

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 #	352-387-4061
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 11/23


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. Inti. 

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	ID #	0190	DATE	02 / 15 / 23
		Date: 2023.02.15 08:22:01 -05'00'				

COPY



ALACHUA COUNTY SHERIFF'S OFFICE
Corrective Counseling Session

DATE: 02-13-23 TIME: 11:30
TO: Capt. R. Butscher FROM: Major L. Yaeger
(Affected Employee) (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

COPY

Major L. Yaeger #386
Supervisor Signature

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 for the complaint response]

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

Page ___ of ___

ACSO 00-02E (10/21)

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

<idecoursevir@alachuasheriff.org>; Rush, Jacob <irush@alachuasheriff.org>; Watson, Clovis Jr. <cwatsonir@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. Inf. 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 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 counselling. 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.

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

Page 2 of 2

COPY

ACSO 00-02F (12/22)



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 #224
~~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



(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 ^{#173} Rebecca Butscher
Date: 2-23-23
Captain Rebecca Butscher #173
Alachua County Sheriff's Office

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.

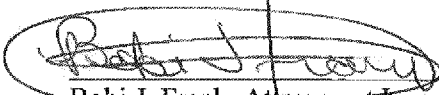
(c) Thereafter, within 3 working days, a written notice of violation and request for a compliance review hearing shall be filed with the agency head or designee which must contain sufficient information to identify the requirements of this part which are alleged to have been violated and the factual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

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

Under Florida law, emails and email addresses are public records and subject to disclosure upon request. If you do not want your email or email address released in response to a public records request, do not send email to this office. Instead, contact this office by phone.

NOTICE: This message is intended only for the use of the individual(s) or entity to which it is addressed. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited unless authorized by this sender. If you have received this email in error, please immediately notify the sender, then delete the email. Thank you.

Exhibit 8



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:

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

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 & Officials

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

Governments > 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.

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

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

[HN10](#) 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

[HN11](#) 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

[HN12](#) 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

[HN13](#) 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

[HN14](#) 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

[HN15](#) 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
 Labor & Employment Law > Collective Bargaining & Labor Relations > General Overview
 Governments > State & Territorial
 Governments > Employees & Officials

[HN16](#) 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.

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

[HN17](#) 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
Overview

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.

Governments > Local
Governments > Employees & Officials

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

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.

Governments > Local
Governments > Employees & Officials

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

Governments > State & Territorial
Governments > Employees & Officials

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

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

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.

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

³ Very 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. Horowitch, 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) HNS[7] 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 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 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 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[7] 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 HNI0 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, HNI2 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) HNI1 "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 HNI3 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 HNI4 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

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.*

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, HNI15[¶] *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 HNI16[¶] the *McQuade* court stated that "*Migliore* has been cited broadly for the proposition that the LEO Bill of Rights does not

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.

III. Conclusion

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

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.

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.

End of Document