Office of the Independent Inspector General

"[T]o detect, deter and prevent corruption, fraud, waste, mismanagement, unlawful political discrimination or misconduct in the operation of County government."

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Quarterly Report
1st Quarter 2021

April 15, 2021

OFFICE OF THE INDEPENDENT INSPECTOR GENERAL
Patrick M. Blanchard, Inspector General
69 West Washington Street | Suite 1160 | Chicago, IL 60602 | (312) 603-0350

April 15, 2021

Transmittal via electronic mail

Honorable Toni Preckwinkle
and Honorable Members of the Cook County
Board of Commissioners
118 North Clark Street
Chicago, Illinois 60602

Re: Independent Inspector General Quarterly Report (1st Qtr. 2021)

Dear President Preckwinkle and Members of the Board of Commissioners:

This report is written in accordance with Section 2-287 of the Independent Inspector General Ordinance, Cook County, Ill., Ordinances 07-O-52 (2007), to apprise you of the activities of this office during the time period beginning January 1, 2021 through March 31, 2021.

OIIG Complaints

The Office of the Independent Inspector General (OIIG) received a total of 156 complaints during this reporting period.[1] Please be aware that 25 OIIG investigations have been initiated. This number also includes those investigations resulting from the exercise of my own initiative (OIIG Ordinance, Sec. 2-284(2)). Additionally, 42 OIIG case inquiries have been initiated during this reporting period while a total of 104 OIIG case inquiries remain pending at the present time. There have been 34 matters referred to management or other enforcement or prosecutorial agencies for further consideration. The OIIG currently has a total of 41 matters under investigation. The number of open investigations beyond 180 days of the issuance of this report is five due to various issues including the nature of the investigation, availability of resources and prosecutorial considerations.

OIIG Summary Reports

During the 1st Quarter of 2021, the OIIG issued 10 summary reports. The following provides a general description of each matter and states whether OIIG recommendations for

[1] Upon receipt of a complaint, a triage/screening process of each complaint is undertaken. In order to streamline the OIIG process and maximize the number of complaints that will be subject to review, if a complaint is not initially opened as a formal investigation, it may also be reviewed as an "OIIG inquiry." This level of review involves a determination of corroborating evidence before opening a formal investigation. When the initial review reveals information warranting the opening of a formal investigation, the matter is upgraded to an "OIIG Investigation." Conversely, if additional information is developed to warrant the closing of the OIIG inquiry, the matter will be closed without further inquiry.

remediation or discipline have been adopted. Specific identifying information is being withheld in accordance with the OIIG Ordinance where appropriate.[2]

IIG19-0636. The subjects of this investigation are an Investigator Supervisor assigned to the Cook County Public Defender's Office (CCPD) and Investigator A, also assigned to the CCPD. The Investigator Supervisor was disciplined by the CCPD based on an interaction with three probationary Investigators, Investigator A, Investigator B, and Investigator C, whom he was training. The Investigator Supervisor grieved the discipline. An arbitration hearing was held, and this office received information that the Investigator Supervisor was observed speaking to a subordinate CCPD Investigator (Investigator A) who was scheduled to testify at the Investigator Supervisor's arbitration hearing. It was also alleged that Investigator A then testified at the arbitration hearing in a way which was materially different than information he had provided during the internal investigation conducted by the CCPD. The difference in Investigator A's testimony was alleged to favor the position of the Investigator Supervisor.

This office interviewed several of the CCPD employees who testified at the Investigator Supervisor's arbitration hearing, including the Investigator Supervisor. We reviewed the award issued by the arbitrator who presided over the hearing. We reviewed records associated with the internal investigation by the CCPD concerning the Investigator Supervisor's interaction with the probationary Investigators and the Investigator Supervisor's resulting internal discipline. We also considered provisions of the Cook County Personnel Rules, the Cook County Ethics Ordinance, and relevant portions of the Cook County Public Defender's Personnel Manual. Finally, we considered relevant provisions of Illinois statutes which address perjury and witness tampering.

Background

Our office reviewed the record of the Investigator Supervisor's appeal to arbitration. These documents indicated that CCPD had conducted its own internal investigation of the allegation of wrongdoing on the part of the Investigator Supervisor. The CCPD's investigation was conducted by two Deputy Chiefs in the CCPD's Investigations, who forwarded their findings to the CCPD's Chief of Investigations.

According to interviews and the CCPD records, the incident for which the Investigator Supervisor was investigated and ultimately disciplined occurred on or about September 4, 2018. The Investigator Supervisor had been assigned to train three probationary investigators (Investigators A, B, and C) assigned to the CCPD. During the training session, the Investigator Supervisor was driving a car in which the three probationary investigators were passengers. The Investigator Supervisor, aware that Investigator C was a retired police officer, allegedly began a long diatribe against police officers, during which he allegedly stated that "all cops are dirty" and

[2] Please note that OIIG Quarterly Reports pertaining to the Metropolitan Water Reclamation District of Greater Chicago (MWRD) are reported separately. Those reports can be found at https://www.cookcountyil.gov/service/metropolitan-water-reclamation-district-greater-chicago.

told Investigator C, "you can't tell me you never crossed the line." The Investigator Supervisor was alleged to have called Investigator C a "liar" when he denied ever having engaged in misconduct as a police officer. The Investigator Supervisor had also allegedly in the past (not during the car trip) showed pink slips to the three probationary Investigators, telling them they were "at will" employees and that employees in their position often received pink slips during budget time.

Investigator C did not report the incident to CCPD management immediately. It came to light during the exit interview of Investigator C, who resigned from the CCPD shortly after the incident.

During the ensuing internal investigation of the Investigator Supervisor's conduct by the CCPD, both of the other probationary Investigators (Investigator A and Investigator B) who were in the car and witnessed the language and behavior of the Investigator Supervisor corroborated the allegations against him.

The CCPD Deputy Chiefs interviewed Investigators A and B and prepared a memo summarizing the interviews. The memo, which was drafted in bullet point format, attributed three statements to Investigator A which are at issue in this investigation: first, that Investigator A said that the Investigator Supervisor said to Investigator C, "I don't believe you, you're a liar;" second, that the Investigator Supervisor said that "police officers are scheming, dirty, and all cops are bad;" and third, that Investigator A told CCPD investigators, "[the Investigator Supervisor] consistently reminds us that we are on probation and showed us a pink slip and said that investigators get those around budget time, however, most people don't get fired."

Following the internal investigation, the CCPD's Chief of Investigations sent the Public Defender a letter in which he recommended the Investigator Supervisor receive unspecified discipline for his behavior. The Investigator Supervisor was ultimately disciplined by the CCPD. He grieved the discipline through his union, the American Federation of State, County, and Municipal Employees (AFSCME).

During his OIIG interview, Senior Labor Counsel told us that he believed that Investigator A's testimony at arbitration differed from his statements during the internal investigation in two respects. First, during the internal investigation, Investigator A recalled the Investigator Supervisor telling Investigator C, "I don't believe you, you're a liar." During arbitration, Investigator A testified he did not remember the Investigator Supervisor saying that. Second, during the internal investigation, Investigator A recalled the Investigator Supervisor displaying pink slips to the three probationary Investigators and reminding them they were on probation. During the arbitration hearing, Investigator A testified that he did not remember the Investigator Supervisor saying that.

Senior Labor Counsel said he initially attributed these discrepancies to a memory lapse on the part of Investigator A. However, Senior Labor Counsel received a telephone call from the

Chief of Investigations, who told Senior Labor Counsel that someone reported to him having observed the Investigator Supervisor and Investigator A having a one-on-one conversation prior to the arbitration hearing.

Perjury Allegation Against Investigator A

Our office considered the first allegation made by the complainant: whether Investigator A made false statements at the arbitration hearing when he testified that the Investigator Supervisor "definitely implied" that Investigator C was a liar and said he did not believe Investigator C; when he testified that the Investigator Supervisor "hinted" that he believed Investigator C had engaged in misconduct by virtue of having been a police officer; and when he testified that the Investigator Supervisor did not display pink slips to the probationary Investigators in an intimidating manner. Our office did not sustain this allegation by a preponderance of the evidence standard.

Investigator A told us that he testified that the Investigator Supervisor displayed pink slips as a way of explaining the probationary period to them, the responsibilities of the job, and how those responsibilities change from year to year. Investigator A told our agency and the arbitrator during the hearing that the internal CCPD memo attributing that statement to him was inaccurate. Investigator A's testimony and his statement to the OIIG were consistent on this point. Based on a preponderance standard and taking into consideration the problems presented by the CCPD's internal memo purporting to memorialize Investigator A's initial statements, discussed below, we cannot determine that Investigator A presented false testimony on this issue.

This leaves two remaining points on which Investigator A could have potentially presented false statements: his testimony that the Investigator Supervisor "definitely implied" and "hinted" that Investigator C was a liar and committed misconduct contrasted against what Investigator A allegedly said during the internal investigation: that the Investigator Supervisor called Investigator C a "liar" and accused him of committing misconduct as a police officer outright. We note that Investigator A's arbitration testimony does present a softened representation of the Investigator Supervisor's statements to Investigator C compared to what he allegedly said during the CCPD's internal investigation.

This office could not conclude that Investigator A presented false testimony on these issues either. These discrepancies are relatively fine distinctions which may be attributable to the passage of time or an inaccuracy in the documentation of witness statements during the internal investigation. We found the CCPD memo memorializing the statements of Investigator A and Investigator B during the internal investigation to be confusing and very general. The memo presented witness statements in bullet point format and at certain points attributed the same statement to both Investigator A and Investigator B. The memo appeared to quote Investigator C when it was apparent that statements attributed to him were actually being relayed to the interviewers by Investigator A or Investigator B. The memo contained language which appeared to constitute direct quotes from Investigator A and Investigator B; however, because the memo did not consistently utilize quotation marks, we were unable to determine what were quotes and what

was paraphrasing by the drafter. In short, the CCPD memo is not reliable such that it can be used to distinguish Investigator A's statements during the internal investigation from his subsequent testimony.

Ethics Allegation Against Investigator Supervisor

The preponderance of the evidence developed in this investigation supports the conclusion that the Investigator Supervisor's interaction with Investigator A regarding Investigator A's pending testimony in the Investigator Supervisor's arbitration hearing constituted a violation of County policy.

Notwithstanding the Investigator Supervisor's representation to us that he "did not recall" speaking to Investigator A about the upcoming arbitration hearing, Investigator A's recall of that event and its substance was consistent and clear as he relayed it to both Senior Labor Counsel and the OIIG. The interaction was witnessed by Investigator D, who recounted it to OIIG Investigators, and the unidentified person who reported it to the Chief of Investigations. It is clear that the conversation between the Investigator Supervisor and Investigator A indeed occurred and touched on Investigator A's upcoming testimony. Additionally, our investigation revealed that Investigator A was, at the time of the Leighton Courthouse conversation, in a subordinate position to the Investigator Supervisor.

Such conduct violates Section 2-571(b)(1) of the Ethics Ordinance, which provides that part of the fiduciary duty all County employees owe the County is the "duty to avoid the appearance of impropriety." Multiple persons (Senior Labor Counsel, Investigator A, the Chief of Investigations, and the unknown observer of the meeting between the Investigator Supervisor and Investigator A) viewed the Investigator Supervisor's interaction with Investigator A as concerning and possibly worse. The unknown reporter of the interaction between the Investigator Supervisor and Investigator A considered the very appearance of their interaction to be sufficiently troubling as to report it to the Chief of Investigations. Exacerbating the impropriety of the appearance of the interaction is the fact that the Investigator Supervisor is a supervisor who not only was a long-time investigator well versed in testifying and training new investigators, but was a long-time union leader who had represented employees in disciplinary matters and who was in a supervisory position over the person who was to be a witness providing testimony in a proceeding in which the Investigator Supervisor had a direct personal interest. Investigator A told us that he felt the Investigator Supervisor's contact with him to be "witness tampering, in a sense," and that it made him "super uncomfortable".

The Investigator Supervisor had every reason to understand that his contact with Investigator A when he sought to discuss the arbitration before the arbitration would present the appearance that something inappropriate was transpiring. In other words, whether the Investigator Supervisor's motive was benign or an effort to influence Investigator A's testimony, it was inappropriate because of its appearance.

Accordingly, the preponderance of the evidence demonstrates that the Investigator Supervisor's interaction with Investigator A concerning Investigator A's testimony presented the appearance of impropriety in violation of Cook County Ethics Ordinance Section 2-571(b)(1). This violation in turn is a predicate to the violation of Cook County Personnel Rule 8.2(b)(33) which requires County employees to follow the provisions of the Cook County Ethics Ordinance.

Based on all of the foregoing, we recommended that disciplinary action be imposed upon the Investigator Supervisor consistent with the factors set forth in Personnel Rule 8.3(c)(1-7), including past practice involving similar cases. This recommendation is currently pending.

IIG20-0149. This investigation was initiated based on a complaint alleging a Clinical Nurse at Cook County Health (CCH) failed to disclose secondary employment. The complaint also alleged that the subject nurse filed a false grievance statement claiming that when CCH hired her, she was denied health insurance benefits in violation of her Collective Bargaining Agreement. This investigation consisted of an interview of the nurse, a review of her CCH personnel file, documents provided by the Cook County Department of Risk Management, and documents produced pursuant to subpoena by the nurse's secondary employer.

The preponderance of the evidence developed in this investigation supports the conclusion that the subject nurse failed to disclose her secondary employment, a violation of CCH Personnel Rule 12.3(1) which states:

> The System Report of Dual Employment Form must be completed and signed by CCHHS Employees annually, whether or not the Employee engages in outside activities, and must be submitted by the Employee to his/her direct supervisor for placement in the Employee's personnel file. Employees must complete, sign and submit the Report of Dual Employment Form prior to engaging in outside activities.
>
> The Report of Dual Employment Form must be completed and signed by the following:
>
> 1. Persons initially entering County service and assigned to work in the System.

As outlined above, the nurse was hired in June 2019 yet failed to disclose her secondary employment until December 2019. As acknowledged by the nurse in her OIIG interview, this represents a violation of CCH policy. Additionally, as demonstrated by the payroll records produced by her secondary employer, the nurse worked full-time (in excess of 20 hours per week) there for approximately five weeks while she worked at CCH. In this regard, the nurse also violated CCH Personnel Rule 12.4(a)(1) which limits secondary employment. Finally, the nurse violated CCH Personnel Rule 12.04(a)(2) by not having her secondary employment approved by her department head. This violation of CCH personnel rules stems from the nurse not initially

submitting her dual employment form to make her department head aware that she had secondary employment.

Based on the preponderance of the evidence developed in this investigation, we believe the evidence fails to support the allegation that the nurse intentionally filed a false grievance alleging that she was denied health benefits as outlined in the applicable CBA. Although evidence supports the fact that a 3rd step grievance was filed, by the time the grievance was escalated to the 3rd step, the nurse had already obtained health benefits based upon a qualifying life event. The nurse provided documentation to the Cook County Department of Risk Management that she had lost benefits from her secondary employer, who provided her with a COBRA letter. Therefore, it ultimately allowed the subject nurse to obtain the benefits her grievance was premised upon. In other words, there was simply an error in the timing of when the 3rd step grievance was ultimately filed.

As presented above, the circumstances that prevented the subject nurse from enrolling in County health benefits were based upon her inactions and negligence upon entry to service at CCH. During her OIIG interview, the nurse admitted that she was careless in her responsibilities as a new CCH employee. According to the nurse, she was "too busy" and was unsure that she would keep the position at CCH due to various issues in her personal life at the time. Moreover, the nurse acknowledged that she was aware that there were deadlines for enrollment but failed to appreciate their importance. The nurse's general nonfeasance, coupled with the knowledge that she and her family were covered under existing benefits provided by her secondary employer resulted in her not enrolling and receiving benefits.

Based on all of the foregoing, we recommended that disciplinary action be imposed on the subject nurse consistent with the factors set forth in CCH Personnel Rule 8.3(a), including past practices involving similar cases. These recommendations are pending.

