# 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**
**4th Quarter 2020**

**January 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

January 15, 2021

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*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 (4th Qtr. 2020)

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 October 1, 2020 through December 31, 2020.

## OIIG Complaints

The Office of the Independent Inspector General (OIIG) received a total of 186 complaints during this reporting period.[1] Please be aware that 29 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, 45 OIIG case inquiries have been initiated during this reporting period while a total of 133 OIIG case inquiries remain pending at the present time. There have been 55 matters referred to management or other enforcement or prosecutorial agencies for further consideration. The OIIG currently has a total of 27 matters under investigation. The number of open investigations beyond 180 days of the issuance of this report is 9 due to various issues including the nature of the investigation, availability of resources and prosecutorial considerations.

## OIIG Summary Reports

During the 4th Quarter of 2020, the OIIG issued nine 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]

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 of 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 the 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

[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.

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 fiancée were at the complainant's house on the night of March 25, 2020 and he and his fiancée 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.

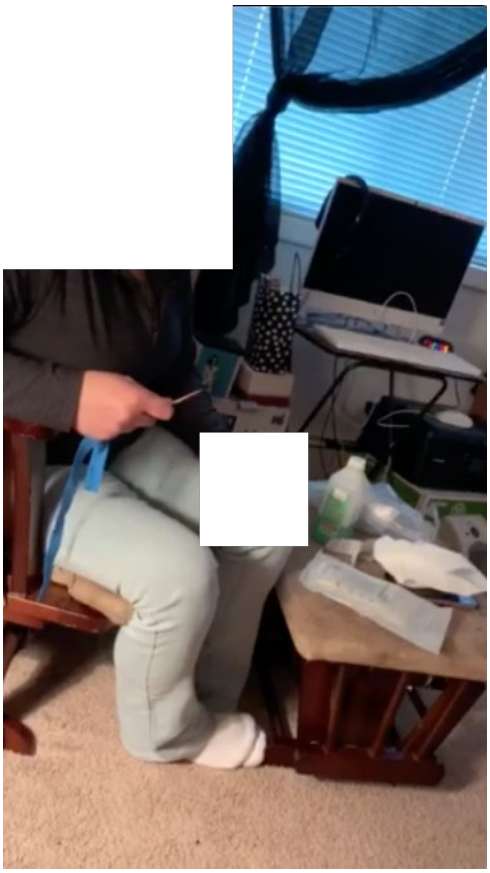
Video and text message provided by the Fiancé

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):

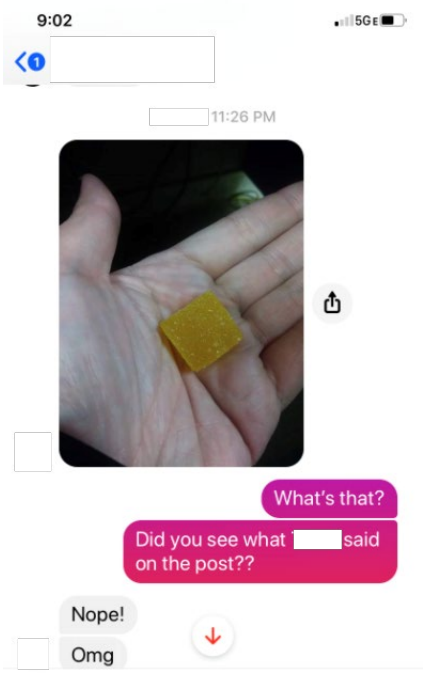


Interview of Nurse Manager

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.

