

**STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CRIMINAL JUSTICE
OFFICE OF PUBLIC INTEGRITY AND ACCOUNTABILITY**

FINAL MEMORANDUM

TO: Thomas J. Eicher, Director – OPIA

FROM: Thomas P. Dempsey, Special Investigator – OPIA SIU

DATE: April 4, 2024

SUBJECT: Warren County Prosecutor’s Office – Misconduct Investigation
Executive Summary and Proposed Findings
CJ2022-04728; IA2022-031

Background

(All referenced records can be found on accompanying USB drive).

On March 18, 2022 the Special Investigations Bureau (SIB) received information from senior members of the Warren County Prosecutor’s Office (WCPO) involving alleged misuse of monies distributed to the WCPO by the Office of the Insurance Fraud Prosecutor (OIFP). These monies were distributed to WCPO by the County Prosecutor’s Insurance Fraud Grant managed by the OIFP. This grant distributes funds as reimbursement for salaries and fringe benefits of members assigned to the grant based on an hour-for-hour basis. This allegation centers around the belief of the complainants that the WCPO misrepresented the hours worked by members assigned to the grant for the purpose of increasing the WCPO general operating budget.¹ It is noted that AAG Richard Burke, former Prosecutor at WCPO, was immediately recused from this matter.

By way of background the OIFP grant is offered to County Prosecutor’s Offices (CPOs) within the State of New Jersey and is directly managed by members of the OIFP. Typically the CPOs would receive notice that the funds are available toward the end of the calendar year. Once an application is submitted, the OIFP would review the application after which the Insurance Fraud Prosecutor would issue a notice to the CPO advising either approval or disapproval of the application.²

Members assigned to the grant could be full time (100 percent) or Full Time Equivalent (FTE). The distinction involves how their respective time is reported. Full time members are required to work only on insurance fraud matters and must complete bi-weekly time sheets and indicate how many hours were not worked on insurance fraud matters and for what purpose otherwise. FTE

¹ Interviews of ██████████ - March 22, 2022.

² Availability of Funding Letter; WCPO Grant Allocation for 2021; WCPO County Agreement 2021.

members would be required to complete bi-weekly time sheets as well.³ In November of 2021 the WCPO OIFP Grant Manager, Agent Richard Guzzo, requested information from OIFP Grant Manager Tracy Abbate regarding the need to send in time sheets for personnel on the grant at a rate of under 50 percent. Abbate responded that they did not have to be submitted but most counties did for good record keeping.⁴ The OIFP Grant Requirements, page 20 – Fiscal Record Keeping Requirements – specify: *Program participants must maintain a time reporting system for personnel charged to the Program on a full-time, part-time and FTE basis, including salaries/wages and fringe benefits. Participants must maintain records indicating the hours worked by Program supported personnel with respect to both insurance fraud and non-insurance fraud related activities.*⁵

Additionally, WCPO engaged in a Program Allocation Agreement which was signed by County Commissioner James R. Kern and corresponded to a County Resolution certified by County Administrator Alex Lazorisak.⁶ The Program Allocation was subject to an attached list of requirements, one of which states that the *County of Warren is required to comply with all conditions set forth in the Grant Requirements.*⁷

Reimbursements are distributed on an hour-for-hour basis based on hours reported by the individual members assigned to the grant and certified by the Prosecutor.

It must be noted that the Insurance Fraud Prosecutor directed that the grant approval for WCPO be placed on hold due to operational factors involving a large reverse rate evasion case that was taken down in December 2021 which, according to Insurance Fraud Prosecutor Thompson, demonstrated a disregard for procedures promulgated by the OIFP. This hold was communicated to the WCPO via a letter signed by IFP Thompson on March 18, 2022. The letter indicated that the grant funds would not be approved until the WCPO provided all records associated with the case referenced above which was the subject of a December 14, 2021 press release. The letter also noted that this information had been initially requested on December 1, 2021.⁸

In all, this investigation included twenty-two formal interviews of staff employed by WCPO and OIFP as well as one informal phone interview. This investigation also reviewed numerous media files, emails, WCPO and OIFP records, and obtained photographs. The investigation was carried out in a methodical manner, with a deference to protecting the identities of the complainants, and resulted in logical conclusions based on derived facts.

³ OIFP Reimbursement Grant Program Requirements, Revised November 2, 2020.

⁴ Email Thread Between Tracy Abate and Guzzo - November 15, 2021.

⁵ OIFP Reimbursement Grant Requirement, Revised November 2, 2020, p. 20.

⁶ Signed agreement and Resolution.

⁷ County Prosecutor Insurance Fraud Reimbursement Program Allocation Requirements, Section 7.

⁸ Letter from IFP Thompson to Prosecutor Pfeiffer - March 18, 2022.