IIG20-0599. This investigation was initiated based on a complaint alleging a Stroger Hospital Department of Public Safety and Security (SHPSS) Sergeant refused to provide his name and badge number while on duty to a member of the public who requested it. It is further alleged that the Sergeant was discourteous towards the complainant and threatened to write his wife a ticket. This investigation consisted of an interview of the complainant, an interview of the Sergeant, a review of video provided by the complainant posted on Facebook, and a video provided by the SHPSS.

The preponderance of the evidence developed during the course of this investigation failed to support the conclusion that the Sergeant violated Personnel Rule Section 8.03(a)(4) by engaging in employee abuse or harassment of patients, visitors, employees or any other person while on duty. The video recording does not contain audio and the actions of the Sergeant coincide with his version of events provided during his interview. However, this is not to say that the complainant's frustration with the Sergeant was not real or that the Sergeant may have been abrupt during the encounter.

Based on all of the foregoing, we recommended that the SHPSS adopt a formal policy similar to those adopted by other Cook County law enforcement agencies and other local law enforcement agencies that require employees and officers to provide their name and badge number to any member of the public who makes a reasonable inquiry.[3] While certain officers may find this policy unnecessary, we believe that our focus on these details further underscores the importance of police and public interaction. This recommendation is currently pending.

IIG20-0608. This case involves a CCH employee who is also an elected member of the Metropolitan Water Reclamation District of Greater Chicago (MWRD) Board of Commissioners. During a regular meeting of the MWRD Board of Commissioners on October 1, 2020, at 10:30 a.m., the subject CCH employee participated in the Board meeting remotely. The subject CCH employee was in an office alongside birthday balloons and various flags were visible in the background. An OIIG Investigator traveled to the CCH employee's CCH office and confirmed his presence in his CCH office while the MWRD meeting was being conducted. The purpose of the investigation was to determine whether the CCH employee was participating in the MWRD Board of Commissioners meeting during the County work-day while in his office located inside the CCH Public Administration Building in violation of the Code of Ethics.

During its investigation, the OIIG reviewed employee time and attendance records (Cook County Time (CCT)), the CCH Personnel Rules, the Cook County Ethics Ordinance, all recorded videos of the 2020 MWRD Board of Commissioners meetings, conducted site inspections at CCH and interviewed the subject CCH employee/MWRD Commissioner.

The preponderance of the evidence developed during the course of this investigation establishes that the subject CCH employee violated Section 2-576 of the Cook County Code of Ethics by using his CCH office on numerous occasions to remotely attend 2020 MWRD Board of Commissioners meetings between January and December 2020. Additionally, the subject CCH employee remotely attended 10 MWRD meetings from his CCH office wherein he failed to take leave (in whole or part) to participate in the meetings. Of those 10 occasions, the subject CCH employee failed to take leave for the entire duration of the MWRD meetings on March 5th and November 5th. The Cook County Code of Ethics specifies that County property shall only be used for official County business. The term County property as used in the Code of Ethics includes both County facilities as well as County time. Accordingly, the CCH employee's participation in numerous MWRD meetings during 2020 represents a violation of Section 2-576.

Because the subject CCH employee holds a management level position within CCH, the employee should reasonably be expected to fully appreciate prohibited conduct in the course of the CCH employee's duties. Based on all the foregoing, we recommended the imposition of a disciplinary suspension consistent with other disciplinary cases of a similar nature. This recommendation is currently pending.

[3] The Cook County Forest Preserve Department of Law Enforcement's Manual of Rules & Regulations, Public Relations section 115.1 states "Officers and civilians shall be courteous and efficient in their dealings with the public…. Upon request they shall supply their names, rank, and star number in a professional manner; …."

IIG20-0663. The OIIG received information calling into question whether a recently hired Assistant Deputy Commissioner for Elections ("ADCE") met the minimum qualifications specified in the job description for the position. A cursory review of the ADCE's resume reveals significant ambiguity on the issue. Accordingly, this office opened an investigation to examine the circumstances surrounding the hire of the ADCE.

The preponderance of the evidence developed in the course of this investigation established that the ADCE failed to meet the minimum qualification of "two years of full-time paid experience in elections administration or other related industry experience, working in the capacity as a project manager responsible for critical projects." The evidence established that the ADCE had approximately 11 months of full-time paid campaign experience and three months of part-time paid campaign experience at the time of application. Ascertaining this information required a careful discussion with the ADCE regarding the mosaic of her work history involving elections because this was not clearly evident from her resume.

A Human Resources ("HR") employee involved in the hiring advised she received the resume of the ADCE "very, very shortly" before the second interview of the ADCE which took place with the Cook County Clerk and the panel which was recommending her hire at that point. We believe this was unfortunate. Proceeding in this fashion placed the HR employee in the unenviable position of either approving the hire that was clearly supported by the other exempt staff who were presenting the ADCE to the Clerk or being the employee to halt the process despite the momentum to hire the ADCE. The HR employee has advised she confirmed that the ADCE was appropriate for hire based on the vague language in the ADCE's resume and without conducting the type of inquiry that was necessary to obtain clarity on the issue of minimum qualifications. Cook County Clerk Policy 4.6(a)(2) makes clear that this responsibility rests, in substantial part, with HR. Though considering the circumstances of this hire and the HR employee's insertion in the process as late as she was, the more concerning error rests on the failure of HR to have a process in place to reasonably allow HR or designee to identify issues of this type.

Section 4.6(a)(1) of the policy specifically requires, in addition to HR, that the Department also review the job description of a vacant exempt position prior to seeking to fill the position. This suggests that the department play an active role in managing issues related to minimum qualifications. This is not surprising when, as in this case, the position in question is a deputy level position.

The evidence developed by the investigation demonstrates that a Deputy Clerk of Elections, in evaluating the ADCE for hire and conducting a panel interview of the ADCE, failed to make the distinction between volunteer campaign experience and the requisite two years of election experience in a full-time paid position. Rather, the Deputy Clerk considered the totality of the campaign experience of the ADCE when assessing her qualifications knowing that at least some of the experience listed was unpaid experience. In doing so, we believe the Deputy Clerk essentially disregarded the importance of having the minimum qualification in the job description.

We also believe that the Deputy Clerk was in a unique position because of his long-time involvement with these types of issues due to the *Shakman* litigation. That experience involved a heightened focus on compliance related issues and should have resulted in the identification of the subject issue.

Accordingly, based on all the foregoing, we recommended:

1. Human Resources create a protocol to allow for a meaningful opportunity to confirm minimum qualifications prior to interview or hire;

2. The imposition of appropriate disciplinary action on the HR employee involved and the Deputy Clerk of Elections consistent with the foregoing and in recognition of other disciplinary cases of a similar nature;

3. Modification of Section 4.6 of the Clerk Policy Manual to require the Deputy Clerk for HR or designee to certify in writing prior to the hire of all exempt staff that the selected candidate meets all minimum qualifications for the position; and

4. That the subject ADCE position be vacated and the hiring process reinstituted. We are cognizant that equitable principles sometimes support favoring retaining the hired "unqualified" candidate because he or she is not at fault and should not be victimized due to the failures of others in the process. This is not such an occasion. Here, the candidate, having been furnished with the job description and being aware of her own employment history, knew or should have reasonably known of the minimum qualifications for the position yet continued to seek the position.

The Clerk responded on March 12, 2021 rejecting the findings and declining to adopt any of the recommendations.

IIG20-0778. The OIIG opened this case after receiving information that a Stationary Operating Engineer with the Department of Facilities Management (DFM) assigned to the Leighton Criminal Courts Building (CCB) reported to the Cook County Sheriff's Office (CCSO) Court Services Department that he was in possession of a firearm. A consent search was executed on the Engineer's vehicle and a hand gun, two fully loaded ammunition magazines, and an expandable baton (ASP) was recovered. When questioned regarding how he came to be in possession of the items, the subject Engineer provided conflicting information. It was later determined that the items were taken from the locker of a Cook County Adult Probation Department (APD) Probation Officer (PO) at the CCB.

During its investigation, the OIIG reviewed CCSO and Cook County Sheriff's Police Department (CCSPD) incident reports, as well as reports generated by the APD and Office of Chief Judge. Because the various reports address witness interviews important to our investigation that were prepared near in time to the relevant events, it was unnecessary for the OIIG to conduct additional interviews of those same witnesses. This office also conducted an interview of the subject Engineer.

The preponderance of the evidence developed during the course of this investigation supports the allegation that the subject Engineer did commit an act of violence[4] which had an impact on the workplace. The consent search of the Engineer's vehicle on December 11, 2020 conducted by the CCSO produced an unloaded Sig Sauger hand gun with two fully loaded ammunition magazines that were retrieved from the rear passenger area of the vehicle in an unlocked gun box along with an ASP baton. When questioned by the CCSO, the subject Engineer provided contradictory accounts of how he acquired the items, including that he found the items. A LEADS check, along with the Engineer's own admission, revealed that he did not possess a valid FOID card and was not authorized under Illinois law[5] to possess a firearm. Further, the items recovered were taken from the locker of a PO located within the CCB. That is, although the Engineer unlawfully possessed the Sig Sauer and ammunition in his private vehicle parked outside the CCB, its presence there under his unlawful control is inextricably intertwined with the workplace. The weapon itself was stolen from the CCB and irrespective of how the Engineer initially came into possession of the items, he himself brought these circumstances to the workplace, made contradictory reports to law enforcement at the workplace and coyly sought the direct involvement of the PO irrespective of police all of which had an impact on the workplace. Such conduct violates Cook County Violence-Free Workplace Policy (August 15, 2018), Section J.1.a - Prohibited Conduct and Personnel Rule 8.2(b)(36) – Conduct unbecoming an employee or conduct which brings discredit to the County.

We also believe that the following narrative offered by the subject Engineer to account for the way he acquired the items represent an independent basis for violation of Personnel Rule 8.2(b)(36):

- On December 8, 2020, he was approached by an unknown male near 26th and Western Ave, just blocks away from the CCB and asked if he would like to buy a gun for $800.00 that was stolen/taken from the locker of a PO who works in the CCB.

[4] Cook County Violence-Free Workplace Policy states; "Violence" includes, but is not limited to: The use or possession of any weapon and/or ammunition, unless the specific weapon and/or ammunition is authorized by the County for a particular work assignment and in accordance with applicable law.

[5] 720 ILCS 5/24-1 Ch. 38, par. 24-1 (4) Carries or possesses in any vehicle or concealed on or about his person except when on his land or in his own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm.

- On December 8, 2020, when he was approached by the unknown male and shown the gun, the business card of the PO was present in the gun case along with the other items.
- On December 8, 2020, during the initial encounter he was able to take the business card from the gun case without being observed by the unknown male.
- On December 11, 2020, while sitting in traffic near 26th and Western Ave., he was approached by the same unknown male and asked if he wanted to buy the gun for $400.00.
- On December 11, 2020, the unknown male, whom the subject Engineer could not identify by name gave him the gun without the exchange of any money, name or contact information, with the promise of the Engineer to return after he finished work at 10:00 pm to pay him $400.00.
- When he was initially questioned by the CCSO regarding how he came in possession of the items, he gave varying accounts of how he obtained the items.

The subject Engineer's uncorroborated account of how he acquired the items is implausible, if not inconceivable. However, even as stated by the Engineer, this narrative represents a course of conduct unbecoming an employee of Cook County.

Finally, the preponderance of the evidence also supports the conclusion that the subject Engineer was in the unauthorized possession of both County property and the personal property of a PO in violation of Cook County Personnel Rule 8.03(b)(10), which prevents theft or unauthorized possession of an employee or County property. The consent search of the subject Engineer's vehicle conducted by the CCSO produced a plastic gun case containing a hand gun, two fully loaded ammunition magazines, which were the personal property of a PO and an ASP baton, which was the property of the Cook County Probation Department. It was subsequently determined that the items were taken from the locker of a PO without her consent sometime after October 2020. Accordingly, the subject Engineer also stands in violation of Personnel Rule 8.2(b)(10).

Based on all of the foregoing, we believe that the subject Engineer stands in violation of:

1. Cook County Violence-Free Workplace Policy (August 15, 2018), Section J.1.a – Prohibited conduct;
2. Personnel Rule 8.2(b)(36) – Conduct unbecoming an employee or conduct which brings discredit to the County;
3. Personnel Rule 8.2(b)(10) - Theft or unauthorized possession of patient, employee or county property.

In accordance with Personnel Rule 8.3(c), we recommended the imposition of substantial discipline consistent with the considerations set forth in 8.3(c)(1-7), including the "motives and reason for violating the rule." In the present case, the apparent motive underlying the misconduct relates to the subject Engineer's stated motive for possessing the items and related actions were to

return the weapon and ammunition to the PO from whom the gun was stolen – a mitigating factor. This recommendation is pending.

IIG21-0001. This investigation was initiated based on a complaint alleging that a Forest Preserve District (FPD) Laborer was creating videos of a political nature while on FPD compensated time. It was further alleged that the subject Laborer uploaded the videos to the online social media platform TikTok.[6] This investigation consisted of reviewing videos uploaded to various social media platforms and interviews with FPD employees including the subject Laborer.

The preponderance of the evidence developed during the course of this investigation supports the conclusion that the subject Laborer violated Cook County Forest Preserve District Code of Ethical Conduct 1-13-2(A) Fiduciary Duty, which states: "Officials and Employees shall at all times in the performance of their public duties owe a fiduciary duty to the District." The cornerstone of this rule is the level of trust placed in all FPD employees to put the interests of the District first while carrying out their duties. The egregious nature of the Laborer's conduct and troublesome pattern – 46 videos created on District time involving offensive language of varying degrees, rises to the level of a breach of his fiduciary duty to the FPD.

The preponderance of the evidence developed during the course of this investigation also supports the conclusion that the subject Laborer violated Cook County Forest Preserve District Code of Ethical Conduct1-13-2(F) District Owned Property, which states: "No Official or Employee shall engage in or permit the unauthorized use of District-owned or -leased property. District-owned and District-leased property shall only be used for official District business." In his OIIG interview the Laborer admitted that he never had permission from the FPD to use its facilities or vehicles to make his videos.

The preponderance of the evidence developed during the course of this investigation further supports the conclusion that the subject Laborer violated Cook County Forest Preserve Code of Conduct District Vehicle Policy 1-14-4(A) Miscellaneous, which states in part: "Drivers of District Vehicles shall observe all traffic laws and regulations. Drivers and passengers in District Vehicles shall wear seat belts at all times and shall observe safe driving practices." At his OIIG interview, the Laborer stated that there were several occasions when he created his videos while operating a FPD vehicle on the roadway. Aside from the FPD's policy, Illinois law also prohibits the use of hand-held cellphones, texting, or using other electronic communications while operating a motor vehicle.

Finally, the preponderance of the evidence developed during the course of this investigation supports the conclusion that the Laborer violated Cook County Forest Preserve Personnel Rule Section 8.03(a)(36), Conduct Unbecoming. The behavior exemplified by the Laborer in the videos he posted on his social media pages do not reflect well on him as an employee of the FPD and or the FPD itself.

[6] TikTok is a social media platform used as an outlet for users to share videos and other content to others.

Based on all of the foregoing, we recommended the imposition of significant disciplinary action consistent with the considerations contained in Personnel Rule 8.3(c)(1-7). During his interview with this office, the Laborer stated that his main goal in creating and posting the videos was to be funny, silly, and goofy and served no other value. Despite the Laborer knowing that his behavior violated various FPD policies, he continued the behavior and repeatedly posted the content without regard for his actions and their potential consequences. This recommendation is currently pending.

IIG21-0014. In this case, a complainant reported to her supervisors that a janitor with the Department of Facilities Management (DFM) had engaged in continuing behavior that made her feel uncomfortable and unsafe. The complainant's supervisors forwarded the complaint to officials within the DFM, Human Resources and this office. Management responded by directing the subject janitor to have no contact with the complainant in the future. On January 7, 2021, the Complainant reported another incident involving the subject janitor. DFM and Human Resources referred this matter to the OIIG for investigation. During the investigation, the OIIG interviewed the complainant, a manager of custodial services, and other witnesses including the subject janitor. The OIIG also reviewed surveillance video and witness notes.