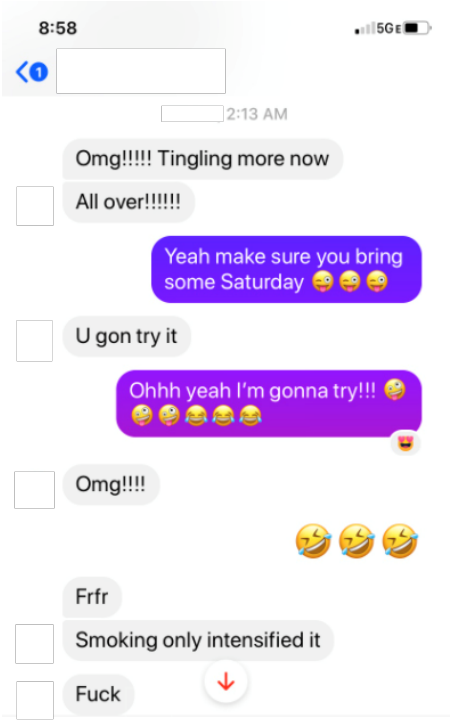
Text messages between the ER nurse and the complainant

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:

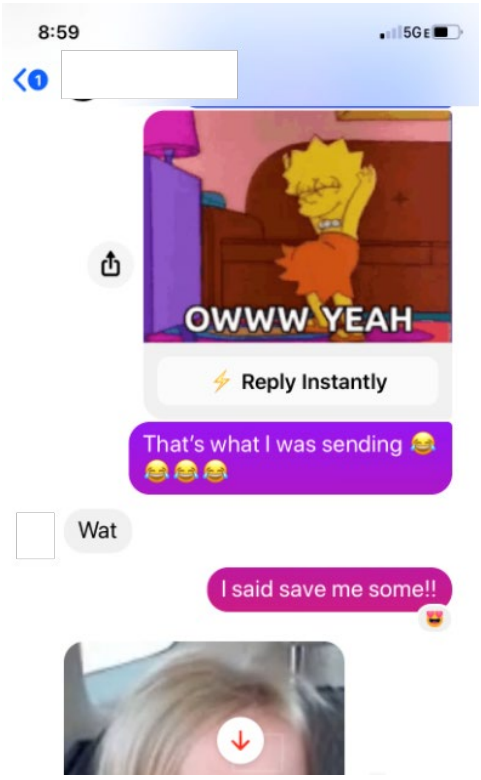
1.


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

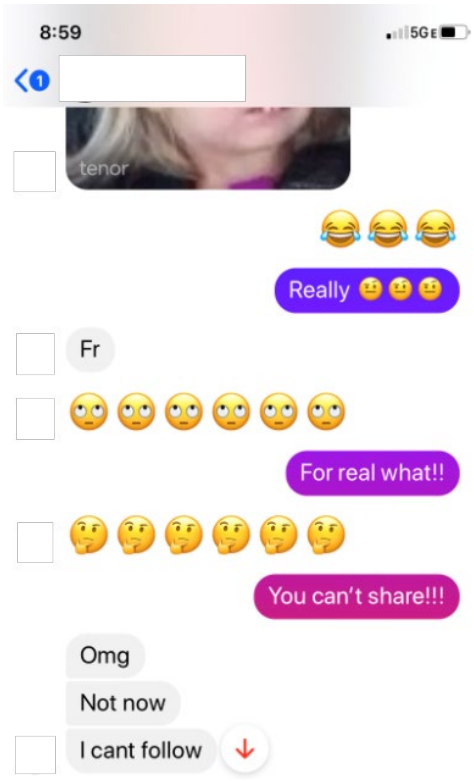
2.


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!

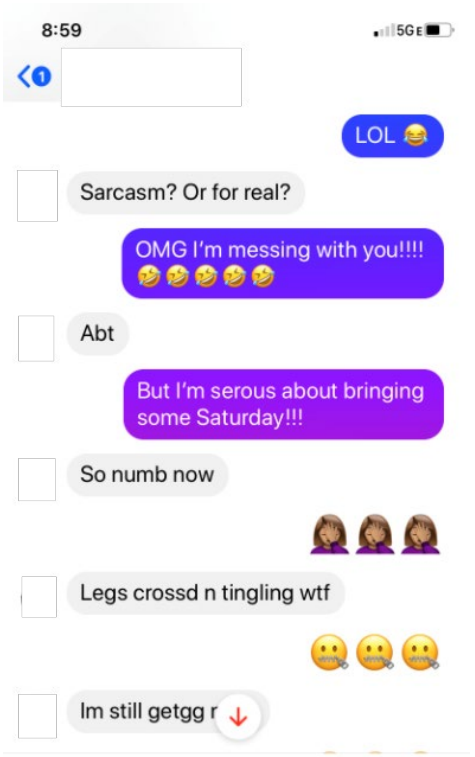
3.