SUMMARY OF INVESTIGATION

Misuse of OIFP Grant Reimbursement Rules and Timekeeping

Initial reports of the complainants included surreptitiously recorded phone calls and face to face conversations between the two complainants and Sgt. James Roncoroni of the WCPO who had been assigned at a rate of 100 percent to the OIFP grant for years prior to these allegations.⁹ In addition to the recordings, the complainants submitted photos they had taken of OIFP grant records maintained by the WCPO.¹⁰ These contained alleged copies of the actual hours worked on the grant by Detective Kevin Graham which were substantially less than the hours submitted to OIFP. For instance, in the fourth quarter of 2021, the County submitted a certification which indicated that Det. Graham completed 121.88 hours of insurance fraud work but the time sheet that he allegedly kept represented only 13.5 hours. Initial review of these items revealed that Sgt. Roncoroni represented that he told Prosecutor Pfeiffer that additional funds were available from the OIFP grant and, in essence, could give the Prosecutor leeway in the operating budget to avoid layoffs and aid in staff retention. Sgt. Roncoroni also represented that Prosecutor Pfeiffer asked him to expand the OIFP grant program in order to get additional funding. Prosecutor Pfeiffer represented during his interview that Sgt. Roncoroni approached him in 2020 and informed him of a large insurance fraud rate evasion case which could use more personnel due to the amount of work associated (though the bulk of investigation was done by the Sussex County Prosecutor's Office). It should be noted that the case he was referring to, Operation Vacant Lot, had been initiated years prior with only Sgt. Roncoroni assigned. It appeared, based on numerous witness statements, that there was a general perception that Sgt. Roncoroni had a light workload. This also seemed apparent during Sgt. Roncoroni's recorded conversations. Later in his interview Prosecutor Pfeiffer denied hearing that anyone took issue with a perceived lack of insurance fraud work. Prosecutor Pfeiffer also represented that the additional money from the OIFP grant was beneficial to the WCPO budget.

The investigation revealed that in 2019 and 2020 the WCPO requested and was awarded allocations of \$154,153.00 and \$150,504.00 respectively of which \$126,627.00 was used in 2019 and \$128,004.00 was used in 2020. In 2021, the WCPO sought a dramatic increase in funding and was awarded an allocation of \$246,520.00 of which \$208,286.00 was used.¹¹ The investigation revealed evidence that the dramatic increase was not based on an anticipated increase in insurance fraud work, but the desire to increase the overall budget of the WCPO. See highlighted statements by Sgt. Roncoroni.

The recordings revealed that Sgt. Roncoroni, in conversation with the complainants, also expressed a willingness to fabricate justifications for hours worked by assigned members. For instance, Sgt. Roncoroni was recorded as saying that the assigned members could check a pole camera feed on their computers and if they checked it for ten or fifteen minutes it would count for their day. (13:58 Boyce 2)

In another recording, Sgt. Roncoroni said the following:

⁹ Five Audio Files Labeled Accordingly Along with Transcripts.

¹⁰ ██████████ Documents and ██████████ Emails Received between March 22 and 24, 2022.

¹¹ Emails from Tracy Abate to SI Dempsey between May 11 and 12, 2022.

██████, you're picking up on this. **It's to get the grant money.** It's not the person has to sit there, fuck- and you know what? If Kirk says- and Kirk's leaving anyway in June. If Kirk says, oh well I want you to do an hour and a half, ok. So, this hour and a half, Kevin, you're- you're working insurance fraud, so we share the work. I don't have anything for ya. You know what I mean? If that's what you wanna do. If that's how you wanna – like you got it right. We're just- I just need- no one is gonna question downtown what we're doing, ok? Nobody. And, and I'm not gonna lie, you know, but if all they gotta do is put their name on a sheet and I/A investigations like it is. And, again, how much time will it take Kevin, who's really good and he's smart, to take a number, log the- the date in and that's it. (emphasis added) (8:19 ██████ 2)

It's not like - I can't do this I need help...It's to bring the money in, that's all. (emphasis added) (11:28 ██████ 2)

These part-time guys aren't that way. They can work on everything. They can do their thing, and- so all I gotta do is justify em at the time, and how I'm gonna justify em, here's this case. It literally, knowing Kevin, he'll be done in thirty minutes with the case. You know, just I/A take a case number, take an evidence number, log it in. That's it. At- at the worst it's gonna be 30 fucking minutes and he's out the door. And, and when I get audited I'm gonna say, well, my new guy is working this case. This is his case. And they know the, the volume of the case, you know? And I'll say, he's learning the position to take it over. (14:50 ██████ 2)

So, again, I get it. They don't have to work the hours. They have to be available the hours. You understand what I mean? Because I can justify, again, no, no county has that much insurance fraud that they need two fucking guys, ok? Two or three guys. They don't. But they take the grant and say to the guy, ok, you're- you're assigned to insurance fraud, but you do other jobs too. (emphasis added) (19:12 ██████ 2)

With Sgt. Roncoroni being the only member assigned to the grant for years prior, it was a reported perception within the WCPO that there was barely enough insurance fraud work to justify his assignment. A common complaint among witnesses interviewed was that the WCPO was stretched very thin and that having members assigned to work insurance fraud matters detracted significantly from their full-time assignments and thus saddled unassigned members with more work.

Starting in July 2021 three additional members, newly appointed First Assistant Anthony Robinson along with Detectives Ronald Pantuso and Kevin Graham were assigned to the grant on an FTE basis at rates of under 50 percent of their respective times (Pantuso 25%, Graham 20%, and Robinson 20%). Sgt. Roncoroni reported an injury at some point in early October 2021 and subsequently went out on disability leave. Prior to his leaving he gave Graham and Pantuso a calendar to record the hours they worked on insurance fraud matters.¹² Sgt. Roncoroni has since resigned from WCPO.