The preponderance of evidence demonstrates that the subject janitor knowingly engaged in a course of conduct directed towards the complainant on at least two separate occasions which he knew or should have known would cause a reasonable person, and in fact caused, distress. The preponderance of evidence demonstrated that in about August 2020, the complainant told the janitor that she was married and not interested when he approached her and asked for her phone number. The preponderance of evidence also demonstrates that on September 30, 2020 at approximately 4:55 p.m., the janitor walked past the complainant at the East side entrance of the County Building as she was leaving for the day. The subject janitor subsequently followed the complainant to the Starbucks at Randolph and Clark Street, entered the Starbucks and stood there for few minutes before leaving without ordering anything. The preponderance of the evidence revealed that the complainant stayed in the Starbucks until she found someone to accompany her to her car while being watched by the subject janitor. Following the complainant's report to DFM, Human Resources and this office, the Manager of Custodial Services met with the subject janitor to discuss the circumstances surrounding these encounters and told him that he made the complainant feel uncomfortable and directed him to stay away from and have no further contact with her. The janitor acknowledged this understanding.

The evidence also reveals that, in contradiction to the Manager of Custodial Services' admonition, the janitor, on January 7, 2021, followed the complainant off the elevator onto the 5th floor in the County Building after the complainant refused to enter the elevator after she saw the janitor on the elevator. The evidence further revealed that the janitor looked for the complainant after he exited the elevator and ran away from him and hid around the corner away from the elevator lobby as depicted in surveillance video. The evidence further revealed that the janitor walked eastbound towards the President's Office, and after seeing the complainant down the North

Hall, walked directly towards her. The complainant responded by turning her back towards the janitor as he walked past her, walking the opposite direction and entering the President's Office. The evidence also revealed that the janitor had no legitimate purpose to be on the 5th Floor on that day and only exited the elevator after he saw the complainant. Ultimately, in his OIIG interview, the subject janitor admitted that he had no legitimate purpose for being on the 5th floor, that he pretended to look busy and that he was only on the 5th floor on the date in question to talk to the complainant.[7]

Based on all of the foregoing, the preponderance of the evidence supports a sustained finding of the following violations:

A. *Cook County Violence-Free Workplace Policy* (August 15, 2018) (Stalking) by engaging in a pattern of conduct directed to another individual that causes or would reasonably cause the individual to fear for their own safety;
B. Cook County Personnel Rule 8.2(b)(8) by failing to carry out a supervisory directive to stay away from the Complainant.

In accordance with Personnel Rule 8.3(c), we recommended that disciplinary action be imposed upon just cause and that the level of discipline be consistent with the factors and considerations outlined therein, including whether the subject has been warned and in consideration of the severity and circumstances of the particular misconduct in question. The clear warning provided to the janitor prior to the January 7, 2021 incident coupled with the serious and predatory nature of his conduct support our recommendation that he be terminated from County service.

This recommendation is currently pending.

IG19-0409. This was a Post-SRO Complaint filed pursuant to the terms of the *Supplemental Relief Order for Cook County* ("SRO") entered in connection with the *Shakman v. Cook County*, 69 C 2145 (N.D. Ill.) litigation. Complainant alleged political interference and retaliation by supervisory staff at the Juvenile Temporary Detention Center (JTDC). Complainant stated he was placed under scrutiny and has been targeted for termination by the Superintendent after being identified by the Superintendent as a political enemy who filed prior *Shakman* complaints. Complainant further alleged that the Chief Judge has condoned and permitted retaliation against him by the Superintendent for political considerations and that the Chief Judge never initiated a fair and independent investigation of wrongdoing by the Superintendent and

[7] The janitor's attitude of mind was to mislead OIIG Investigators during his interview. Importantly, he only acknowledged the nature of his interactions with the complainant after being presented with the complainant's account and surveillance video capturing the January 7, 2021 encounter on the 5th Floor.

members of his administration. Complainant received a 10-day suspension for abandonment of post and failure to perform job duties and also served a 29-day suspension for failing to conduct required searches.

The *SRO* charges the OIIG with investigating whether political factors were involved in any employment decision regarding the complainant. In determining whether impermissible political factors or retaliation were considered in an employment decision, this office relies on First Amendment case law for guidance. To make a *prima facie* claim for a First Amendment violation, an individual must present evidence that (1) the speech is constitutionally protected; (2) the individual suffered a deprivation likely to deter free speech and (3) her speech caused the employer's action. *Gunville v. Walker,* 583 F.3d 979, 983 (7th Cir. 2009). Subsequent to the Supreme Court's ruling in *Gross v. FBL Financial Services, Inc.,* 129 S. Ct. 2343 (2009), an impacted individual must demonstrate that protected conduct was the but-for cause of the adverse employment action. If an individual can make a *prima facie* claim, the burden shifts to the employer to show that there was a legitimate, non-political reason for the employment decision. *Zerante v. Deluca,* 555 F.3d 582, 584 (7th Cir. 2009).

In the present case, Complainant has asserted that disciplinary sequences were the result of retaliation for having received awards pursuant to the *SRO*. However, the preponderance of the evidence developed during the course of this investigation failed to support the conclusion that political reasons or factors were driving the subject disciplinary actions. Rather, management proffered video evidence to support the decision to seek disciplinary action involving Complainant. Moreover, this same video evidence was made part of the disciplinary proceedings and depicted the misconduct in question. There is no record of Complainant raising an objection or otherwise challenging the validity of the evidence. Accordingly, we found that no impermissible political factors were considered in any employment action regarding Complainant and that his discipline was based on legitimate non-discriminatory reasons.

IIG19-0410. This was a Post-SRO Complaint filed pursuant to the terms of the *Supplemental Relief Order for Cook County* ("SRO") entered in connection with the *Shakman v. Cook County*, 69 C 2145 (N.D. Ill.) litigation. Complainant is employed as a Supervisor in Charge for the JTDC. He alleges that he is the victim of unlawful political discrimination in relation to several disciplinary actions and his failure to receive a promotion within the JTDC.

The preponderance of the evidence developed during the course of this investigation failed to disclose the presence of political factors in connection with the Complainant's disciplinary sequences. Complainant's one-day suspension appears to be the result of management's assessment that he should not have made the statements he made to the Sheriff's Office. Management determined that such activity constituted a violation of the applicable JTDC policy and stated as much in disciplinary proceedings which ensued immediately following the incident. Thus, the preponderance of the evidence demonstrates the existence of a legitimate non-discriminatory reason for the imposition of the subject discipline. In connection with Complainant's January 1, 2019 suspension, the preponderance of the evidence reveals that the

subject suspension was based on his alleged misconduct in the workplace as directly observed by two separate witnesses, both of whom were fellow supervisors. The conclusory statements by Complainant in his interview, without corroboration, cannot stand to tip the evidentiary balance in his favor in the face of legitimate, non-political reasons for the disciplinary action in question.

Complainant's allegation of unlawful political discrimination in relation to his failure to achieve a promotion is not sustained because the employment positions in question are exempt in nature. The JTDC has asserted that the positions for which he applied, currently titled Deputy Executive Director, are exempt positions. This office examined past records of the Cook County Compliance Administrator concerning exempt titles at the JTDC which confirm the two titles were previously designated as exempt. As a precaution, this office requested the job descriptions for both titles and, after reviewing the job descriptions in light of the standard delineated in *Branti v. Finkel*, 445 U.S. 507 (1980), confirmed the positions are appropriate for exempt status. Thus, the failure of the JTDC to appoint Complainant to an exempt position is not, by its terms, unlawful political discrimination.

Accordingly, we found that no impermissible political factors were considered in any employment action regarding Complainant.

Outstanding OIIG Recommendations

In addition to the new cases being reported this quarter, the OIIG has followed up on outstanding recommendations for which no response was received at the time of our last quarterly report. Under the OIIG Ordinance, responses from management are required within 45 days of an OIIG recommendation or after a grant of an additional 30-day extension to respond to recommendations. Below is an update on these outstanding recommendations.

From the 4th Quarter 2020

IIG20-0567. This investigation was initiated by the OIIG based on a complaint alleging an emergency room (ER) nurse at Stroger Hospital performed invasive medical procedures on various individuals at their homes without authorization from a physician and that she used medical supplies and medications (including morphine) taken from Stroger Hospital to administer these procedures. It is also alleged that, on at least one occasion, ER nurse performed her duties at the Stroger Hospital Emergency Room while under the influence of a drug which adversely affected her job performance. The investigation included interviews of the complainant, complainant's family members and members of the Stroger Hospital staff. The investigation also included a review time records, Drug Access Medical Records, and videos and Facebook text messages provided by the complainant. The OIIG also attempted to interview the subject ER nurse on a voluntary basis but she exercised her right to refuse the voluntary interview.

Interview of the Complainant

During the relevant time period, the complainant and her daughter lived in a home owned by the ER nurse. The complainant stated that on or about March 25, 2020, she advised the ER nurse using a Facebook text that her daughter and the daughter's fiancé were not feeling well. The complainant advised the ER nurse that both agreed to receive a previously offered "IV flush" treatment from the ER nurse at the complainant's residence. The complainant stated on March 25, 2020, her daughter and her daughter's fiancé each were administered an IV flush treatment by the ER nurse at the home of the complainant. At such time, neither the complainant's daughter nor fiancé were under a care of a physician nor was the ER nurse acting pursuant to orders from a physician to perform such a procedure. The complainant stated that the ER nurse admitted in the presence of all three that she had obtained the IV solution, IV related equipment and morphine from Stroger Hospital. The complainant stated that the ER nurse offered to add morphine to the IV solution administered to her daughter and her fiancé but both declined and only received a saline flush. The complainant stated that on least two other occasions, she received an IV flush treatment administered by the ER nurse at her residence. The complainant stated that on one of these instances, the ER nurse administered morphine to the complainant as part of the IV treatment. The complainant stated that during that instance, the ER nurse recorded a portion of the complainant's IV treatment. On a different occasion in which the ER nurse administered an IV treatment to her, the complainant recorded video of the procedure.

The complainant advised that on a day in 2020, the ER nurse was working her evening shift at Stroger Hospital and the two of them engaged in a running series of text messages. During the texting, the ER nurse shared a photograph of an item in her hand that the complainant later identified as an edible form of cannabis. Throughout the conversation with the complainant, the ER nurse detailed how the effects of the substance caused her to become intoxicated and caused her to lose focus during her shift.

Text messages provided by the complainant

A review of text messages between the ER nurse and the complainant from March 25, 2020 demonstrated that the complainant was concerned about the health of her daughter and her daughter's fiancé. During the text exchanges, the ER nurse is told they both agreed to receive a flush treatment from her, and the ER nurse advised she would be arriving later that evening.

Interview of Complainant's Daughter

Complainant's daughter stated she and her fiancé were at the home of the complainant on the evening of March 25, 2020 and both were not feeling well. Complainant's daughter stated that through text messages between the ER nurse and the complainant, the ER nurse offered to perform an IV flush on her and her fiancé. When the ER nurse arrived, complainant's daughter noted she had two IV hangers and three bags of saline solution. The ER nurse then proceeded to administer an IV to her and her fiancé. Complainant's daughter stated the ER nurse offered to add morphine

to the saline solution, but both declined the offer. Complainant's daughter stated the ER nurse administered two bags of solution to her fiancé and one bag of solution to her.

Interview of Fiancé

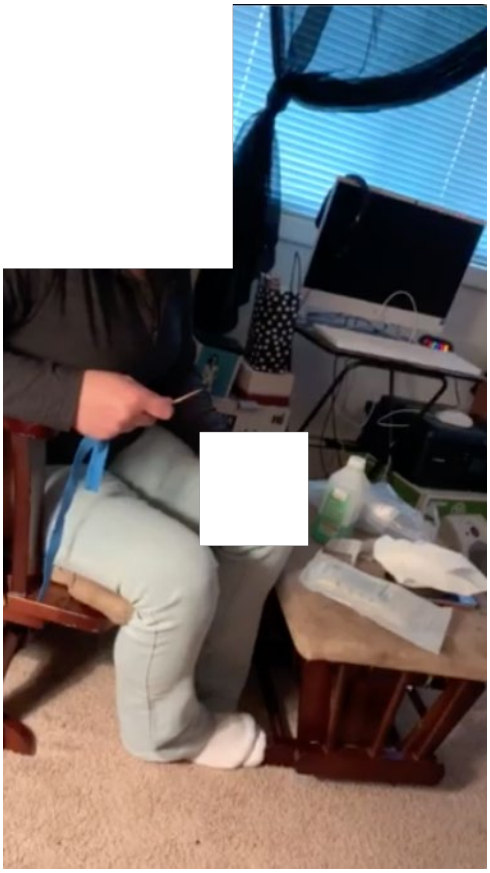
The fiancé of the complainant's daughter stated that he and his fiancé were at the complainant's house on the night of March 25, 2020 and he and his fiancé were feeling sick. The ER nurse was present and provided an IV flush to each of them using saline solution. He stated neither he nor Complainant's daughter received morphine through the IV treatment, although the ER nurse offered morphine to both. He stated he took a video of his arm with the IV inserted to show his friends.

Video and text message provided by the Fiancé

The video and text message the fiancé provided the OIIG is from March 25, 2020 and shows him receiving an IV treatment. The text message is from him to a friend explaining the reason he was unable to attend an upcoming party. The text message states, "I'm trying to get over this cold. [redacted] Mama girlfriend over here flushing us out now."

Video provided by the Complainant

The videos provided by the complainant are from two separate instances in which she received an IV flush administered by the ER nurse at her home. One video, taken by the ER nurse, shows the complainant as she sits on her bed with a bandage on her forearm. In the background, the ER nurse is telling her to finish drinking from a wine glass she is holding. In the video, the complainant is exhibiting behavior indicative of intoxication. The second set of videos, taken by the complainant, depicts the ER nurse sitting in a room at the complainant's residence as the ER nurse is preparing to administer an IV treatment. The complainant also provided a video of her on her bed receiving an IV treatment from an IV bag affixed to the wall above her head. Below is a still shot from one of the videos (redacted to avoid revealing the identity of the subject nurse):

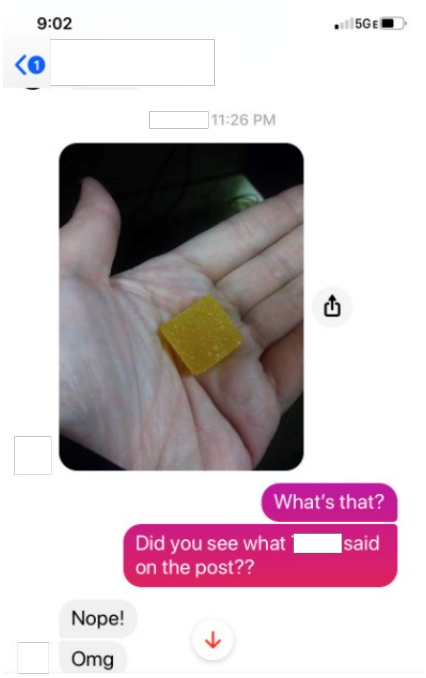


Interview of Nurse Manager

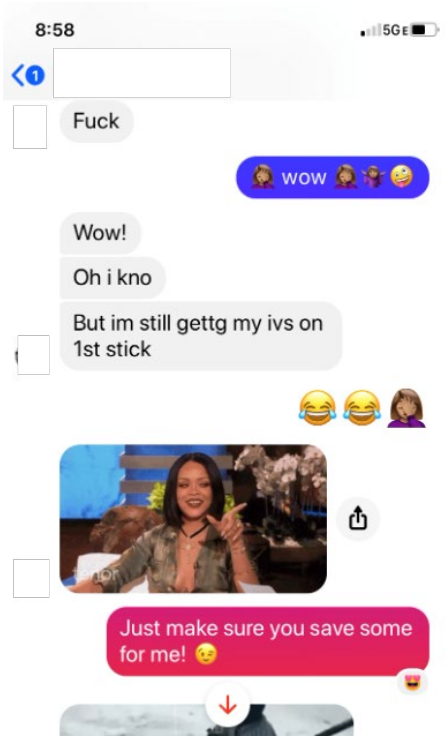
The Nurse Manager stated she could not conceive of a scenario where any nurse, RN or APN, would be authorized to perform an IV treatment on an individual outside of a hospital setting absent being directly ordered by a physician. She stated that the more invasive a procedure is, the higher degree of authorization is required, and an IV treatment is considered invasive due to a patient receiving a substance into his or her body through the IV needle. She stated it is never permitted for RN nurses to diagnose or treat any patient on their own by performing any type of invasive procedure, including initiating an IV on a patient, absent a physician's order.