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

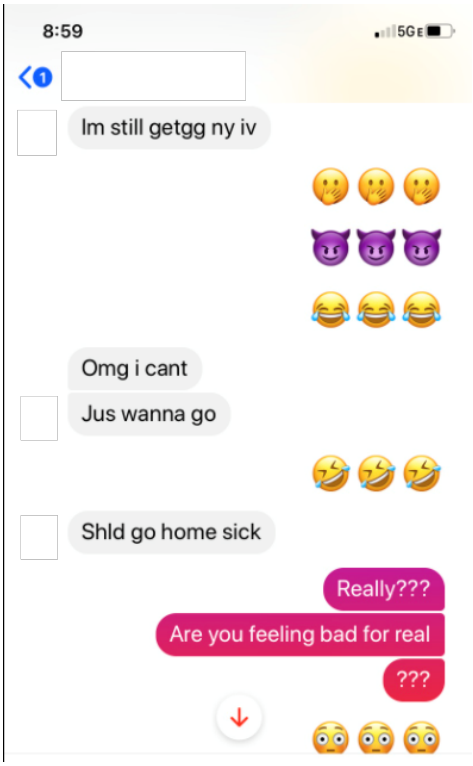
4.


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

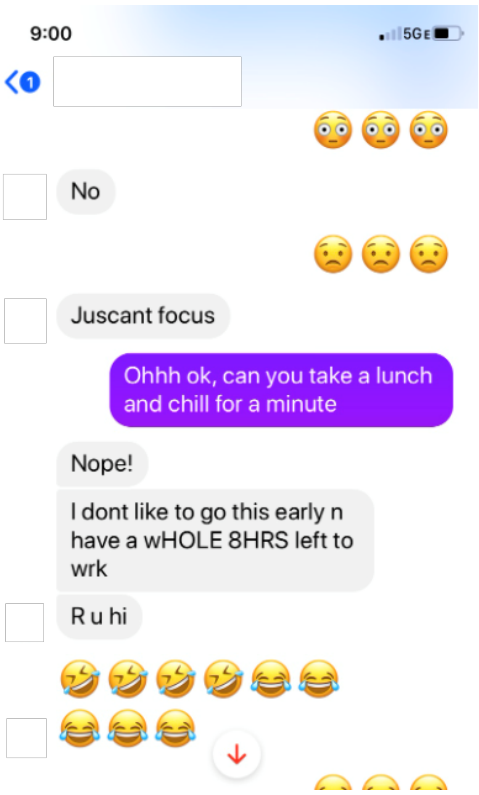
5.


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

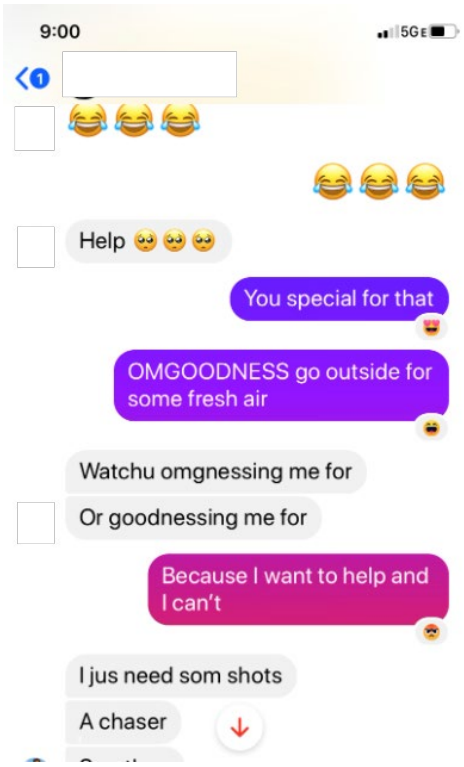
6.