The investigation also revealed that Det. Graham kept an informal log of the hours he worked on insurance fraud matters using a calendar that Sgt. Roncoroni gave them and this log represented

¹² Roncoroni Voluntary Interview June 22, 2022; Graham Interview July 25, 2022.

hours that were far less than those reported by WCPO to OIFP in the 3rd and 4th Quarters of 2021.¹³ Det. Graham also noted that he expressed to his supervisor, Lt. Scott Imboden, that he could not work 20 percent of his time on insurance fraud matters due to his assignments in the Major Crime Unit.¹⁴

A WCPO Agent, Richard Guzzo, acting in the capacity of Executive Assistant, disclosed that he was responsible for collecting hours from assigned members and forwarding the completed forms to the Prosecutor for signature and then follow-on submission to OIFP. Agent Guzzo denied knowledge of Det. Graham working fewer hours or seeing the calendar he kept as a log.¹⁵

During the course of further investigation it was revealed that Agent Guzzo sent an email to the personnel assigned to the OIFP grant on November 9, 2021 instructing them on how to submit their time sheets for the 3rd Quarter 2021.¹⁶ In that email Guzzo instructs Robinson, Graham and Pantuso to fill out time sheets for every two week time period, providing the percentage of time that each should allocate to the Insurance fraud grant, stating “Amount of time needs to be the same for every 2 week **to make this work.**” (emphasis added). The context of Guzzo’s email makes clear that he thought that the three grant designees had not been keeping track of actual hours worked.

Det. Graham recalls that Det. Pantuso came to his office at some point in November (likely after the November 9 email) and asked him for his hours. Det. Graham noted that he then provided the calendar of his actual hours to Det. Pantuso, which as noted above were substantially less than 20% of his time.¹⁷

In a voluntary witness interview, Det. Pantuso at first denied ever requesting Det. Graham’s hours but later stated that he may have but ultimately could not recall due to how busy he was at the time. Asked about his own time keeping records, Det. Pantuso advised that he kept his hours in notebooks but he did not have them anymore.¹⁸

Although Guzzo denies seeing Graham’s actual timesheets showing that he worked less time than required, on November 15, 2021, Agent Guzzo sent an email to OIFP Grant Analyst Tracy Abate asking if the WCPO had to submit bi-weekly time sheets for members assigned at rates of under 50 percent. In a response email, Ms. Abate advised that the bi-weekly time sheets did not have to be submitted, however, most CPOs did submit them for good record keeping. She advised Guzzo that the FTE Quarterly Reports did have to be submitted. Her email does not, nor did she have legal authority to, change the grant terms that county prosecutor’s offices can be reimbursed only for hours actually worked and that a record of those hours must be maintained.¹⁹ The OIFP Reimbursement Requirements specify this at page 20.

¹³ Det. Graham’s calendar and WCPO Certified 3rd and 4th Quarter Reports Submitted to OIFP.

¹⁴ Graham Interviews May 24 and July 25, 2022.

¹⁵ Guzzo Interview July 22, 2022.

¹⁶ Screenshot of Email from Guzzo to Robinson, Pantuso and Graham - November 9.

¹⁷ Graham Interviews and Text Message to SI Dempsey on August 4, 2022.

¹⁸ Pantuso Voluntary Witness Interview June 29, 2022.

¹⁹ Email Exchange between Guzzo and Abate November 15, 2021.

It should be noted that Detective Graham's calendar timesheet was retained in the WCPO OIFP file, but Det. Pantuso's were not. ██████ reported that FAP Robinson's time sheets were in the file, but although they were signed, had no hours filled in. Additionally, Det. Pantuso stated that he had shredded his time sheets when he learned they did not have to be submitted and he could not locate the notebooks in which he kept a log his actual time worked on OIFP matters. This all supports a conclusion that WCPO maintained no actual record of hours worked by OIFP assigned personnel with the exception of Det. Graham.

Interference with OPIA Investigation and Retaliation

During the pendency of this investigation there have been reports of comments by the Prosecutor which are of concern and may be evidence of retaliation toward members of the WCPO who he likely believes reported this information. In the beginning of the OPIA investigation, the Chief of Detectives Michael Devlin requested to sit in on interviews. After he was told that this was not appropriate, Det. Graham reported that he was told by Deputy Chief Lisa Fehr that he could not provide OPIA SIU with any documents. Later he was advised that he could provide them but would have to give copies of same to the WCPO administration.²⁰

Multiple witnesses reported that the Prosecutor held a meeting on June 16, 2022 with supervisors -- sergeants and above -- during which the Prosecutor told them that the WCPO would continue to be understaffed and thus the members would have to do more with less due to the ongoing investigation which was holding up the WCPO grant approval. It was perceived by the witnesses that the Prosecutor singled out ██████ (who the FAP stated was the likely complainant) and Det. Graham, who was not a supervisor but was told by Chief Michael Devlin to be at the meeting as he was the PBA President.²¹ All witnesses interviewed relevant to this meeting expressed that detectives are never present regardless of Union capacity. Those witnesses also stated that the WCPO is not currently doing any insurance fraud investigations as there is no grant to reimburse them for this work.²²

Prior to these instances, Director Eicher warned Prosecutor Pfeiffer not to attempt to find out who reported these issues to OPIA and not to attempt to find out what witnesses were saying. Following these instances, Prosecutor Pfeiffer was specifically warned, again, by Director Eicher in a telephone call, with this writer in conference, not to attempt to determine who was cooperating with this investigation or to take any actions that were or could be perceived to be retaliatory against those he thought were cooperating with the investigation. Nevertheless, similar instances continued to occur during the pendency of this investigation.