Text messages between the ER nurse and the complainant

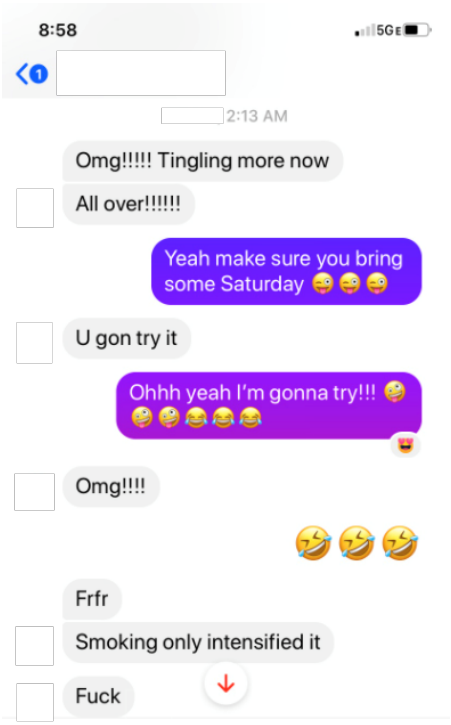
The complainant provided a text message exchange between herself and the ER nurse while the ER nurse was working her shift at the Stroger Hospital emergency room. When the complainant provided the text messages, she labeled her email to our office as “Conversation about edibles with [the ER nurse].” The first text message in the series begins with a photograph of what the complainant identified as an edible cannabis square in the ER nurse’s hand:



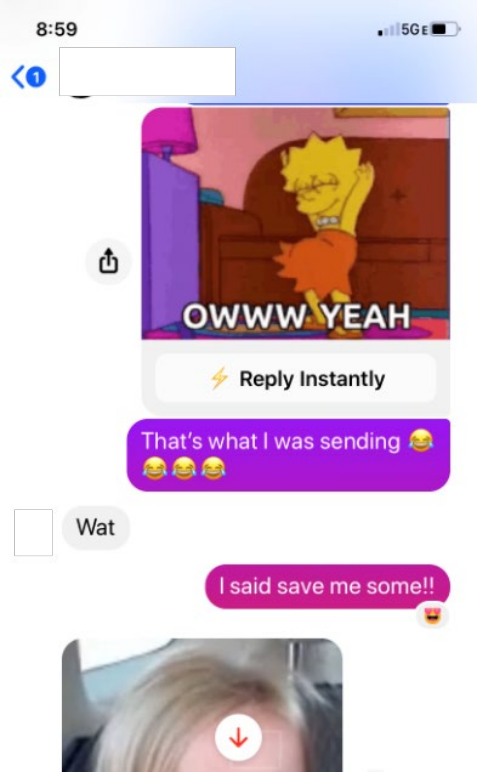
Names and other identifying information have been redacted from the text messages for purposes of this report. Below are selections from the continuing text exchange which can be followed by reading from top left to top right and then bottom left to bottom right according to the number sequence:


8:58
Fuck
wow
Wow!
Oh i kno
But im still gettg my ivs on 1st stick
Just make sure you save some for me!

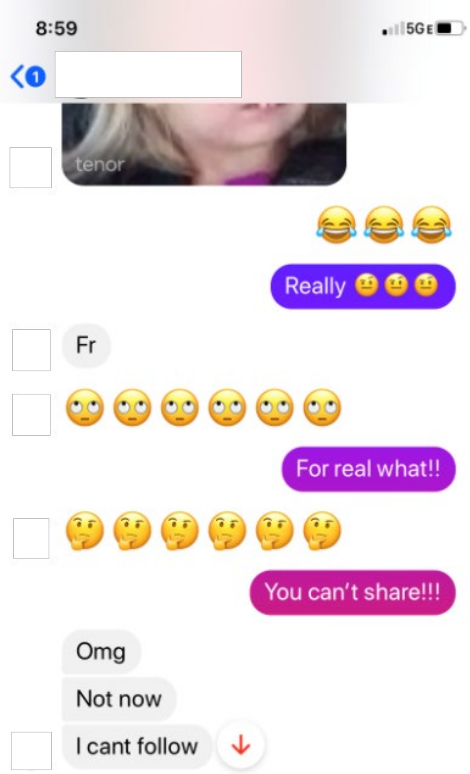
1. 2.


8:58
2:13 AM
Omg!!!!! Tingling more now
All over!!!!!!
Yeah make sure you bring some Saturday
U gon try it
Ohhh yeah I'm gonna try!!!
Omg!!!!
Frfr
Smoking only intensified it
Fuck

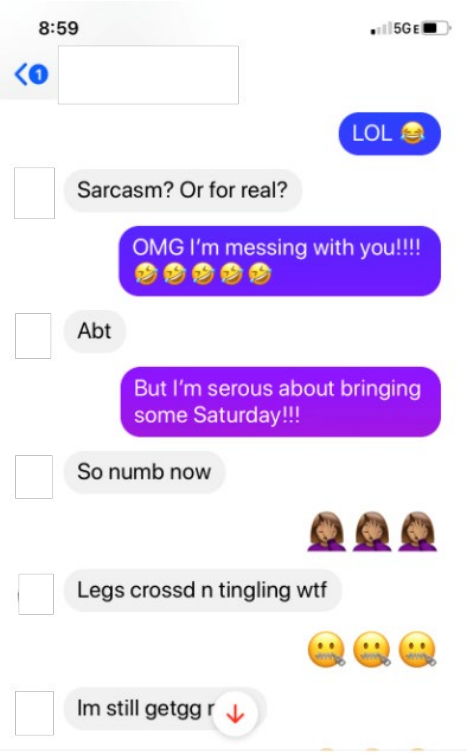
3.


8:59
OWWW YEAH
Reply Instantly
That's what I was sending
Wat
I said save me some!!

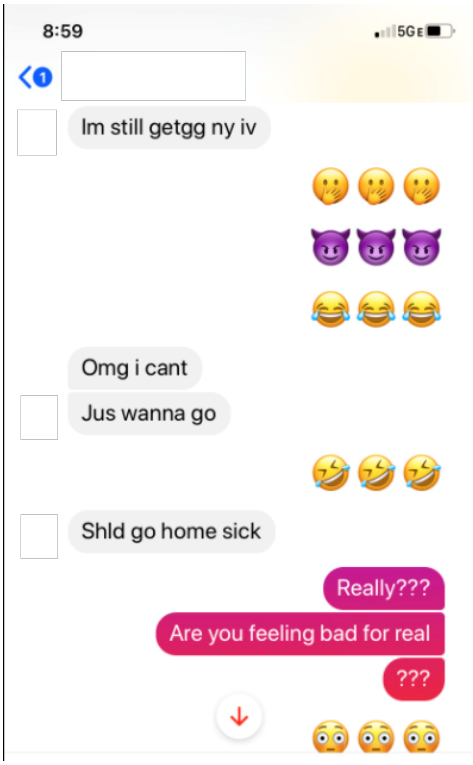
4.

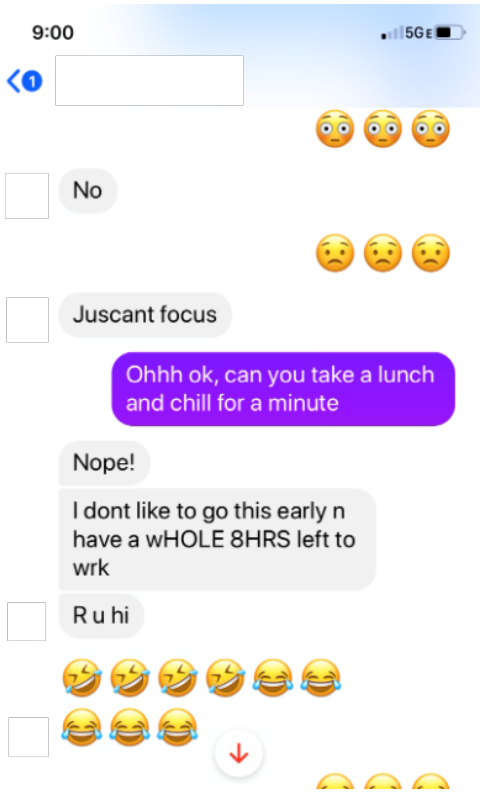

8:59
tenor
Really
Fr
For real what!!
You can't share!!!
Omg
Not now
I cant follow

5.

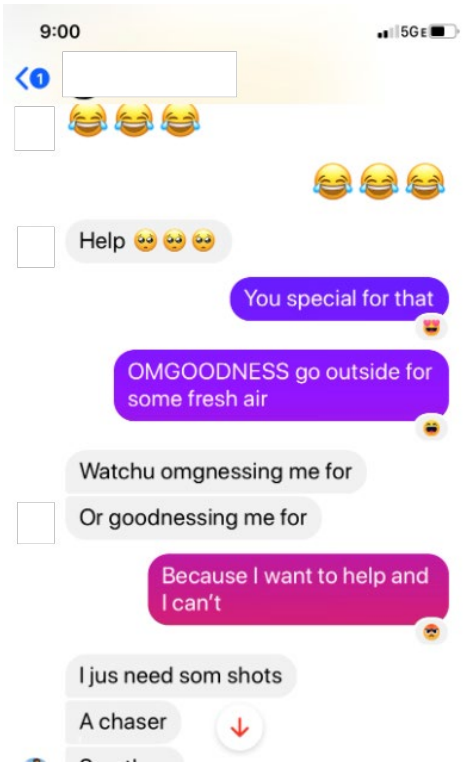

8:59
LOL
Sarcasm? Or for real?
OMG I'm messing with you!!!!
Abt
But I'm serous about bringing some Saturday!!!
So numb now
Legs crossd n tingling wtf
Im still getgg r

6.

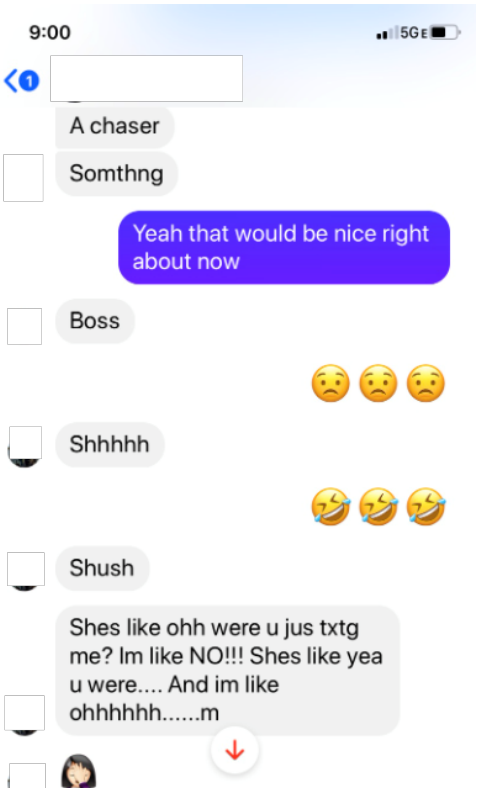

8:59
Im still getgg ny iv
Omg i cant
Jus wanna go
Shld go home sick
Really???
Are you feeling bad for real
???


9:00
No
Juscant focus
Ohhh ok, can you take a lunch and chill for a minute
Nope!
I dont like to go this early n have a wHOLE 8HRS left to wrk
R u hi

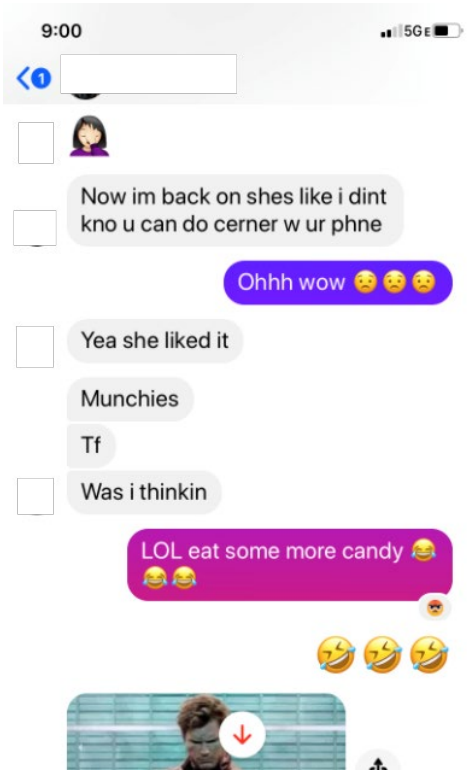
7.


9:00
Help
You special for that
OMGOODNESS go outside for some fresh air
Watchu omgnessing me for
Or goodnessing me for
Because I want to help and I can't
I jus need som shots
A chaser

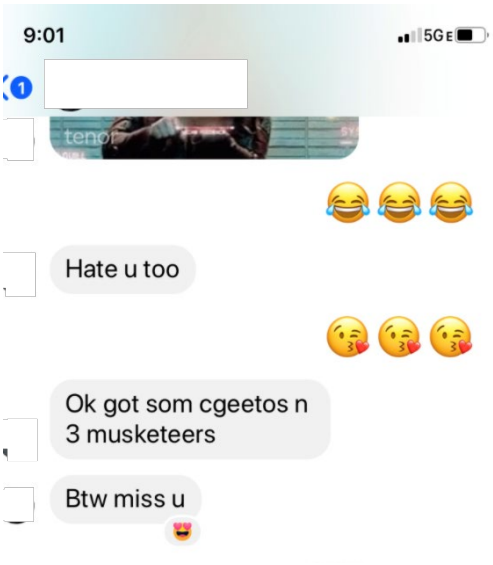
8.


9:00
5GE
A chaser
Somthng
Yeah that would be nice right about now
Boss
Shhhhh
Shush
Shes like ohh were u jus txtg me? Im like NO!!! Shes like yea u were.... And im like ohhhhhh.....m

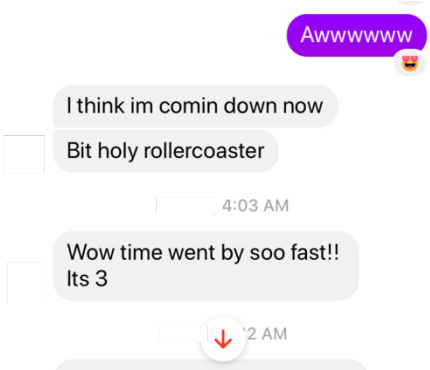
9.


9:00
5GE
Now im back on shes like i dint kno u can do cerner w ur phne
Ohhh wow
Yea she liked it
Munchies
Tf
Was i thinkin
LOL eat some more candy

10.