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

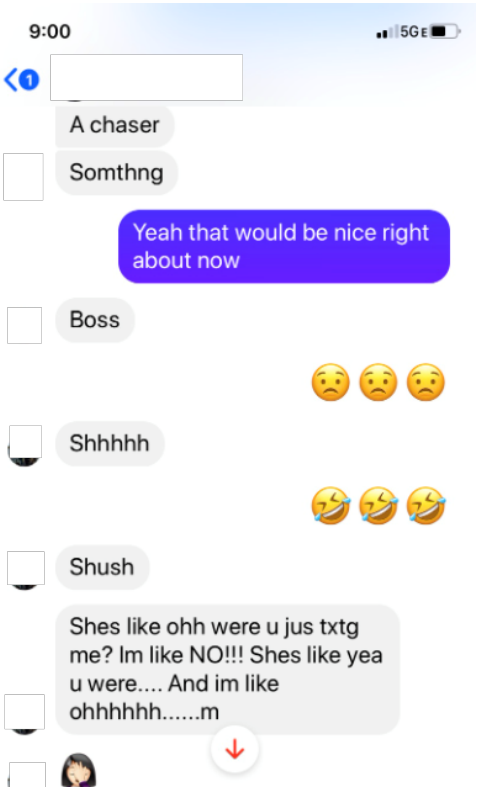
7.


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

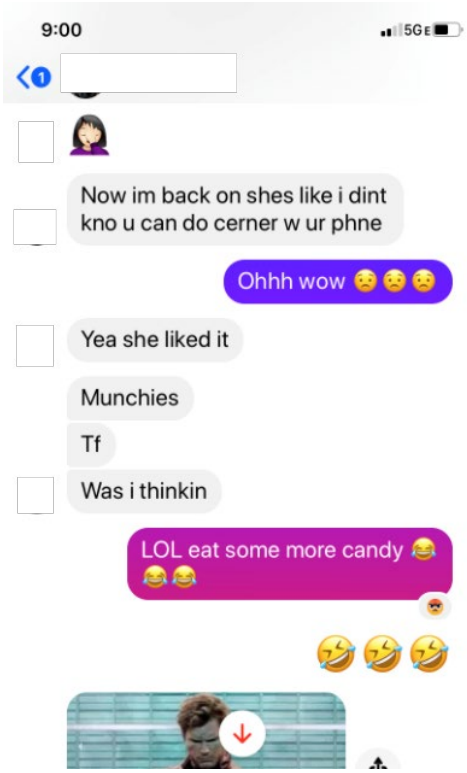
8.


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

9.


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

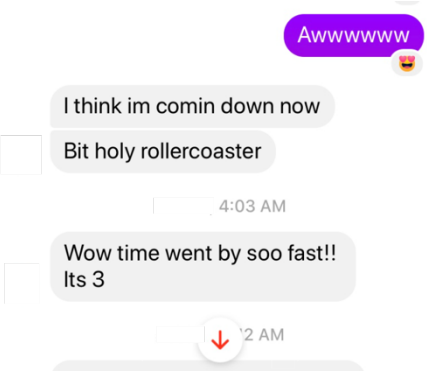
10.


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

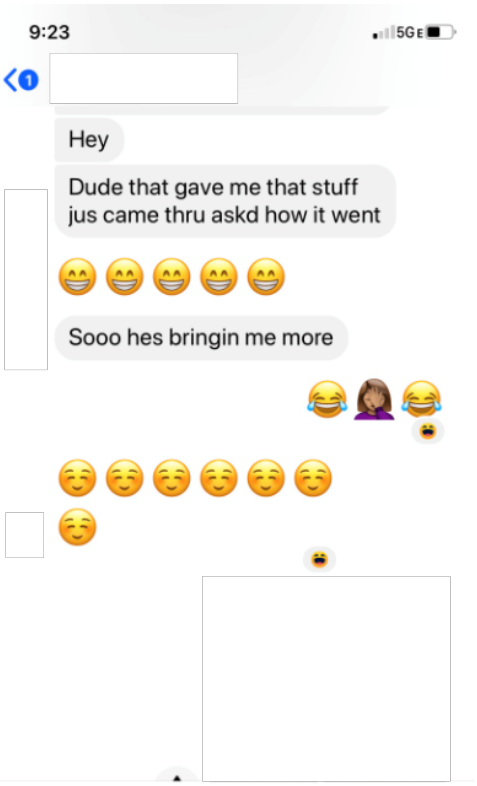
11.