Attempts were made to conduct a review of Prosecutor's Office emails sent and received regarding this matter during the relevant time frames (October 1, 2021 to October 1, 2022). These attempts started on September 1, 2022 with a phone call to Prosecutor Pfeiffer from Director Eicher during which it was requested that OPIA SIB be provided with access to a

²⁰ Graham Interview May 24, 2021.

²¹ Email from Chief Devlin to Det. Graham dated June 6, 2022.

²² ██████ June 28; Graham - July 25; ██████ - August 11.

WCPO email server for administrative investigation. Prosecutor Pfeiffer responded on September 7, 2022 that he could not provide access due to a number of alleged concerns.²³

Attempts continued on September 12, 2022 when this writer along with Director Eicher and First Assistant Attorney General Ruotolo participated in a conference call with Prosecutor Pfeiffer during which the Attorney General's authority as it relates to law enforcement administrative investigations was discussed. Prosecutor Pfeiffer stated that the County itself would need to grant the access but due to the privacy concerns and the fact that the County was a victim of a costly network intrusion recently it was likely that they would not be amenable to that. On September 13, 2022 Prosecutor Pfeiffer followed up with an email suggesting that OPIA meet with the County Administrator and Commissioners regarding the request.

During the call of September 12, 2022 Prosecutor Pfeiffer stated that Agent Richard Guzzo had informed him about a document that he had seen during his administrative witness interview with OPIA SIU. It is noted that Agent Guzzo signed an advisement form directing confidentiality as it related to the interview pursuant to the IAPP. The Prosecutor's admission indicated that Agent Guzzo violated this directive. In turn the Prosecutor suggested that the witness who provided the document, Detective Graham, was himself implicated in a criminal act for presenting a false document (Graham's calendar time sheet). Through investigation it has been determined that the calendar time sheet form had been provided to Graham by Sgt. Roncoroni as a means with which to log his hours spent working on insurance fraud matters.

On September 22, 2022 the Office of the Attorney General formally superseded Prosecutor Pfeiffer with respect to this case and directed his recusal from same.

On September 26, 2022 this writer was present for a call between Director Eicher and Warren County Administrator Alex Lazorisak who was advised that the Prosecutor had been superseded with respect to the OPIA investigation and as such the request for access to the email server was discussed. Mr. Lazorisak stated that he would need something in writing formally requesting the emails. Mr. Lazorisak stated that he was not inclined to grant access due to privacy issues and the County's recent network intrusion that cost them almost \$5 million in ransom that their insurance paid on. Mr. Lazorisak stated that even if the AG's office indemnified the County for \$100 million, he would still need to get the request approved through the county commissioners, counsel and insurance.

On October 17, 2022 this writer participated in a Teams call with Warren County Administrator Lazorisak, County Commissioner Joseph Bell, Director Eicher, AAG Jeffrey Barile, and OAG IT personnel for the purpose of explaining the AG's authority as it relates to this matter. Director Eicher offered to mitigate the possibility of network issues with the proposal to download emails for the relevant time period to a hard drive which could then be filtered by agreed upon parameters in order to ease privacy concerns.

Mr. Bell stated that he did not see anywhere within State statutes that granted the AG's office the authority to conduct such a search. Director Eicher explained that the emails sought were specifically related to the Prosecutor's Office in its capacity as a law enforcement agency. The

²³ Email from Prosecutor Pfeiffer September 7.

call concluded with Commissioner Bell and Administrator Lazorisak stating that OPIA and Warren County were at an impasse. Director Eicher stated that the Attorney General's Office would continue to pursue the investigation as appropriate.

This investigation was subsequently suspended from October 17, 2022 to December 6, 2022 during the pendency of a criminal review carried out by the OPIA Corruption Bureau.

Following a review of criminality this writer was advised that this investigation would proceed in an administrative manner. After additional coordination and compromise with the Warren County Administrator and Counsel it was determined that this writer would be granted access to Warren County Prosecutor's Office emails for twelve Prosecutor's Office personnel for the period of October 1, 2021 to October 1, 2022. The Prosecutor, Chief of Detectives, and Deputy Chief of Detectives email accounts were included in the search. The search of emails was filtered by Warren County to exclude emails to and from County Counsel and Labor Counsel as well as several individuals identified as Human Resources personnel. This restriction may well have impeded OPIA's access to all relevant documents, but was the only feasible way to move forward with the investigation other than time-consuming litigation.

Ultimately, this writer conducted searches of the filtered emails at the Warren County Administration Building between mid-February and late-March 2023. The County consistently delayed and frustrated attempts to gain access to the emails in a timely fashion. When access was finally given the manner in which Warren County IT had collected the emails excluded many deleted emails which were captured by an archiving software independent of Microsoft Outlook. The second collection iteration undertaken by Warren County IT appeared to be more comprehensive but was still allegedly filtered in accordance with the aforementioned parameters.