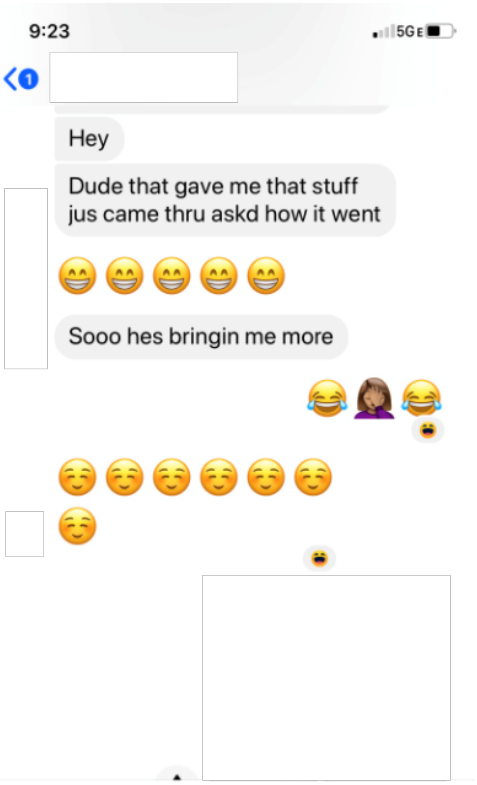

9:01
5GE
Hate u too
Ok got som cgeetos n 3 musketeers
Btw miss u

11.


Awwwwww
I think im comin down now
Bit holy rollercoaster
4:03 AM
Wow time went by soo fast!! Its 3

12.

13.



Time and Attendance Records of the ER nurse

A review of the CCH time records of the ER nurse for the relevant time period indicates the ER nurse was working an ER shift during the above text exchange.

OIIG Findings and Conclusions

The preponderance of the evidence supports the allegation that, during one of her shifts the ER nurse was on CCH premises and performing her duties while under the influence of drugs which adversely affected her job performance. In her text messages, the ER nurse shared an image of the drug (edible cannabis) and then described in her own words the effects that drug had on her while she was on duty at the hospital. She stated that she was performing invasive medical procedures (inserting IVs) while she was intoxicated to a point that she was unable to focus. Such conduct violates CCH Personnel Rules 8.03(c)(1) and (c)(2) relating to the use and possession of drugs while on duty, both of which are major cause infractions. In addition, The ER nurse's conduct of sending text messages to people outside the hospital stating that she was using drugs and was intoxicated while on duty at the hospital violates CCH Personnel Rule 8.03(c)(25) which prohibits employees from engaging in conduct that reflects adversely or brings discredit to the hospital, another major cause infraction.

The preponderance of the evidence also supports the conclusion that the ER nurse was improperly administering IV treatments to individuals outside of the hospital setting, without a physician's order and using of Stroger Hospital materials in doing so. In reaching this conclusion we did not rely solely on the allegation of the complainant. This office took into the account the strained relationship existing between the ER nurse and the complainant at the time our office received the initial complaint. As a result, we placed significant weight on the evidence supporting the complainant's allegations that went beyond her statement itself. We found the statements of other witnesses to be credible and consistent with the allegations presented by the complainant. Their statements were also accompanied by video and text evidence which further supported the complainant's allegations. For example, one witness sent a text message to a third party unrelated to this case at the time in question corroborating the "flushing treatment" by the ER nurse. Based on the evidence, the ER nurse, as a licensed RN, did not have the authority to perform invasive medical procedures outside of a hospital environment absent explicit authorization and/or supervision from a licensed physician. According to Part 1300.90 of the Illinois Administrative Code relating to the Nurse Practice Act, unethical or unprofessional conduct for a nurse includes "[e]ngaging in conduct likely to deceive, defraud or harm the public, or demonstrating a willful disregard for the health, welfare or safety of a patient" regardless of whether actual injury is established. The ER nurse's conduct in this regard further reflects adversely on the hospital and constitutes an additional violation of CCH Personnel Rule 8.03(c)(25), another major cause infraction.

In addition, the preponderance of the evidence supports the conclusion that the ER nurse engaged in theft of CCH property in violation of CCH Personnel Rule 8.03(c)(9), a major cause infraction. The medical supplies depicted in the videos have been identified by a supervisory Stroger Hospital employee as being similar to the type utilized at Stroger Hospital. While it is possible that the IV solution and other medical supplies used were obtained elsewhere, it is more likely than not that they were taken from the hospital given their resemblance to the supplies found at the hospital and the ER nurse's access to them. In addition, three witnesses stated that the ER nurse told them she obtained those supplies, as well as morphine, from the hospital.

OIIG Recommendations

Based upon the very serious nature of the violations at issue, which constitute multiple major cause infractions, we recommended that (1) the ER nurse's employment with CCH be terminated, (2) that she be placed on the CCH *Ineligible for Hire List* and (3) CCH refer this matter to the Illinois Department of Financial and Professional Regulation for whatever action it deems appropriate with regard to the ER nurse's status as a licensed RN.

CCH HR responded to the above recommendations as follows: "[The ER Nurse's] employment at CCH ended November 5, 2020. CCH adopted the OIIG recommendation for termination and began its required disciplinary process, at which time, [the ER Nurse] agreed to resign from CCH and not contest the separation if she was not added to the Ineligible for Hire List. She further agreed to not apply for any CCH position for 2 years and the OIIG report and

Investigatory Meeting Notice, along with her resignation, will remain in her personnel file. Because CCH was not able to hold the investigatory meeting to review evidence and information from the OIIG and [the ER Nurse], CCH determined it is not appropriate for CCH to report the OIIG's findings to IDFPR."

IIG19-0567. On November 4, 2019, the Cook County Treasurer's Office issued a letter to Cook County Land Bank Authority's (CCLBA) Executive Director outlining concerns with the manner in which the CCLBA acquired properties offered for sale during the 2015, 2017, and 2019 Scavenger Sales. The letter stated that during the 2015 Scavenger Sale, the CCLBA acquired approximately 8,130 properties by using the no-cash bid offer and subsequently returned approximately 5,895 (72.5% return rate) of the noted properties. The letter further stated that the CCLBA added an additional layer of "destructive complexity" when properties initially acquired from the 2015 and 2017 scavenger sales were surrendered to the Treasurer's Office and subsequently reacquired in the 2019 scavenger sale. Based on the concerned raised, the OIIG conducted a review to assess the CCLB's process of acquisition, maintenance and disposition of properties sold by the Cook County Treasurer's Office at the biannual scavenger sales.

Based on our analysis, we found that the CCLBA lacks policies and procedures designed to specifically and adequately administer the acquisition and disposition of scavenger sale properties. Instead, the CCLBA relies on informal policies and procedures. The noted conditions allowed the CCLBA to employ an overly expansive acquisition strategy during the 2015, 2017 and 2019 scavenger sales, which led the CCLBA to exceed its operational capacity. Moreover, based on our testing, we determined the overcapacity precluded the CCLBA from effectively managing the acquisition, maintenance and dispositions of properties acquired. In addition, despite acquiring and holding properties acquired at the 2015 and 2017 scavenger sales for over 652, 931, and/or 1,217 days and subsequently placing a bid to reacquire the same properties during the 2019 scavenger sale (a year or two months later), the CCLBA did not take the necessary measures to bring the properties to deed as required by the Code.

Based on our findings, we respectfully recommended the following:

1. The CCLBA should analyze the acquisition strategies previously developed for each biannual scavenger sale and incorporate any changes deemed necessary to ensure a more targeted and focused approach is developed as part of the strategy. In addition, the CCLBA should develop written standard operating procedures that provide specific guidance in the selection and disposition of scavenger sale properties In doing so, the CCLBA should further analyze and determine an optimal number of properties to acquire from the scavenger sales that would better align with the resources available and ensure that the CCLBA takes the necessary measures to take the properties to deed as required by the Code.

2. Given that the CCLBA places substantial amount of reliance on the occupancy status of a property acquired, consideration should be given to implementing an internal

review program whereby inspections conducted by acquisition specialists are reviewed and approved by an assigned supervisor to ensure the corresponding inspection is conducted and properly documented.

3. The CCLBA should fully utilize the functionalities available in ePropertyPlus in order to properly track and document the entire life cycle of each property acquired and ensure that a comprehensive set of photographs and the related inspection reports are adequately maintained to verify the occupancy status of a property under review.

4. The CCLBA should develop formal written policies and procedures to provide acquisition specialists with uniform guidance in their day-to-day duties and responsibilities. The policies should include guidance on the proper maintenance of files and the proper documentation, recording and approvals of the decision to acquire or dispose of properties.

5. The CCLBA should review its current process of determining the sale price of properties sold to ensure the fair market value and property costs are sufficiently documented in compliance with the requirements of Section 5.1 of the CCLBA Policies and Procedures. Moreover, rather than relying on internal data, the CCLBA should consider relying on the fair market value determined by the CCAO as a baseline number and make iterations deemed necessary to reach a weighted fair market value. With regard to property costs, the CCLBA should utilize the Service Financials component of ePropertyPlus which allows the CCLBA the ability to record property-level costs and income entries and therefore assist the CCLBA in the proper documentation of property costs.

6. The CCLBA should enforce the application requirements as outlined in Section 3.2 (*Transferee Qualifications*) of the CCLBA Policies and Procedures to ensure that applicants submit required documents to allow an adequate examination of potential buyers and preclude the CCLBA from obtaining the required documents after the sale date.

7. The CCLBA should maintain adequate and sufficient documentation that supports the manner in which the properties were placed for bid to the general public. In doing so, the documentation should include among other things, the timeframe properties were listed on its website for sale and complete and accurate applications received.

This was a public statement and the entire report, along with the CCLBA's response to our scope, analysis, and findings can be found on our website. However, the CCLBA response failed to specifically respond to any of our seven specific recommendations for corrective action.

IIG18-0116. The OIIG received information that a food distribution company which was certified as a Woman-Owned Business Enterprise ("WBE") likely exceeded the maximum net

sales cap allowed to participate in the WBE program. Specifically, it was alleged that the subject company owner closely collaborated with companies owned by siblings as an integral part of the continuity of the subject company's operations. According to Cook County Code Chapter 34, Article IV, Section 34-263, a "Woman-owned Business Enterprise" or "WBE" is among other requisites, a *local small business*, as defined by the U.S. Small Business Administration "SBA" pursuant to the business size standards found in 13 CFR Part 121, as related to the nature of the work the Person seeks to perform on Contracts. A person is not an eligible small business enterprise in any calendar fiscal year in which its gross receipts, averaged over the person's previous five fiscal years, exceed the size standards of 13 CFR Part 121. Cook County Code Chapter 34, Article IV, Section 34-263 (emphasis added).

The Code also provides that:

> An "affiliate" of or a Person shall mean any person that directly or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with, the person specified. Affiliates shall be considered together in determining whether a firm is a small business. Cook County Code Chapter 34, Article IV, Section 34-263.

13 CFR Section 121.01 (a) states that "SBA's size standards define whether a business entity is small and thus eligible for government programs and preferences." The SBA's size standards vary depending on the industry of the business categorized by the U.S. North American Industry Classification "NAICS" and are measured in annual receipts or number of employees. 13 CFR Section 121.01 (b.) For all of the industries in which the subject food distribution company is certified as a WBE, the unit of measure in number of employees is as follows:

NAICS 424420	Packaged Frozen Food Merchant Wholesalers	EE#Limits
NAICS 424430	Dairy Product (except Dried or Canned) Merchant Wholesalers	200
NAICS 424450	Confectionery merchant wholesalers	200
NAICS 424470	Fresh meats merchant wholesalers	150
NAICS 424470	Meat and Meat Product Merchant Wholesalers	150
NAICS 424470	Meats and meat products (except canned, packaged frozen) merchant wholesalers	150
NAICS 424470	Meats, fresh, merchant wholesalers	150
NAICS 424480	Fresh Fruit and Vegetable Merchant Wholesalers	100

NAICS 424480	Produce, fresh, merchant wholesalers	100
NAICS 424490	Other Grocery and Related Products Merchant Wholesalers	250

Although the owner of the subject food distribution company made representations that the company had 80 employees as of May 31, 2016, which fell within the size standards as established by the SBA, the relevant inquiry is whether her sibling companies were affiliates as defined by the County Code and 13 CFR part 121.301 and subject to inclusion in the total number of employees. According to sub-section (f):

> Firms owned or controlled by married couples, parties to a civil union, parents, children and siblings are presumed to be affiliated with each other if they conduct business with each other, such as subcontracts or joint ventures or share or provide loans, resources, equipment, locations or employees with one another. This presumption may be overcome by showing a clear line of fracture between the concerns.

In evaluating how SBA interprets its regulations, this office reviewed several size appeal decisions issued by the SBA's Office of Hearings and Appeals "OHA." In *Size Appeal of Trailboss Enterprise, Inc., Appellant,* SBA No. SIZ-5578 (2014), the OHA upheld the SBA's size determination finding appellant and his wife's business as common concerns over Petitioner's argument that the businesses pre-dated the family relationship (marriage) as the spouses operated their businesses in the same building and served on the Board of a foundation, which owned the building. In so holding, the OHA stated that "precedent established the identity of interest, and thus control, between family members which arises 'not from the degree of family members' involvement in each other's business affairs, but from the family relationship itself.'" *Id, citing, Size Appeal of SP Tech., LLC,* SBA No. SIZ-5319, at 5 (2012.)

In *Size Appeal of Condor Reliability Services, Inc,* SBA No. Siz-5116 (2010), the OHA upheld the SBA's determination that Condor, the company owned by a married couple, and Alpa, the company owned by the couple's children were affiliates of one another. The OHA held that the rebuttable presumption that family members have identical interests "arises not from active involvement in each other's business affairs, but from the family relationship itself." *Id.* at *4. The OHA found that there was no clear fracture between the family's business as demonstrated by the fact that they shared a building and held interests in each other's businesses. *Id.* at *4.

The preponderance of evidence in this investigation demonstrated that the companies owned by the subject food distribution company's owner's siblings have an "affiliation based on identity of interest" as they are in the same or similar industries of produce wholesale and/or manufacturing and are economically dependent on one another in their operations. A related trucking company is also an affiliate of the subject food distribution company and the sibling companies as git is economically dependent on those companies' operations. The evidence

supports the conclusion that one sibling company and the subject food distribution company are dependent on the previously mentioned trucking company for all of their delivery needs, as the sibling company has no trucks and the subject food distribution company has insufficient equipment for the quantity of business it performs. Similarly, the evidence demonstrates that the trucking company and one sibling company depend on business and financial support from the subject food distribution company and another sibling company. Moreover, all of the siblings jointly own two separate limited liability companies. Section 121.103(a)(6) states that, "[i]n determining the concern's size, the SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its *domestic and foreign affiliates*, regardless of whether the affiliates are organized for profit" (emphasis added). As such, the evidence revealed that the affiliates collectively employed 255 employees from May through June 2016 and 264 employees from May through June 2019. As such, due to the established affiliate relationships, the subject food distribution company exceeds the size limitations imposed by 13 CFR Part 121 and Cook County Code Chapter 34, Article IV, Section 34-263 to qualify as a "local small business."

The evidence also demonstrated that the subject food distribution company and its owners willfully presented false, deceptive, fraudulent, and inaccurate material information in support of its and their efforts to secure certification and subsequent recertification as a small business as outlined above. These false and misleading statements, including those relating to shared facilities, awareness of a sibling company status in June 2016, shared equipment and services, banking information, number of affiliate employees, revenue and ownership interest, represent a violation of the Procurement Code (Sections 34-175, 34-268 (m) and 34-275).

Based on all of the foregoing, this office recommended:

1. Cook County secure the decertification of the subject food distribution company as a Women-Owned Business Enterprise because it does not qualify as a local small business and pursue all other available sanctions under the Procurement Code (Sections 34-175, 34-268 (m) and 34-275) in addition to those available under law or in equity; and

2. Due to the false and misleading information supplied by the subject company and its owners in support of its and their certification and recertification, Cook County should secure the decertification of the company as a Women-Owned Business Enterprise and pursue all other available sanctions under the Procurement Code (Sections 34-175, 34-268 (m) and 34-275) in addition to those available under law or in equity.

The County accepted both of the OIIG recommendations. The Contract Compliance Director forwarded the OIIG its March 30, 2021 Preliminary Notice of Intent to Deny and Revoke Certifications and Impose Penalties that it sent the food distribution company. The Contract Compliance Director proposed denial and revocation of certifications for a period of 5 years and issuance of a penalty of $2,500 to the food distribution company and the President of the food distribution company. In response, the company withdrew its County certification.