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

12.


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

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 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 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.

The response by CCH to these recommendations is currently pending.

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.

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.

These recommendations are currently pending.

IIG19-0408. 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 that as a result of her objection to unjust, retaliatory and discriminatory discipline against JTDC employees, and against policies and practices by the Superintendent and his staff, she was suspended and terminated.

The *Supplemental Relief Order for Cook County* in *Shakman vs. Cook County*, 69 C 2145 (N.D. Ill.) 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, the preponderance of the evidence demonstrates that complainant, after receiving a hearing, was terminated for legitimate non-discriminatory reasons, namely repeated use of her JTDC position to send confidential information to her personal email account and to persons outside the JTDC. The evidence which JTDC relied upon to seek disciplinary action was overwhelming in nature. Conversely, during this review, we found no evidence, other than the complainant's allegations, that point to a politically motivated employment action of any kind involving complainant. Accordingly, the investigation failed to disclose that her termination was the result of political factors.

IIG20-0044. This investigation was initiated by the OIIG based on a complaint alleging that a Cook County Building and Zoning Inspector failed to meet the requisite qualifications for the position for which he was hired. The complaint also alleged that the County improperly sought to interview and hire candidates who were members of a particular carpenters' union. The investigation consisted of interviews of the subject, and a Cook County Building Zoning Department Chief Inspector, a meeting with the Building and Zoning Commissioner, and a review of relevant personnel files, hiring documents and information regarding the subject's certifications with the International Code Council (ICC).

The evidence from the investigation revealed that the subject failed to obtain the required ICC residential and commercial certifications despite it being a requirement for the position. Therefore, a violation of the *Employment Plan* has resulted. However, based upon numerous mitigating factors, we could not conclude that the subject is the sole reason for these circumstances. Rather, this investigation has disclosed that there is no structure or process to monitor training and certification and ensure compliance. It was not until the OIIG began its inquiries about the subject's credentials that internal efforts began to determine whether the subject acquired the necessary certifications since his hire approximately four years earlier. We believe the lack of urgency by Building and Zoning toward the importance of the required certifications also played a role because management had taken partial ownership of the credentialing process. Additionally, Building and Zoning's practice of deferring certification training until courses were offered locally

in contradiction to the job requirements complicated the management of these issues. That is, although Building and Zoning utilized a job description requiring that an Inspector acquire ICC certifications within one year, it had a practice of not expecting the same as it sought to lower costs by deferring training until it could be obtained locally. These competing policy goals should have been remedied upon identification of the issue.

In connection with the allegation that only candidates affiliated with a local carpenters' union could be selected to interview for the Building and Zoning Inspector position, we found no evidence to support the claim. Rather, upon reviewing the hiring materials, OIIG investigators determined that several of the candidates selected to interview did not have any union affiliation while others lived out of state.

Based upon the foregoing, we recommended:

1. Building and Zoning designate a training coordinator who is responsible for monitoring training, certification and compliance with all required certifications, implement and maintain appropriate record keeping practices and communicate failures when they arise;

2. Building and Zoning, with the potential assistance of BHR, should modify the language in the job description for the position of Building and Zoning Inspector to require ICC certifications within a prescribed period of time that is consistent with its policy goal of deferring training. If Building and Zoning elects to maintain the one-year requirement, it should consider expressly advising applicants that they will bear the costs for such training, plan to absorb the costs or ensure the new ICC on-line certification training is adequate for its policy goals.

Building and Zoning adopted the OIIG recommendations.

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.[3] 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. 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 are currently pending.

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[3] 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.

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.

These recommendations are currently pending.

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.

These recommendations are currently pending.

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.[4]

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,

[4] 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.

qualified and available to work violates CCH Personnel Rule 8.3(c)(24) (Using Systems facilities or resources for personnel purposes).