The email searches revealed that WCPO had submitted an OIFP grant application for 2022 based on a Sergeant salary for Detective Pantuso even though he was not a Sergeant or scheduled to become one. Budget reports obtained from email searches did not reveal any plan, proposed raise or promotion for Detective Pantuso in 2022 or 2023 which contradicts the 2022 application for the OIFP grant which listed Pantuso as a Detective Sergeant with the corresponding Sergeant's salary even though County budget worksheets, as well as Detective Pantuso clearly indicate his status as a Detective with the corresponding Detective salary.²⁴ For reference, the salary represented on the application was \$116,957.00 while Det. Pantuso's actual salary was \$108,024.00 – a difference of \$8,933.00. The 2022 grant application was signed off on by Prosecutor Pfeiffer and also authorized by County Commissioner Jason Sarnoski.²⁵

Additionally, there was an email exchange among the WCPO Executive Staff during the period OPIA had requested direct access to their email server which indicated that Deputy Chief Fehr was prepared to conduct a keyword search of the server using key words germane to this investigation.²⁶ This email was sent by Deputy Chief Fehr to Prosecutor Pfeiffer, FAP Robinson, Chief Devlin and Office Manager Wendy Rile. This was after the Prosecutor had represented that the County IT department head would have to approve any email searches and would likely

²⁴ WCPO Budget Worksheets, 2022 OIFP Grant Application.

²⁵ 2022 WCPO Grant Application.

²⁶ Email from DC Fehr to WCPO Executive Staff September 15, 2022 and Attached Excel Spreadsheet.

object to turning over WCPO emails. Additionally, this was after Prosecutor Pfeiffer had been instructed by Director Eicher, on at least two occasions, to refrain from trying to look into this matter. During later interviews it was learned that these searches did not take place due to OPIA's supersession.

On January 11, 2023 this writer was informed by ██████████ that Chief Devlin referenced the OPIA investigation and said that he would love to know who reported it. ██████████ also advised that, as a result of the OPIA investigation, WCPO was unable to replace Detectives from unrelated units that either left or retired and this was the cause of the WCPO manpower shortage. When ██████████ asked what the OIFP grant had to do with the unrelated units, he said that Chief Devlin appeared irate and taken aback.²⁷ It should be noted that this was after Sgt. Roncoroni had been asked to resign in August of 2022 after OIFP did not approve WCPO's request for funding for calendar year 2022.²⁸

It was learned that Chief Devlin would be retiring as of June 1, 2023, so an interview was conducted with him on May 25, 2023 during which he denied knowledge of the OIFP grant functioning and any knowledge of hours worked by personnel assigned to it.²⁹ He also denied seeing any time sheets related to OIFP and denied ever saying that he wished he could find out who reported this matter to OPIA. Chief Devlin also denied that he had spoken with anyone interviewed by SIB regarding the substance of their interview.³⁰

Deputy Chief Melissa Fehr was also interviewed and she denied intimate knowledge of how the OIFP grant worked. DC Fehr also stated that she believes Det. Graham did provide copies of his time sheets but doesn't recall to whom exactly. She said that this would have been at the discretion of the Prosecutor, FAP or the Chief. When asked if she ordered Det. Graham to produce copies of documents he intended on turning over to OPIA she stated that she could not recall.³¹

The interviews of both the Prosecutor and First Assistant Prosecutor revealed that the OIFP grant monies were a vital part of the WCPO operating budget and they could not sustain personnel on the grant due to the loss of access to it in 2022. They both acknowledged that the monies received from the grant would be used to offset other budgeted salaries within the WCPO. The Prosecutor made particular mention of the lower pay of APs in comparison with Detectives in the Office and the low salaries of the clerical staff in general.

The Prosecutor made known his belief that the calendar time sheet provided to OPIA SIB by Det. Graham was a falsified record of hours he had worked on the grant. During his interview the Prosecutor referenced the unprofessional nature of the document, specifically by pointing out that the heading was not centered.³² The Prosecutor, in a follow up email to his statement, advised that the document was not an official time sheet authorized for use by WCPO personnel

²⁷ Text from ██████████ to SI Dempsey received on January 11, 2023.

²⁸ Email from Roncoroni to Pfeiffer August 5, 2022.

²⁹ Devlin Stmt. @ 7:51.

³⁰ Devlin Stmt. @9:15.

³¹ Fehr Stmt. @ 14:40.

³² Prosecutor Stmt. @ 30:00.

so its integrity could not be relied upon.³³ This was a sentiment that was also related by Office Manager Wendy Riley who asserted in her interview that the calendar was not official and was only intended for staff to keep an informal log of their paid time off and thus could not be used to track time spent working on insurance fraud cases.

The Prosecutor pointed out that he had been dealing with significant pressure from the PBA regarding pay increases for Detectives. He advised that these requests were in excess of the 2% statutory cap on pay raises within the County but, nonetheless, he said that he tried to find ways to decrease the administrative workload on Detectives by hiring Agents whom he could pay less than Detectives. He said that this has been met with audits from the Civil Service Commission regarding the propriety of using Agents for certain Office tasks.

When referring to his denial of OPIA's request to WCPO emails he said that it was his legal opinion as a former Judge and practicing Attorney that he should withhold access to the emails for the reasons cited in his September 7 email to Director Eicher. The Prosecutor added that attorneys have differing opinions all the time and suggested that this was no different.³⁴ In essence, the Prosecutor was justifying his refusal to adhere to the decision of the Attorney General's Office on the grounds that he disagreed with it.