IIG20-0436. This investigation involved an allegation that a Cook County Heath (CCH) employee submitted Transportation Expense Vouchers ("TEV") containing false information for mileage and per diem reimbursement payments. The issue arose after the employee submitted a grievance claiming she failed to receive reimbursement by CCH for travel expenses. At the center of this grievance was whether the employee was entitled to receive compensation for both mileage and a travel per diem payment for the same work day. The information also suggested that the subject employee supported her grievance with reimbursement requests related to days when she was not at work and received improper per diem compensation on days for which she also received mileage reimbursement.

The preponderance of the evidence developed during the course of this investigation revealed that the subject employee did submit TEVs which contained false information. The employee claimed and received per diem for 10 days when she was on vacation, sick leave, Family and Medical Leave Act leave or off for a CCH holiday. In addition, the employee submitted TEVs claiming reimbursement for both per diem and mileage for the same travel on 35 occasions. However, the investigation failed to demonstrate that the employee intentionally submitted false information. Rather, the preponderance of the evidence revealed that the employee was negligent when she drafted TEVs. Relying primarily on historic calendars contained within emails, the employee drafted TEVs *en masse* without regard to whether she had been on leave for a holiday, vacation or illness. The employee's negligence resulted in inaccurate TEV forms resulting in improper reimbursement and the mistaken belief that she was entitled to further compensation.

Although the employee had a plausible explanation for the errors contained in the TEVs, she nevertheless had an obligation to ensure that her expenses and related reimbursement requests were accurate and compiled with all applicable policies.[8] The evidence revealed that the employee had in fact already been paid for travel mileage and/or per diem and had been careless in drafting her reimbursement requests. Furthermore, the employee stated she was not aware that she was prohibited from claiming both per diem and mileage for the same day because the CBA is not clear. However, statements provided by CCH employees suggest that she was informed of the restriction. Minimally, management's practice of prohibiting both mileage and a per diem payment for the same date working was soundly in place.

The union contended that the CBA is ambiguous with regard to the reimbursement option of per diem on the basis of $5.00 for each day worked and makes no mention as to whether it can be claimed in lieu of or in addition to mileage. Management asserted the language in the CBA and related policy make clear that an employee has the option of taking either per diem or mileage, but not both. The evidence demonstrates that management's interpretation has become the CCH policy, custom and practice on the issue. We concur with management's position on the issue.

[8] The 2017 Cook County Travel and Business Expense Policy and Procedures states, Excessive costs or unjustifiable costs are not acceptable and will not be reimbursed. The individual requesting reimbursement is responsible for insuring that his/her expense and related reimbursement request complies with all applicable policies, is properly authorized, and is supported with necessary receipts and documentation.

While the issue is not central to our recommendation pertaining to the subject employee, we recommended all staff be made aware of this practice, if it is not already clear, to avoid misunderstanding by staff.

In any case, the Cook County Travel and Business Expense Policy is clear regarding the responsibility to ensure the accuracy of expenses and related reimbursement requests. The subject employee failed to appreciate the importance of doing so and submitted requests in violation of the policy. Accordingly, we recommended CCH impose an appropriate level of discipline on the subject employee consistent with other similar cases of negligence in the course of duty. We also recommended that the subject employee repay Cook County for $235.00 in per diem travel reimbursement payments she was not entitled to receive.

These recommendations were made on December 11, 2020, and to date we have yet to receive a response.

IIG20-0507. This investigation was initiated by the OIIG after being informed of a suspected theft at the Cook County Hawthorne Warehouse, 4545 Cermak Road, Chicago, Illinois. This office was further informed that upon an inventory check undertaken the week of August 3, 2020, Department of Facilities Management (DFM) staff found that approximately 40 cases of disposable face masks, with a value of approximately $24,300, were missing from inventory maintained at the Hawthorne Warehouse. It was noted that the Hawthorne Warehouse has 24/7 security staff with a guard posted at the warehouse at all times. No reports of break-ins or suspicious activity were made by the security personnel, and there were no reported incidents of unauthorized access during the subject period. This matter was also reported to the Chicago Police Department by DFM management.

The OIIG conducted several site inspections of the Hawthorne Warehouse, reviewed inventory records and informally communicated with staff during each site inspection. Additionally, we communicated with the Chicago Police Department, Property Crimes Detective Division and interviewed several DFM employees.

The lack of video surveillance at or near the Hawthorne Warehouse and the lack of a formal inventory control system pose difficulty in developing leads absent witnesses providing relevant information. Specific information supporting the theory that the PPE was stolen was lacking. Moreover, the possibility that the subject PPE was miscounted on intake or inaccurately counted and documented upon distribution was identified as a real, if not likely, possibility for the apparent loss during our investigation. Consequently, the allegation of theft cannot be substantiated.

DFM has or is implementing several important measures to mitigate the possibility of future loss at the Hawthorne Warehouse. Those measures include: a) storing PPE related items in a locked cage within the warehouse; b) Security staff recording the names and purpose of an individual's visit to the warehouse; c) DFM Deputy Supervisor or Director authorization to enter the warehouse; and d) the installation of 16 surveillance cameras with recording capacity at all

Hawthorne Warehouse entrances and exits. We concur with these measures and respectfully recommended DFM implement the following additional improvements:

1. Implement a formal inventory control system at the warehouse and related user policy; and,
2. Ensure that any DFM staff preforming duties associated with inventory control are fully trained in the inventory control policy.

In its response, DFM acknowledged, per the findings in the OIIG Summary Report, that the information supporting the theory that PPE was stolen is lacking. However, as outlined in the OIIG recommendations, DFM has implemented several important measures to mitigate the possibility of future loss including:

- PPE related items are now stored within a locked cage
- New 24/7 security staff (as of December 1, 2020) documents the name and purpose of each warehouse entrant
- DFM leadership approval for all entrants with a purpose unfamiliar to security staff
- Cameras have been strategically placed throughout the warehouse with associated DVR for recording
- The current salvage process/policy is followed for the control and inventory of items stored in the warehouse. DFM will expound as necessary to implement the same process/policy for alternate inventory.

IIG20-0534. The OIIG received information that a Pharmacist at CCH made a false statement in support of his application for employment with CCH. Specifically, the subject pharmacist stated in his application that he left one of his previous employers for a better position when in fact he had been terminated. During its investigation, the OIIG reviewed the pharmacist's online employment application materials and U.S. District Court records. The OIIG also interviewed the subject pharmacist.

The preponderance of the evidence developed during the course of this investigation demonstrates that the pharmacist was terminated from his prior position at a different hospital due to performance related issues. The preponderance of the evidence also establishes that the subject pharmacist pursued litigation against the other hospital's parent company asserting wrongful termination. The District Court granted summary judgment and dismissed the pharmacist's case in 2019. Approximately four months after the dismissal of his lawsuit, the subject pharmacist applied for the position he currently holds at CCH. In his application for that position, when asked to choose from options in a drop-down menu to describe the reason for leaving his prior employer, the subject pharmacist selected the option "left for a better position" rather than the option "terminated." This information was false. When questioned by OIIG investigators to explain why he left his prior employer, the subject pharmacist repeatedly stated that he could not recall the reason he left deferring the issue because he would need to check his records. This demonstrates

the subject pharmacist's attitude of mind to provide misleading information during his interview with the OIIG. In this regard, it is inconceivable that the pharmacist would engage in years of litigation in the District Court challenging his former employer's termination of his employment only to feign a lack of recollection of the basis of his lawsuit and whether he was even a party to the proceedings.

By providing false information in his application for employment with CCH, the pharmacist violated the Human Resources Article 44-54(b) and CCH Personnel Rule 8.03(c)(26). He also violated his duty to cooperate in an OIIG investigation (Cook County Code, section 2-285) when he repeatedly sought to mislead the OIIG. Based on all of the foregoing, we made the following recommendations:

1. Section 44-54 is explicit where it requires termination and a five-year ban from future CCH employment. As such, we recommended that CCH terminate the employment of the subject pharmacist and place him on CCH's Ineligible for Hire List for a period of five years;

2. As an employee of CCH, the pharmacist possesses a duty to cooperate in OIIG matters. Based upon his violation of Section 2-285, we recommend that the pharmacist employment be terminated on this additional ground.

Unrelated to our recommendation involving the subject pharmacist, we also recommended that CCH Human Resources consult with the Cook County Bureau of Human Resources and consider eliminating the application feature which requests reasons for leaving past positions as this feature appears to be used infrequently in the hiring process.

CCH adopted our recommendations.

IIG20-0539. The OIIG received information alleging that a CCH employee abused his position and received preferential treatment when he was scheduled for an elective surgical procedure on a weekend and requested specific staff members to assist in the procedure. It was also alleged that the subject CCH employee may not have been billed for the medical services rendered and that the staff member performing the procedure received overtime pay. The OIIG reviewed CCH medical and billing records as well as Cook County Workforce Time (CCT) records and the Stroger Operating Room (OR) staffing records. In addition, the OIIG interviewed multiple CCH employees in this matter.

The preponderance of the evidence developed during the course of this investigation does not support the conclusion that the subject CCH employee failed to pay for services rendered at CCH. The review of medical billing records revealed that the CCH employee's insurance providers were billed approximately $37,785.81. However, the investigation did produce evidence which revealed that the CCH employee was given preferential treatment on a Sunday for the surgical procedure which was permitted based upon past precedent. The evidence revealed that the

employee was scheduled for a non-emergent, elective surgical procedure on a Sunday, which contradicts the standard OR protocol. Although no written policy could be located which designates what type surgical procedures are permitted to be performed on the weekend, interviews conducted with multiple CCH OR managers and staff confirmed that it is understood only emergency and medically necessary surgical procedures are performed during the weekend and no elective procedures are scheduled. Further investigation determined that the subject CCH employee was permitted to select two specific nursing staff members to participate in his surgical procedure who were subsequently compensated in overtime. A review of the OR staffing schedule for the Sunday at issue revealed that the nursing staffing level was adequate to cover the surgical procedures scheduled during the morning shift and the need for the two additional nurses brought in for the CCH employee's surgical procedure was not necessary, except to accommodate the subject CCH employee's request for certain staff members in order to protect patient confidentiality which resulted in additional unnecessary expenses to CCH.[9]

Nonetheless, the investigation further revealed that it is a common practice for internal staff who have surgical procedures performed at Stroger to receive special considerations and are permitted to have elective surgical procedures scheduled during the weekend or other off hours to protect patient confidentiality.

Being provided the opportunity to select specific staff to cover one's own surgical procedure does not constitute a violation of CCH Rules. Nor does scheduling said procedures during weekend or early morning hours to allow for patient confidentiality. However, selecting or requesting specific staff members to come in on overtime when there is ample staff scheduled, qualified and available to work violates CCH Personnel Rule 8.3(c)(24) (Using Systems facilities or resources for personnel purposes).

Based on all of the foregoing, we made the following recommendations:

1. CCH should create a written policy addressing the category of surgical procedure permitted to be performed on the weekend, and include any exceptions to said policy, such as CCH staff undergoing surgical care who request additional confidentiality;

2. CCH should consider creating a policy that would allow internal staff and others such as high-profile patients to be subject to additional safeguards to enable confidentiality while receiving care;

3. Regarding the CCH employee's violation of CCH Personnel Rule 8.3(c)(24), we do not recommend any discipline because a conflict currently exists between Rule

[9] Per Stroger Operating Room management, the weekend staffing level is three teams and a charge nurse per shift, which consist of 8 staff and two on-call staff nurses for any additional cases. All day shift nurses receive overtime on the weekend.

8.3(c)(24) and an unwritten but apparently established management policy permitting the scheduling of specific staff members to come in on overtime even though there was ample staff scheduled to work. Going forward, CCH management should ensure that no policy or custom conflicts exist regarding these situations. If CCH elected to continue this practice, CCH should create a policy that would either prohibit employees receiving a procedure at the hospital from using any overtime staff for the subject procedure or require the patients-employee to cover the additional cost of any overtime expenses related to their procedures so as not to violate Rule 8.3(c)(24).

These recommendations are pending.

From the 2nd Quarter 2020

IIG18-0344. This office received information suggesting that the Board of Review (BOR) maintains a custom and practice of reliance on political factors in making hiring decisions involving non-management level positions. The information also involved assertions that BOR superiors organize political support by relying on BOR employees who routinely perform political work on behalf of the BOR Commissioners. Accordingly, this office initiated this investigation to ascertain whether political reasons or factors were considered in the BOR hiring process for all or only certain BOR positions. Additionally, this office sought to determine whether a nexus existed between the activities of the political organizations of BOR officials and BOR employees that have been found to be hallmarks of unlawful political activity wherein government employment is leveraged to support the political activities of favored political organizations. Evidence of such activity may represent a violation of the First and Fourteenth Amendments of the kind that ultimately spawned protracted and costly litigation such as the *Shakman*[10] and *Rutan*[11] class actions. In conducting this investigation and considering our findings and conclusions below, it is important to recognize that particular classes of typically high-level government employees are exempt from the subject constitutional protections. The parameters for designation of a government position that is exempt from the protections afforded by the First and Fourteenth Amendments can be found in *Branti v. Finkel*, 445 U.S. 507 (1980) and its progeny.

In *Branti*, the Supreme Court held that the ultimate inquiry in determining whether government positions are exempt from First Amendment protections is not whether the label "policymaker" or "confidential" (or other similar title) attaches to a position. Rather, the question is whether the hiring authority can demonstrate that party affiliation is an appropriate requirement for the effective performance of the public duties involved. *Branti*, 445 U.S. at 519.[12] Contrary to

[10] *Shakman v. Democratic Party of Cook County,* 69 C 2145 (N.D. Ill. 1969).
[11] *Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990).
[12] "It is equally clear that party affiliation is not necessarily relevant to every policymaking or confidential position. The coach of a state university's football team formulates policy, but no one could seriously claim that Republicans make better coaches than Democrats, or vice versa, no matter which party is in control of the state government. On the other hand, it is equally clear that the Governor of a State may appropriately

positions properly exempt under *Branti,* the vast majority of BOR employees are analysts[13] who weigh property tax appeals using various objective criteria in making a determination whether an appeal is viable. The duties of these positions, while not entirely ministerial, are nonetheless not high-level policymaking functions where political alignment between the employee and the elected Commissioner is essential for effective performance. Rather, these employees objectively assess the value of real property where political alignment has no relation to the effective performance of the duties involved. Additionally, it is important to note that while the BOR is not a party to the *Shakman* litigation, and therefore not bound by the regulatory conditions attached to the operations of the defendant governments and agencies by the District Court, the constitutional principles upon which the litigation stands are applicable to those governmental agencies that have not been made a party to a regulatory action such as *Shakman v. Cook County.* Therefore, while it is accurate to state that the BOR is not a party to the *Shakman* litigation and not bound by the regulatory conditions arising from that litigation, it is inaccurate to hold that the constitutional principles which are implicated, and which have locally been associated with the litigation itself, have no bearing on BOR employment policies, customs or practices involving many if not most BOR positions.

In order to determine whether political factors played any improper role in BOR employment actions and whether the BOR was targeting its employee base as a source of political support, this office reviewed human resources files and email communications. This office also interviewed numerous employees of various levels and titles within the BOR and conducted related research. Questions posed to those interviewed focused on hiring decisions and whether political activity held a close nexus to governmental employment.

A review of BOR employment documents, coupled with interviews of BOR employees at various levels within the organization, revealed that BOR has no formal hiring process. The OIIG Investigators requested all personnel files from the BOR and received a total of 64 files.[14] Of the personnel files received, one candidate wrote that they were recommended to the position by Commissioner C, two employees are children of business partners of Commissioner C, two applicants wrote that they were recommended for the position by Commissioner A, six applicants wrote that they were recommended for their positions by Commissioner B, eight applicants listed that they were recommended by another politician or listed having worked for other political offices and 17 applicants wrote that they were recommended by a BOR staff member or someone with an affiliation within the BOR. The BOR does not maintain or otherwise utilize written job

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believe that the official duties of various assistants who help him write speeches, explain his views to the press, or communicate with the legislature cannot be performed effectively unless those persons share his political beliefs and party commitments." *Branti*, 445 U.S. at 519.