Based on the 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 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 currently pending.

## 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 (if applicable) to respond to recommendations. Below is an update on these outstanding recommendations.

### From the 3rd Quarter 2020

IIG19-0607. This investigation was initiated based on a complaint alleging that a Cook County Forest Preserves Police Department (FPPD) police officer misrepresented to the FPPD that she was on sick leave when she was in fact on an out of state vacation with two other members of the FPPD. The investigation consisted of interviews of various members of the FPPD, a review of the subject police officer's FPPD personnel file, a review of Cook County Time (CCT) records of

the subject police officer for the relevant time period and a review of documents produced by an airline company pursuant to a subpoena issued by the OIIG.

The preponderance of the evidence developed during the course of this investigation supports the conclusion that the subject police officer violated Cook County Personnel Rule 6.2(b)(2), which provides as follows:

> Sick leave is granted by Cook County because an employee is unable to perform his/her assigned duties, or because the employee's presence at work would jeopardize the health of his/her co-workers. Accordingly, sick leave shall not be used for any other purpose other than to cover an absence related illness and shall not be used as additional vacation leave.

Specifically, the evidence developed in this case revealed that the subject police officer had planned in advance to take an out of state vacation with two of her coworkers. The airline company records show her airline ticket was purchased over two months prior to her travel date. The subject police officer did not request vacation leave at any time for the period of her travel. Instead, the time records reflect she called in sick for certain days to account for vacation time which is a violation of the personnel rule cited above.

The ability of any department to function is directly related to its ability to adequately staff itself with the requisite number of employees. This requirement is even more acute in a police department environment where it is crucial that each shift is staffed by an appropriate number of officers to ensure public safety. In this case, the subject police officer's conduct of calling in sick forced the FPPD to adjust the schedules of other FPPD police officers to cover for her unexpected absence. Accordingly, we recommended that an appropriate level of discipline be imposed on the subject police officer consistent with the level of discipline imposed by the FPPD in other similar cases of misconduct.

The FPPD adopted our recommendation to impose discipline and issued the subject police officer a 9-day suspension.

IIG20-0406. This case involved an allegation of nepotism in hiring and conflicts of interest in management occurring at Stroger Hospital arising from family members working together within the Main Operating Room (MOR). During the investigation, the OIIG reviewed Cook County Health (CCH) Personnel Rules and the Code of Ethics, coordinated with the CCH Human Resources Department (HR), and reviewed HR files, personnel records, and organizational charts. The OIIG also interviewed Stroger Hospital MOR employees.

The preponderance of the evidence developed during the course of the investigation did not identify incidents of nepotism within CCH hiring or violations of CCH ethics policy (conflict of interest) within the Stroger Hospital MOR. A review of the hiring records did not reveal a

deviation from the policies and procedures established in CCH ethics policy or the CCH Employment Plan. Additionally, there was no indication that any family members participated in any personnel decision or attempted to influence any personnel action regarding other family members.

Further, although relatives working together on the same shift in the same department, as we identified in this case, can create or give the appearance of a conflict, there is no violation of current CCH policy as long as they work in lateral positions such that family members do not have any managerial authority over each other. The review of the select CCH organizational charts examined in this matter did not reveal any familial lines within a particular chain of authority.

Although CCH does have policies in place to prevent prohibited personnel practices involving nepotism and conflicts of interest, we believe there should be additional measures to reduce the appearance of a conflict of interest given the unique situation that is presented at medical facilities. We noted that persons from the same family may, though working in different departments, be concurrently treating the same patients. While HR appears to have adopted a working practice of avoiding situations where family members supervise each other, we recommended that the practice be codified and written to include a proscription of working within the same department regardless of supervisory authority.

CCH responded and adopted our recommendations in part. CCH management respectfully disagreed with the OIIG's recommendation to draft a policy to prohibit family members from working within the same department or with the same patient because "it may prevent the most skilled employee from treating a patient without sound justification for doing so." However, CCH will draft a policy which requires notification of family relationships at CCH during the recruitment and/or onboarding process. Management is also instructed during Employment Plan Interviewer Training about reporting conflicts, specifically family relationships, during the recruitment phase.