Subsequent interviews revealed that the WCPO Executive Staff generally believed that this matter came about because of the WCPO Administration's decision to promote Sgt. Fehr to Deputy Chief over [REDACTED] among other administrative decisions perceived as detrimental to the rank and file. The Prosecutor also sent information relating to a challenge from the PBA Local 331 in reference to his hiring of additional Prosecutor's Agents. In an email, the Prosecutor referred to this in an email to this writer as follows – *I made a management decision for the efficient operation of the office which did not require consultation or approval by the Union. This in addition to the promotion of a female Sergeant to Deputy Chief and the reduction in overtime are clearly the reasons for the baseless retaliatory complaints being filed.*

It is important to note that motivations for the filing of this complaint were assessed early on in this investigation and, while the proximate time was such that one could be led to suspect that, the investigation did not support this conclusion. In fact, the complainants started recording their conversations with Sgt. Roncoroni in June of 2021, many months prior to DC Fehr's promotion in November of 2021.

In another email to this writer, the Prosecutor asserted that he had concerns that Det. Graham's time sheet had been falsified noting the following - *As you might imagine I have serious concerns that a Detective from my office assigned to SVU is providing a fraudulent representation of his time keeping if it has been represented as an authentic/accurate WCPO time sheet.* It is noted that the Prosecutor reportedly learned of the existence of this time sheet following Agent Guzzo's initial interview with OPIA. It is noted that the calendar form which Det. Graham kept his time on was provided to him by Sgt. Roncoroni. According to Sgt. Roncoroni, the calendar was for use by the assigned personnel to keep an informal log of their hours spent on OIFP matters and they could then transpose same to the OIFP time sheets.

³³ Prosecutor Email 082923.

³⁴ Prosecutor Stmt. @ 41:00 and 1:06:00.

Of interest is that Agent Guzzo instructed the OIFP assigned personnel to complete their time sheets after the fact assigning the same number of hours for each two week pay period³⁵ but he reported that the personnel were not comfortable in doing so as they had not kept good track of their time and were worried about being inaccurate on their bi-weekly time sheets.³⁶ It is likely that the cause for this discomfort can be attributed to the manner in which Agent Guzzo asked the assigned personnel to complete their time sheets. Agent Guzzo also reported that he received Det. Pantuso's hours in person while he was in Det. Pantuso's office. Agent Guzzo reports that he believes he and Pantuso called Det. Graham for his hours and the hours reported by Graham were the ones submitted to OIFP. Det. Pantuso's and Det. Graham's statements contradict this. Det. Pantuso reported that he kept his hours logged in a notebook, which he could not locate, and Det. Graham reports that he kept his on the calendar. Similarly, Det. Pantuso claimed that he did not hear anything about Graham's hours.

The investigation revealed direct evidence of mismanagement of a State funded grant by members at the Executive level of the WCPO. The investigation also revealed circumstantial evidence that the Prosecutor secured these grant funds without regard for the appropriate management of the same as evidenced through his public comments, his comments to members of the WCPO, and recordings of Sgt. Roncoroni. There is no direct evidence that it was the Prosecutor's intent was to willfully misappropriate these funds, however, circumstances detailed in this investigation could lead a reasonable person to believe that this was the case.

This investigation also probed other allegations made by the initial complainants. These involved the First Assistant Prosecutor driving a victim witness vehicle, a senior agent commuting to work in a vehicle registered in Pennsylvania although he resides in New Jersey, and an allegation that the Prosecutor suggested that members of the WCPO should surveil and assess certificates of occupancy within Warren County Municipalities in order to determine if individuals with criminal records were moving in.

During the course of the investigation, allegations were made by the complainants and one witness that the Prosecutor and Chief were engaging in retaliatory conduct towards them. These matters were related to the Prosecutor's removal of 24/7 hour use of County vehicles by anyone other than the Executive staff, the addition of more workloads to the complainants, the reassignment of a witness, and the singling out of a complainant and witness in a supervisor's meeting. It was also alleged that the Chief said that he wished he knew who reported this matter to OPIA. The assignment of more work was apparently Agency-wide due to staffing shortage, the removal of 24/7 vehicle access appears to have been in adherence to a County government policy directing no civilian personnel in County cars, and the Chief's comment could not be substantiated by evidence outside of the aforementioned complainants and a witness.

The allegation that the Prosecutor engaged in retaliatory actions against those he believed to be the "whistleblowers" by singling out ██████████ and Det. Graham was supported by ██████████ statement that he was present for a Supervisor's meeting in June of 2022 which Det. Graham, not a supervisor but the PBA president, was directed to attend. ██████████ said that he felt that the

³⁵ Guzzo email 110921.

³⁶ Guzzo statement 091823 @ 16:45.

Prosecutor singled Det. Graham and ██████ out but did not know for what reason. The investigation revealed that Det. Graham was indeed at that meeting and multiple witnesses reported that the Prosecutor was terse with him and ██████

As for the FAP and the victim witness vehicle, it was determined that the vehicle, a white 2017 Ford Escape, appears to have been purchased using grant funds derived from a SANE/SART grant awarded by DCJ. It should be noted that the SANE/SART grant is a sub-divided grant from the Victim Witness Grant which carries to same rules as the primary grant. The Office Manager, Wendy Riley, reported that the vehicle had been assigned to the WCPO SANE/SART coordinator upon purchase but she left in 2021 after which the vehicle sat in their lot. Ms. Riley said that they decided that, rather than the vehicle sitting there, it would be assigned to the FAP.³⁷ This was with the caveat that it would be assigned to the SANE/SART coordinator if the need arose. She noted that the current coordinator worked out of a local hospital and she resides in Pennsylvania so she does not require a vehicle at this time.