[13] The approved 2020 BOR budget specifies 142 FTEs, 109 of which are classified Assessment Appeal Review, or 76% of the FTEs. *2020 Cook County Annual Appropriation Bill,* Volume II, Section G-4.

[14] The approved 2018 and 2019 BOR budgets specified 111 and 126 FTEs respectively. *2018 Cook County Annual Appropriation Bill,* Volume II, Section P-1; *2019 Cook County Annual Appropriation Bill,* Volume II, Section G-1.

descriptions or minimum qualifications for BOR positions. Our review yielded multiple examples of hires taking place despite incomplete application materials and lack of formal process. This office noted that the paper application form in use by the BOR contains a question which asks, "who recommended you to us?"[15]

Analyst A is an Appeals Analyst for the BOR. When asked in her OIIG interview how she found out about her position, she stated "I do not want to say." She later related that a neighbor told her about the position and the neighbor found out from a friend-of-a-friend. Analyst A advised that she met with Commissioner A once and met with his former Chief of Staff twice. Analyst A stated that there was no test administered whatsoever. Analyst A explained during her interview that, prior to her BOR hire, she had never performed this type of work before. During her interview, Analyst A stated that Commissioner A ran for office and needed signatures. Analyst A advised that she has overheard different BOR employees talking about going out in public and getting signatures on behalf of the Commissioner. Analyst A stated that she was not able to get signatures for Commissioner A because she was involved with getting signatures for another candidate. When asked if whether it had to be explained to Commissioner A why she was unable to obtain signatures, Analyst A stated that she had a meeting with Commissioner A and had to explain the reason. Analyst A said "I did not want him thinking I'm not a team player. He was very understanding."

In her OIIG interview, Administrative Assistant to Commissioner B stated that she found out about her position from Commissioner B in 2010. Specifically, Administrative Assistant to Commissioner B volunteered for Commissioner B's campaign by knocking on doors and speaking to neighbors on Commissioner B's behalf. Administrative Assistant to Commissioner B stated that she knew Commissioner B's wife, who was a family friend and lived in the same neighborhood. Administrative Assistant to Commissioner B advised that after Commissioner B won the election, she asked him to consider her for a job. Administrative Assistant to Commissioner B was interviewed by Commissioner B and his former Chief of Staff. Administrative Assistant to Commissioner B advised that the Chief of Staff to Commissioner B is active in suburban politics. Administrative Assistant to Commissioner B stated that she has collected signatures for Commissioner B's reelection campaign but is told by Commissioner B and his former Chief of Staff not to do political work while at work.

Analyst B explained in her OIIG interview that she analyzes residential properties, participates in outreach seminars and on occasion, will translate for Chinese-speaking homeowners. Upon being asked how she obtained her current position, Analyst B said that she was "referred" by her local alderman. Analyst B stated that she asked her alderman if he could

[15] The central concern being that the individual making the recommendation did so without regard to the applicant's merit as opposed to personal or political affiliation. This brings to mind the infamous treatment of a young Abner Mikva when turned away from a political office in 1948 with the explanation "We don't want nobody that nobody sent." Abner Mikva Interview: Conversations with History; Institute of International Studies, UC Berkeley, April 12, 1999.

help her find a job. Analyst B explained that the alderman told her that he would see what he could do. Analyst B advised that within a year she received a call from the former First Assistant to Commissioner A to schedule an interview. Analyst B stated that she was offered a job after her first interview with the former First Assistant to Commissioner A and Commissioner A. Analyst B advised that she never completed an online or paper application. Analyst B stated that she is unaware if she was competing with anyone for the position. When asked if she has ever done campaign work for Commissioner A, Analyst B stated that she collected signatures for Commissioner A in 2017. Analyst B explained that she volunteered for the campaign and collected signatures after work hours. When asked how she became involved with that campaign, Analyst B stated that she attended a "social" after work at City Social where the Commissioner announced that he was seeking re-election and people could volunteer if they wanted to do so. When asked how she received information regarding the campaign events and signature opportunities, Analyst B stated that she received information from the former Campaign Manager, the Secretary of the Board. Analyst B related that she has received emails from the Secretary of the Board about picking up and collecting petition sheets during work hours on her personal email. Analyst B acknowledged working on a recent political campaign involving a BOR Commissioner. When asked how she became involved with that campaign, Analyst B advised that all BOR employees were invited to a social after work at City Social where that Commissioner announced his campaign and asked for volunteers.

Analyst C stated in his OIIG interview that he is a Commercial Analyst for the BOR. When asked how he started working for the BOR in his current position, Analyst C stated that he and a Commissioner worked together at the BOR for a prior Commissioner, so he contacted him to find out if there were any open positions at the Board of Review. Analyst C advised that he forwarded his resume to Commissioner B and later interviewed with the Commissioner and Commissioner B's Chief of Staff. Analyst C stated that he did not have to apply online or fill out a paper application for the position. Analyst C is not aware of an online hiring process and believes his position is *Shakman*-exempt. When asked if he performs political work for Commissioner B, Analyst C stated that he has walked in parades and obtained signatures for Commissioner B's campaign. Analyst C advised that he and Commissioner B have known each other for several years so when Commissioner B asked him if he would walk in parades and get signatures, he was happy to do it. Analyst C stated that Administrative Assistant to Commissioner B, Commissioner B's Chief of Staff and Commissioner B advise him of campaign events. Analyst C explained that campaign related emails are sent using personal emails after work hours by the Administrative Assistant to Commissioner B. Administrative Assistant to Commissioner B organized the BOR employees by assigning certain individuals to collect signatures at designated train stations. Analyst C said the majority of individuals collecting signatures were BOR employees. When asked how he began working for the former Commissioner in 2004, Analyst C stated that he was friends with the former Commissioner's son in college and he was a friend of the family. Analyst C stated that the former Commissioner hired him as a residential analyst.

Analyst D advised in her OIIG interview that she has been a Residential Analyst with the Board of Review for nine years. Analyst D stated that she also trains new employees. Analyst D

stated that she had no residential analyst experience prior to working for the Board of Review. Analyst D related that she took classes related to her work during the summers while working for the Board of Review. Analyst D stated that she learned about her position from her father. Analyst D advised that she knew Commissioner C prior to being employed by the Board of Review because Commissioner C and her father are partners in their law firm. Analyst D explained that she filled out a paper application and had an interview with a former employee. Analyst D stated that she may have interviewed with Commissioner C but does not recall because it was so long ago. When asked about whether she held a Computer Operator position within the Board of Review, Analyst D stated that Computer Operator was on her County ID but she never performed any IT related work. Analyst D advised that she has always performed analyst work. Analyst D stated that she has volunteered for Commissioner C's campaign in the past, including the solicitation of signatures, but denied feeling pressured to do so.

The Secretary of the Board related in his OIIG interview that he was appointed to his current position by the Board of Commissioners approximately 2 years ago. The Secretary of the Board explained that he also functions as the Chief Operating Officer and Chief Financial Officer and he oversees human resources, facilities, information technology, external communications, intergovernmental affairs, finance and budgeting. The Secretary of the Board stated that he manages approximately 15 staff. Prior to his current position, the Secretary of the Board worked as the Deputy Commissioner In-Charge of Real Estate for approximately seven years. When asked how he came to work for the Board of Review, the Secretary of the Board stated that he knew Commissioner A through Democratic Leadership for the 21st Century (DL21C), a political organization in which they both were members. The Secretary of the Board explained that once Commissioner A was appointed to the BOR, Commissioner A reached out to him (the Secretary of the Board) and invited the Secretary of the Board to come work for the BOR. The Secretary of the Board stated that he agreed to work with Commissioner A and submitted his resume. The Secretary of the Board explained that he interviewed with Commissioner A prior to being hired but does not know if he was competing with anyone else for the position. The Secretary of the Board stated that he did not apply online or submit any documents on an online platform. When asked about his background, the Secretary of the Board stated that he has a degree in Literature with a focus on Classical Languages from Ohio University. The Secretary of the Board stated that he has done political work for Commissioner A such as managing petition processes and working on strategies and communications. The Secretary of the Board advised that many political organizations assisted with getting petitions signed. When asked if any BOR employees worked to collect signatures on petitions, the Secretary of the Board said "yes, some employees volunteered." When asked how the BOR employees got involved with the petitions, the Secretary of the Board stated that some employees asked if they could help. The Secretary of the Board explained that he also sent out emails to BOR employees stating that if anyone wanted to volunteer with petitions that they could see him about it after work hours. The Secretary of the Board stated that he let the employees know that getting petitions signed was in no way connected to their jobs. The Secretary of the Board stated that he always communicated events and petition opportunities through private emails and never through County email. The Secretary of the Board advised that he usually sent emails pertaining to campaign work early in the mornings while he was on the train

or late in the evenings but not during work hours. The Secretary of the Board stated that there were occasional lunch and evening campaign outings, mainly to give instructions and deadlines for petitions.[16] When asked about the hiring process for the BOR, the Secretary of the Board stated that each Commissioner has his own hiring process. The Secretary of the Board stated that he does not know how positions are posted for the BOR, as each Commissioner fills his own positions and has the autonomy to hire whomever he chooses. The Secretary of the Board stated that the Commissioners' Chiefs of Staff or First Assistants usually assist the Commissioners with hiring and position titles. The Secretary of the Board advised that every position within the Board of Review is *Shakman*-exempt and explained that the BOR does not use a *Shakman* monitor.

The Chief of Staff to Commissioner A stated in his OIIG interview that he currently is responsible for managing the staff and day to day operations for Commissioner A. When asked about the hiring process at the BOR, the Chief of Staff to Commissioner A stated that the BOR usually operates on a referral basis when positions become available. The Chief of Staff to Commissioner A related candidates are usually referred by employees of the BOR or by people who know the Commissioner personally or professionally. The Chief of Staff to Commissioner A explained that the BOR operates on referrals when hiring new employees because the job is very sensitive and not everyone can perform the job. The Chief of Staff to Commissioner A stated that he and the Commissioner conduct all of the interviews of candidates for employment. When asked about the minimum qualifications for the analyst position, the Chief of Staff to Commissioner A stated that there are no minimum qualifications but he (the Chief of Staff to Commissioner A) has written a job description that identifies the education and experience he would like to see an applicant have. When asked how a person would find out about available positions at the BOR, the Chief of Staff to Commissioner A stated that a person would find out about available positions from someone at the BOR or the Commissioner asks around if he needs to hire someone. The Chief of Staff to Commissioner A explained that positions at the BOR are not publicly posted so in order to be hired a candidate would have to be referred to their office. The Chief of Staff to Commissioner A stated that if the BOR needs an attorney, he and/or Commissioner A will contact the Dean of the University of Illinois Law Department (where both the Chief of Staff to Commissioner A and Commissioner A went to law school) and ask for referrals. When asked if there is a different set of minimum qualifications for attorneys, the Chief of Staff to Commissioner A stated "no" and that the BOR uses the same job description used for the analyst position. When asked how current employees receive promotions, the Chief of Staff to Commissioner A stated that employees are promoted if they perform well, show good aptitude, and there is a more senior position available. When asked about *Shakman*-exempt positions, the Chief of Staff to Commissioner A stated that the Illinois Tax Code refers to all BOR employees as Deputy Commissioners and, as such, the BOR is not covered by *Shakman* rules. The Chief of Staff to Commissioner A also cited the *Capra* case which held that every BOR employee is entitled to

[16] The BOR Ethics Policy Article II, Code of Conduct, Section 2.5 (d) states that Board members shall not intentionally perform any prohibited political activity during compensated time (other than vacation, personal, or compensated time off). Lunch is customarily compensated time.

absolute immunity, to support his belief that every position in the BOR is *Shakman*-exempt.[17] When asked about his political involvement with Commissioner A's campaign, the Chief of Staff to Commissioner A initially stated that he had very little involvement with the Commissioner's campaign. The Chief of Staff to Commissioner A later advised that he did perform volunteer work for the campaign in order to get petition signatures. The Chief of Staff to Commissioner A also stated that he affirmatively offered his assistance to the campaign. When asked if other employees work with Commissioner A's campaign, the Chief of Staff to Commissioner A stated that when BOR employees have asked him to volunteer with Commissioner A's campaign he has responded to such requests by giving them the number to the campaign manager.

The Chief of Staff to Commissioner B stated in his OIIG interview that he supervises a staff of 28-30 property analysts. When asked how individuals are hired for the BOR, the Chief of Staff to Commissioner B stated that most of the people who come to work for the BOR are referred to their office through networking. The Chief of Staff to Commissioner B explained that senior employees and the Commissioner may ask people if they or anyone they know would be a good fit for the BOR. The Chief of Staff to Commissioner B stated that Commissioner B's office also has a contact at The John Marshall Law School and sometimes seeks referrals from the law school. The Chief of Staff to Commissioner B advised that there are no online postings for available positions within the BOR. When asked about job descriptions for each position within the BOR, the Chief of Staff to Commissioner B stated that there are no formal job descriptions or set minimum qualifications as is the case with Cook County because "employees may wear different hats." The Chief of Staff to Commissioner B related that the BOR was never part of the *Shakman* agreement. When asked about political work for Commissioner B, the Chief of Staff to Commissioner B stated that he and some of the employees have done some political work for Commissioner B outside of work, on a voluntary basis. The Chief of Staff to Commissioner B explained that he and other employees have participated in parade marches, gathering signatures for petitions and attending fundraising events. When asked how employees initially got involved with the campaign, the Chief of Staff to Commissioner B stated that he or another employee would send emails to the employee's personal email accounts outside of work hours to inform the employees of political volunteer opportunities. When asked how he obtained the personal emails of his staff, the Chief of Staff to Commissioner B stated that there may have been a list of personal emails in use that when he started at the BOR but does not remember how he acquired each employees' personal email address. The Chief of Staff to Commissioner B explained that as a matter of course he approaches new BOR employees to inquire if they wanted to know about

[17] In *Capra v. Cook County Board of Review*, the Seventh Circuit Court of Appeals did not address *Shakman* considerations. 733 F.3d. 705 (7th Cir. 2013). Specifically, the Court addressed issues concerning local taxpayers' ability to sue local tax officials for alleged federal constitutional violations and held that individual employees are immune but the BOR is not. *Id*.

opportunities for political volunteer work and if they are willing to receive communications about political work using their personal email. The Chief of Staff to Commissioner B stated that emails regarding political volunteer opportunities and events are sent to employees after work hours. The Chief of Staff to Commissioner B explained that when events come up, Commissioner B usually calls him on the phone or sends a personal email requesting him to advise employees about the events. When asked about employee social events, the Chief of Staff to Commissioner B stated that all employee social events take place after work hours or on weekends. The Chief of Staff to Commissioner B stated that employees are invited to political events and made aware of volunteer opportunities during after work socials.

The Chief of Staff to Commissioner C explained in his OIIG interview that she manages Commissioner C's staff, represents Commissioner C on the management team for the Board and adjudicates property tax appeals. When asked how she joined the BOR, the Chief of Staff to Commissioner C stated that she met Commissioner C and a former BOR employee at a judicial reception. The Chief of Staff to Commissioner C explained that after speaking with Commissioner C and the former employee, Commissioner C told her to send her resume to Commissioner C's former Chief of Staff. The Chief of Staff to Commissioner C related that she was later interviewed and hired as an analyst. When asked about the hiring process at the BOR, the Chief of Staff to Commissioner C stated that the BOR receives job candidates in various ways. The Chief of Staff to Commissioner C explained that some people walk in to the BOR offices and inquire about positions, employees refer people to the BOR and she receives emails with attached resumes from candidates who say they saw BOR job postings. When asked about BOR job postings, the Chief of Staff to Commissioner C advised that she did not know who posts the open positions for BOR, does not know where the positions are posted or who would be in charge of preparing the postings. When asked how she knows that the positions are posted, the Chief of Staff to Commissioner C stated that applicants mention postings in their cover letters and emails. The Chief of Staff to Commissioner C could not explain how applicants got her name or her email. When asked about job descriptions, the Chief of Staff to Commissioner C believed that there are no formally written job descriptions nor any minimum qualifications. When asked about *Shakman*-exempt positions, the Chief of Staff to Commissioner C advised that *Shakman* rules do not apply to the BOR. The Chief of Staff to Commissioner C advised that she could not pinpoint where she received the information about *Shakman*. The Chief of Staff to Commissioner C stated that she does some work for Commissioner C's campaign but that "it is completely separate from the work she does for the Board of Review and it has nothing to do with her job or her role." The Chief of Staff to Commissioner C explained that she has coordinated some events for Commissioner C, but it was totally separate from her work at the BOR.