IIG20-0442. The OIIG opened this case after receiving information that a CCH employee was arrested, placed on home confinement and failed to report to work or notify his supervisor of his arrest. In its investigation, the OIIG reviewed the time and attendance records and court records for the subject employee and interviewed the subject employee and his supervisor.

The preponderance of the evidence failed to support the allegations that the employee failed to report to work or notify his supervisor of his arrest and detention. The subject employee's supervisor confirmed that he received notification from the employee that he had been placed on electronic monitoring. Additionally, the employee sent an email containing the Sheriff's Department Electronic Monitoring Unit Verification of Employment form to CCH HR and to his direct supervisor further corroborating that notification was given regarding his placement on electronic monitoring. In addition, the time and attendance records revealed that during the relevant period the subject employee was granted a combination of approved time off and/or leave.

Although the allegation of misconduct was not sustained, we did make recommendations regarding the CCH personnel rules. Specifically, while CCH has a policy that requires employees to report the disposition of a conviction of criminal offense or plea of *nolo contendere*, the policy does not require employees to report the occurrence of an arrest for any alleged offense. Moreover, the CCH rules fail to address the time in which notification should be made to management of either a conviction or plea of *nolo contendere*. Accordingly, we recommended that CCH develop a written policy that would (a) require all employees to report an arrest, excluding minor traffic violations, to management, and (b) require employees to provide notification of the occurrence of a conviction, plea of *nolo contendere* or arrest as soon as possible but no longer than 24 hours of the occurrence or as soon as possible.

CCH rejected our recommendation to develop a policy requiring employees to report an arrest citing potential legal concerns. CCH will review and plan to update CCH Personnel Rule 8.3(c)(12) to include a time frame for notification of conviction or plea of *nolo contendere* as recommended. Once the update language is drafted and approved by CEO, it will be sent to BHR for review and approval, then impact bargained pursuant to CBA requirements.

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*[5] and *Rutan*[6] 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

[5] *Shakman v. Democratic Party of Cook County,* 69 C 2145 (N.D. Ill. 1969).
[6] *Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990).

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.[7] Contrary to positions properly exempt under *Branti,* the vast majority of BOR employees are analysts[8] 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.[9] 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

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[7] "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 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.

[8] 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.

[9] 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.

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 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?"[10]

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.

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[10] 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.

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 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.[11] 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

[11] 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.

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 absolute immunity, to support his belief that every position in the BOR is *Shakman*-exempt.[12] 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

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[12] 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*.

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 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.[13] 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

[13] 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.

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 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.[14]

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

[14] 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.

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.

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 deficiency 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 last Litigation Subcommittee meeting on December 17, 2020.

## Activities Relating to Unlawful Political Discrimination

### Political Contact Logs (PCLs)

In April of 2011, Cook 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 IIG acts within his authority with respect to each Political Contact Log filed. From October 1, 2020 to December 31, 2020, the Office of the Independent Inspector General received four Political Contact Logs.

### Post-SRO Complaint Investigations

Although the final Post-SRO complaint against Cook County was completed in 2019, the OIIG currently has four remaining Post-SRO complaints under investigation that are pending against the Cook County Juvenile Temporary Detention Center.

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

Apart from the above Post-SRO activity, the OIIG has opened three additional UPD inquiries 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 Compliance Administrators 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. 1 proposed change to the Cook County Actively Recruited List;
2. Three proposed changes to the CCH Actively Recruited List;

3. Three proposed changes to the CCH Direct Appointment List;
4. The hiring of three CCH Direct Appointments;
5. Modifications to Sections V., VII.L. and XII of the CCH Employment Plan to accommodate the streamlined recruitment, hire and onboarding of 20 additional staff under a City of Chicago grant regarding Covid-19 efforts;
6. Adaptation of Section VII.E. of the CCH Employment Plan (emergency hiring) to permit preemptive 60-day retention period for employees hired regarding Covid-19 efforts.

## 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) 39 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

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