During his interview, FAP Robinson denied completing any time sheets associated with any victim witness grant but stated that he worked fairly often with victim witness advocates due to the types of cases he was assigned to. During conversation with DCJ Grants Director Robert Ash it was learned that the WCPO stopped reporting gas usage associated with the vehicle in a timeframe consistent with when the prior SANE/SART coordinator left. During an interview with WCPO Fleet Coordinator Det. Laoudis it was learned that he did not make decisions on who was assigned vehicles and that was usually a task carried out by members of the executive staff.

While it is unclear if FAP Robinson knew that his assigned vehicle was derived from VW funds, it is clear that Office Manager Riley and Prosecutor Pfeiffer knew that it was.

As for ██████ driving the vehicle registered in Pennsylvania, it was determined that he had been driving it there for months during the pendency of this investigation. This was established through photographs and his own statement. He stated that the vehicle he was driving, a 1997 Ford Explorer, had broken down so his son-in-law gave him the Trail Blazer to use to get to work. ██████ was questioned as to his ownership of other vehicles to include a Mazda and a Honda which he advised were driven by his daughter and wife respectively.

██████ noted that he had since purchased the Trail Blazer from his son-in-law and that the son-in-law had been paying insurance in Pennsylvania on it. ██████ also noted that he had been paying insurance on the other vehicles he owned which were registered in New Jersey. Motor vehicle records obtained by this investigation revealed that ██████ was truthful in this regard.

³⁷ Riley Stmt. 090623 @ 11:18.

PROPOSED FINDINGS

Conduct Unbecoming

1. **Prosecutor Pfeiffer** and **Chief Devlin** are both reported to have commented on this investigation in a manner that could have impacted the testimony of witnesses during statements provided in connection with same. While these comments may have been born out of frustration at the necessity for or duration of this investigation, comments like this can obstruct the investigation by intimidating witnesses who may fear retaliation. This is a collateral issue but it had been reported by a witness and the initial complainants during the course of this investigation.

This investigation revealed sufficient evidence to support this allegation which represents a violation of WCPO Rules and Regulations Standard of Conduct Section II, Part B and should be **Sustained** as such for both of them.

2. **Prosecutor Pfeiffer** was alleged to have suggested in a meeting related to narcotics activity in Warren County that members of WCPO should check Certificates of Occupancy and use same to conduct criminal history checks as a means for assessing narcotics activity moving through the County.

This investigation did not reveal sufficient evidence to support this allegation so it should therefore be **Not Sustained**.

3. [REDACTED] was alleged to have been driving to work in a vehicle registered in Pennsylvania while having residence in New Jersey which was reported to demonstrative of insurance fraud in the form of rate evasion.

There was sufficient evidence to support that [REDACTED] did indeed drive this vehicle to work on a routine basis, however, as he paid insurance premiums on vehicles owned in New Jersey, there was insufficient evidence to support a finding of misconduct and therefore should be **Not Sustained**.

4. **Agent Guzzo**, following his interview with OPIA, was reported to have informed members of the WCPO Executive Staff that this writer had shown him a copy of Det. Graham's calendar time sheet in the interview. It is noted that all parties interviewed by SIB acknowledge an order of confidentiality related to what is discussed in their interviews.

This investigation revealed sufficient evidence to support that Agent Guzzo had breached confidentiality. This conduct represents a violation of WCPO Rules and Regulations Standard of Conduct Section II, Part B and should be **Sustained**.

While this breach did occur, Agent Guzzo represents that he did so in an effort to essentially self-report in the event that he had messed something up on the grant hours certification that the office would need to take accountability for. This cannot be

interpreted as a mitigating factor in relation to the consequence for this breach as Agent Guzzo made no attempt to inform this writer that he had found the document in the grant folder or clarify his statement.

Violation of OIFP Reimbursement Grant Requirements

Prosecutor Pfeiffer's signature appears on the submissions to the OIFP Grant program and, while he is ultimately responsible for the WCPO interface with the program, he is not the coordinator for document submission at the WCPO. It is noted that Prosecutor Pfeiffer made public comments related to securing additional funding from the OIFP grant and spoke openly of staffing shortages caused by the loss of access to the grant. It is unclear how a staffing shortage could be caused by the loss of access to the grant as the only full-time member paid by the grant was former-Sgt. Roncoroni. The Prosecutor and First Assistant both admitted in their interviews that the money derived from the OIFP grant was useful for increasing salaries of personnel in the office. This is clear motivation for the Prosecutor to secure additional monies. Upon issuance of the OIFP awarded amount, the County issues a resolution accepting the grant and then apparently builds the funds into the prosecutor's office budget. This can create an incentive for the Prosecutor's Office to seek out and prosecute insurance fraud matters in order to secure agreed upon reimbursement which then balances the budget. Since the OIFP grant reimburses only for hours actually worked on OIFP matters, the grant can assist in supplementing salaries and fringe benefits for assigned personnel. Of course, the assigned personnel must actually work additional hours on investigations covered by the grant. In this instance it is apparent that the Prosecutor's comments about freeing up monies to use for increasing salaries of support personnel and Assistant Prosecutors supports a motivation to secure reimbursement in order to maintain a balanced budget regardless of whether the assigned personnel actually worked the hours need to obtain full reimbursement under the grant.

Further evidence to support this motivation exists within the WCPO 2022 OIFP Grant Application in which Det. Pantuso was listed as a Sergeant (at a Sergeant's pay scale) although he was not a Sergeant and there are no indications that plans were in place for him to be promoted to that rank.