Commissioner A, when asked in his OIIG interview about *Shakman*-exempt positions, indicated that the BOR is not a signatory to the *Shakman* Decree. Commissioner A advised that he is not familiar with *Shakman* and that he has only read a few articles regarding *Shakman*. When asked if he was familiar with the general principles associated with the *Shakman* case, he replied that he simply did not know anything about the matter. When asked if he considers political affiliation when hiring candidates, Commissioner A stated that he does not consider political

affiliation when hiring for the BOR. Commissioner A stated that he looks for candidates who possess the ability to do quality work and can have positive interactions with members of the public who interact with the BOR. When asked if BOR staff are invited by BOR management to participate in political activities, Commissioner A stated that he could not answer the question without seeing the questions in written form and knowing specific instances, dates and people involved. Investigators explained that the question was a general one whether the Commissioner has invited or instructed BOR staff to do volunteer political work. Commissioner A stated that he was surprised by the question, did not have a response at that time and would feel more comfortable if the OIIG would submit questions in writing to the Commissioner and his attorney. Due to time constraints, the interview was continued to a later date. When Commissioner A's interview was resumed, the Commissioner referred to an Illinois Supreme Court case - the "*Yamaguchi*" case - and stated that the Court held that the BOR is a quasi-judicial body and thus its hiring is exempt from normal processes.[18] When asked if he or any upper management from his staff have invited BOR staff to volunteer for political work, Commissioner A stated no BOR employee on his staff does political work on County time or by using County resources. Investigators asked Commissioner A if he or any of his upper management staff have solicited or instructed BOR employees to perform political activities. Commissioner A stated that he could not answer the question without knowing the specific background information in the possession of the OIIG. Investigators advised that the OIIG file is confidential pursuant to law. Commissioner A's attorney stated that the OIIG had not presented a finding to the Commissioner and thus the question was improper. After further discussion between counsel and the investigators, Commissioner A declined to answer the questions, stating that he would need to see the OIIG investigative file in order to address any factual allegations.

Commissioner B, when asked in his OIIG interview if available positions within the BOR are posted on any online platform for public viewing, stated that some positions have been posted at John Marshall Law School and the Chicago Kent College of Law. Commissioner B stated that positions are not otherwise posted electronically. When asked about *Shakman*-exempt positions, Commissioner B stated that it is his understanding that all BOR positions are *Shakman*-exempt and political considerations can be considered in the hiring process. When asked about job descriptions for BOR positions, Commissioner B confirmed that there are no written job descriptions. Commissioner B stated, "we know what we need." Commissioner B advised that there was a general job description in the postings at the area law schools but he does not remember what was put in the job description. When asked about political activities and events, Commissioner B confirmed that middle managers organize political events that are voluntary for employees after work hours. Commissioner B confirmed that employees are contacted by phone

[18] Commissioner A appears to be referring to *In Re Yamaguchi*, 118 Ill. 2d 417 (1987), an Illinois Supreme Court review of an Attorney Registration and Disciplinary Commission decision involving an attorney disciplined for engaging in fraudulent tax appeals. The decision, however, was not focused on the nature of the BOR or whether its employees are properly exempt from First Amendment protections, but rather the nature of the misconduct by an attorney whose work before the BOR triggered professional obligations and held that the professional obligations attach whether performed in court or before an administrative agency such as the BOR.

or personal email. Commissioner B stated that his office does not maintain a contact list for political purposes. Commissioner B related that he discourages and avoids having political events during lunch hours.

Commissioner C, when asked in his OIIG interview if available positions within the BOR are posted on any online platform for public viewing, stated that some positions have been posted at law schools in a constant effort to hire attorneys. Commissioner C stated that postings are an administrative function and he cannot say whether positions are posted anywhere else. When asked about *Shakman*-exempt positions, Commissioner C stated that the BOR was advised years ago by the State's Attorney's Office that the BOR is not a signatory to the *Shakman* Decree. Commissioner C advised that the positions at the BOR do not fall into a category of exempt or non-exempt because *Shakman* does not apply to the BOR. Nonetheless, Commissioner C stated that he does not consider political affiliation when hiring for the BOR. When asked about job descriptions for BOR positions, Commissioner C confirmed that there are no written job descriptions. Commissioner C stated that, due to limited resources, many BOR staffers are cross-trained on jobs other than the one they were hired to perform. Commissioner C advised that candidates are assessed in the interview process through oral vetting, which cannot always be put into a job description. When asked about political activities and events, Commissioner C stated that any political work is strictly prohibited during work hours and on County property. When asked if he invites BOR staff to his campaign or political events, Commissioner C stated that he has posted fund raising events on Facebook and he believes some staff may follow his Facebook page or learn about it by word of mouth. Commissioner C advised that on rare occasions a few BOR staffers have attended his events and he has made it clear that they are not permitted to donate to his campaign. Commissioner C stated that he does not require any staff to attend political functions. Commissioner C related that he does not recall discussing political activity at work nor does he recall ever notifying BOR employees of volunteer opportunities for his campaign.

OIIG Findings and Conclusions

Throughout the course of this investigation, we noted that in many of the interviews BOR officials and employees asserted the belief that the BOR need not comply with *Shakman* related standards due to the fact that the BOR has never been the subject of the *Shakman* litigation. We find this position to be misplaced, as the legal standards governing the *Shakman* litigation are products of federal constitutional law and apply to BOR operations notwithstanding that BOR is not a party to this regulatory action or bound by the protocols established in the litigation to ensure the defendants' compliance with federal law. That is, BOR has not been ordered by a District Court to create an employment plan, publish exempt lists, cooperate with a federal monitor, etc., though BOR remains subject to the First Amendment. In this context, the well-established principle that employment related considerations based upon political affiliation or support represent an impermissible infringement on public employees' First Amendment rights (in most circumstances). Accordingly, the preponderance of the evidence developed during this investigation establishes that the BOR maintains a policy, custom and practice exempting the BOR from First Amendment prohibitions applicable to public employment.

As a result, the BOR has failed to adopt employment practices designed to prevent First Amendment violations. In this regard, the preponderance of the evidence developed by the investigation revealed several key aspects of the BOR's employment related activities. The BOR does not have a hiring process that is uniform, codified or transparent. Rather, hiring is accomplished on an *ad hoc* basis by each of the Commissioners. It appears that each Commissioner and his designees recruit and receive potential candidates by way of referrals from staff, networking events and personal and political relationships. Many of the staff interviewed by this office describe their respective hiring process as being initiated by a political or personal affiliation with a Commissioner while a significant number of the HR files reviewed by this office revealed applicants were "referred" by political persons or persons with an affiliation with the BHR staff or leadership. In effect, the employment opportunities in the BOR (none of which appear to be subject to job descriptions with minimum qualifications) are inaccessible to the public. Although there were occasional assertions made during the investigation that BOR posts job opportunities online, the strong weight of the evidence, including the interviews of key leaders in the BOR and an examination of the BOR website, demonstrates otherwise.[19]

The preponderance of the evidence further demonstrates that the BOR fosters a custom where the employer-employee relationship in the BOR is leveraged to generate political work on behalf of Commissioners. While persuasive evidence was developed indicating that volunteer political support by BOR employees was voluntary and initiated outside of the confines of the employer-employee relationship, other clear evidence of improper leveraging for political support existed as well. Specifically, as outlined above, a high-level commissioner aid acknowledged being prompted by a commissioner to invite BOR employees to political events. This witness also explained his practice of informing new BOR employees of opportunities for volunteer political work and asking whether the new employees are willing to receive communications about political work through their personal email. Other evidence revealed that after work social events were organized for the purpose of announcing political events and opportunities for volunteer political work and to provide instructions to existing campaign workers. BOR employees are contacted by the Chiefs of Staff or other designees via their personal emails and the political work of the employees is organized and managed by senior BOR staff. Moreover, one witness conveyed her observation that most of the individuals collecting signatures for a Commissioner's candidacy were BOR employees also suggesting the leveraging of public employment for political gain. Again, if the employees being called upon to volunteer held positions exempt under *Branti*, our concerns would be diminished. However, this was not the case.

[19] The Board of Review website contains no obvious reference to employment opportunities therein. An archival BOR web page regarding same states the following: "The Board of Review is responsible for its employment process and can be contacted for information about job postings, career opportunities, and application process for positions in their offices. Please visit their site for information about their offices to contact them for further employment information." The link below this language directs the user not to employment opportunities but to a BOR web page concerning how to file property tax appeals.

Although some BOR employees stressed that the political work they performed was strictly voluntary, we have concerns where the BOR leadership regularly and systemically solicits lower level employees to participate in political work on behalf of Commissioners to whom all the BOR employees ultimately report. This indicates an institutional expectation that the employees will perform the work. Indeed, at least one employee indicated to this office that she felt concerned when she was not able to perform political work on behalf of Commissioner A. She felt so concerned that she sought to meet with Commissioner A to explain her decision. The justification she offered to the Commissioner was that she was already committed to performing political work on behalf of a significant political leader in the Illinois legislature.

OIIG Recommendations

Based on all of the foregoing, we recommended that the BOR establish the following:

1. A written employment plan which creates standard and transparent procedures for employment actions within the BOR while proscribing the use of impermissible political factors:

2. A written list that is made public, utilizing the *Branti* standard, designating which BOR positions the BOR believes are properly exempt from First Amendment protections;

3. Procedures within the employment plan for the following:

    a. Use of public online postings for all non-exempt positions;

    b. Use of Taleo for the purpose of receiving, processing and tracking all postings, applications and subsequent screening, interviewing, selection and onboarding procedures;

    c. An audit trail be required documenting any changes to the *Branti* list of exempt positions that is available to the public;
    d. BOR protocols which require all BOR employees, exempt or otherwise, to report to the OIIG if they have reason to suspect the following have occurred:

        i. Political factors were considered in making any employment decision concerning a non-exempt employee;

        ii. Political activity is taking place in the workplace or during work hours;

        iii. Any BOR employee is contacted by a political person concerning any prospective or pending employment action involving any non-exempt employee or non-exempt position (now known as a Political Contact Log);

4. Written job descriptions, including minimum qualifications, for all BOR positions, including positions designated as exempt under *Branti*;

5. Regular public disclosure of BOR activities and efforts related to implementing these recommendations;

6. A prohibition on after work socials as documented above and any direct or indirect solicitation of political support from BOR employees (not otherwise designated as exempt under *Branti*) that was not requested by the subject individual outside of the employer-employee relationship.

7. In consideration of the wide-spread belief that all BOR positions are exempt from First Amendment protections, we recommended an office-wide training to both educate staff to the establishment of new practices and procedures and the rationale supporting their implementation in order to safeguard First Amendment rights of BOR employees.

Although the BOR issued a letter in response to the OIIG summary report (dated August 13, 2020), the BOR letter did not contain a response to most of the OIIG recommendations. Specifically, the BOR letter failed to state whether it was instituting any corrective action with regard to any of the specific OIIG recommendations and instead only stated generally that it had improved its job descriptions and was implementing certain ethics training. The BOR failed to respond to the specific OIIG recommendations regarding establishing an employment plan (Recommendation 1), the creation of a public exempt list (Recommendation 2), employment plan procedures (Recommendation 3), minimum qualifications (Recommendation 4), public disclosure of OIIG recommendations implemented by the BOR (Recommendation 5), prohibiting solicitation of political support from BOR employees (Recommendation 6), and training regarding First Amendment rights of BOR employees (Recommendation 7).

The OIIG sent a subsequent letter to the BOR (dated September 3, 2020) noting the deficiencies of the initial BOR response. The BOR issued a supplemental response (dated September 17, 2020) although no further substantive additional information in response to each of the OIIG recommendations was provided. Accordingly, because the BOR failed to respond to the specific OIIG recommendations as required by Section 2-285(e) of the Cook County Code, our office notified (October 15, 2020) the Chair of the Litigation Subcommittee and the Cook County Board President for further action consistent with Section 2-285(e) of the Cook County Code. The matter was placed on the agenda and considered by Commissioners during the Litigation Subcommittee meeting on December 17, 2020.

On April 2, 2021, the BoR issued correspondence responding further to the original recommendations made in June 2020. On April 9, 2021, the OIIG outlined two continued deficiencies: (a) BoR's stated position that analysts (referred to by the BoR as "deputies") are exempt from First Amendment protections (OIIG Recommendation 2) and (b) BoR's failure to

respond to Recommendation 3.d. involving the adoption of a political contact log policy. These issues were also addressed by the Litigation Subcommittee meeting on April 13, 2021.

Activities Relating to Unlawful Political Discrimination

In April of 2011, the County implemented the requirement to file Political Contact Logs with the Office of the Independent Inspector General. The Logs must be filed by any County employee who receives contact from a political person or organization or any person representing any political person or organization where the contact relates to an employment action regarding any non-Exempt position. The OIIG acts within its authority with respect to each Political Contact Log filed. From January 1, 2021 to March 31, 2021, the Office of the Independent Inspector General received five Political Contact Logs.

Post-SRO Complaint Investigations

The OIIG completed three Post-SRO investigations this quarter.

New UPD Investigations not the result of PCLs or Post-SRO Complaints

Apart from the above Post-SRO activity, the OIIG has opened one additional UPD inquiry during the last reporting period. The OIIG also continues to assist and work closely with the embedded compliance personnel in the BHR, FPD, CCH, and Assessor by conducting joint investigations where appropriate and supporting the embedded compliance personnel whenever compliance officers need assistance to fulfill their duties under their respective employment plans.

Employment Plan – Do Not Hire Lists

The OIIG continues to collaborate with the various Cook County entities and the Cook County Compliance Administrator to ensure the lists are being applied in a manner consistent with the respective Employment Plans.

OIIG Employment Plan Oversight

Per the OIIG Ordinance and the Employment Plans of Cook County, CCH and the Forest Preserve District, the OIIG reviews, *inter alia*, (1) the hire of *Shakman* Exempt and Direct Appointment hires, (2) proposed changes to Exempt Lists, Actively Recruited lists, Employment Plans and Direct Appointment lists, (3) disciplinary sequences, (4) employment postings and related interview/selection sequences and (5) Supplemental Policy activities. In the last quarter, the OIIG has reviewed and acted within its authority regarding:

1. Three proposed changes to the Cook County Actively Recruited List;
2. 21 proposed changes to the CCH Direct Appointment List;
3. The hiring of seven CCH Direct Appointments;
4. Six proposed changes to the Cook County Exempt List;

5. 29 proposed changes to the Cook County Employment Plan.

Monitoring

The OIIG currently tracks disciplinary activities in the Forest Preserve District and Offices under the President. In this last quarter, the OIIG tracked (and selectively monitored) 27 disciplinary proceedings including EAB hearings. Further, pursuant to an agreement with the Bureau of Human Resources, the OIIG tracks hiring activity in the Offices under the President, conducting selective monitoring of certain hiring sequences therein. The OIIG also is tracking and selectively monitoring CCH hiring activity pursuant to the CCH Employment Plan.

Conclusion

Thank you for your time and consideration to these issues. Should you have any questions or wish to discuss this report further, please do not hesitate to contact me.

Very truly yours,

Patrick M. Blanchard
Independent Inspector General

cc: Attached Electronic Mail Distribution List

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