It was also revealed that Sgt. Roncoroni's statement and the Prosecutor's statement were similar in relation to the genesis of the idea to assign additional staff to the grant. Both related in their statements that the purpose for adding more personnel was to increase the assistance for Sgt. Roncoroni on a years-long investigation into trucking reverse rate evasion which involved subjects in multiple jurisdictions. Conversely, in recorded conversations, Sgt. Roncoroni represented that he approached the Prosecutor with the plan to add more personnel to the OIFP grant in order to free up room in the WCPO budget for the Prosecutor to increase salaries of support staff and Assistant Prosecutors. Additionally, Sgt. Roncoroni said that the personnel assigned didn't necessarily have to do all of the hours reported to OIFP as he could justify their time with the use of case numbers and pole camera monitoring.

This exchange, taken in context with the Prosecutor's comments related to additional funding supports, at least circumstantially, the Prosecutor's intent to secure funding to support the general budget and not with a primary objective of investigating and prosecuting insurance fraud.

While this evidence may not be sufficient to support a finding that the Prosecutor willfully misappropriated these funds, it does support a finding that the Prosecutor and his staff did not appropriately manage the OIFP Grant to ensure that the funds were used appropriately.

Additionally, this investigation revealed information to suggest that the grant funds became an important part of the WCPO budget. This was evident based on the Prosecutor's assertion that he could not hire additional personnel to assist with the workload due to the loss of the OIFP grant. Of interest is the fact that Sgt. Roncoroni was asked to resign following the loss of the grant, however, the inability to hire additional personnel may demonstrate an expected reliance on the OIFP grant for personnel unassociated with it.

As the grant is paid in the form of reimbursement, an Office would have to know that each of their assigned personnel would be completing a set number of hours on a part-time basis in order to secure reliable budget reimbursements. In this instance, the loss of the grant appeared to indicate that the WCPO may have made such budget projections based on percentages of hours set forth in their 2021 and 2022 OIFP grant applications.

In an initial interview with Agent Guzzo it was learned that he was not aware of any written time log for either Detective Pantuso or Graham. When shown the time calendar maintained by Det. Graham, Mr. Guzzo denied ever seeing it. Subsequent to his interview with OPIA SIB, Agent Guzzo apparently reported to Prosecutor Pfeiffer that he was shown the calendar during the interview. Prosecutor Pfeiffer then alleged, during a call with OPIA Director Eicher and First Assistant Ruotolo that the calendar was likely fabricated and suggested that OPIA may itself be witness to misconduct. The assertion being that Det. Graham, the PBA President, wanted to gain traction over the County during contract negotiations.

It is noted that this calendar was submitted to OPIA SIB at the onset of this investigation and Sgt. Roncoroni stated that he had advised Det. Graham to use the calendar as a means to keep track of his hours on a day-to-day basis. These facts do not support an objective determination that the calendar was fabricated. Additionally, Det. Pantuso claimed that he shredded any time sheets he had kept upon learning from Agent Guzzo that they did not need to be submitted to OIFP. Viewed in totality these facts support the conclusion at best that WCPO was not properly maintaining records of hours worked on the OIFP grant and at worst was covering up false and fraudulent records of the number of hours worked.

Additionally, there are conflicting statements from Det. Graham, Det. Pantuso and Agent Guzzo related to how hours for Det. Graham were relayed to Agent Guzzo. Agent Guzzo stated that he and Det. Pantuso called Det. Graham who then reported his hours verbally. However, Det. Pantuso stated that he had not heard how many hours Det. Graham had reported. Det. Graham stated that he dropped his calendar with recorded hours off in Det. Pantuso's office, which Det. Pantuso stated that he could not recall, but may have occurred. When asked if he still had copies of his own time sheets, Det. Pantuso said that he had shredded his when he was told that WCPO did not have to submit them. Det. Pantuso also stated that he had kept a log of his hours in a notebook but had lost track of it noting that that time period was very busy.

Of interest was that the Prosecutor and the FAP assert that the calendar maintained by Det. Graham was incomplete because it was not filled out through the end of the year. It should be noted that Det. Graham provided to SIB with a completed calendar during his subsequent interview. It should also be noted that the hours presented to the Prosecutor and FAP were applicable to the 3rd Quarter of 2021 which would have been irrelevant to those reported in the 4th Quarter.

It is also noted that OIFP case numbers data for Warren County indicates 64 cases for 2019, 58 cases for 2020 and 51 cases for 2021. As noted above, only Sgt. Roncoroni was assigned to the OIFP grant in 2019 and 2020. In the 3rd and 4th quarters of 2021, 3 additional personnel were added on a part-time basis in a year that saw the lowest aggregate case numbers reported.

Ultimately this investigation found sufficient evidence to support that members of the Warren County Prosecutors Office, to include the Prosecutor, failed to properly document hours worked on the OIFP grant. Therefore, since the Prosecutor is ultimately in charge of the Office, the responsibility falls to him to ensure the oversight of proper management of the grant.

It is apparent that **Prosecutor Pfeiffer** failed to properly oversee the OIFP grant and to fully adhere to the Grant Requirements. This conduct represents a violation of WCPO Rules and Regulations Standard of Conduct Section II, Part Z as well as the WCPO Mission Statement Section III, Part B-11. Therefore a finding of **Sustained** is proposed.

It is apparent that **Agent Guzzo** failed to properly oversee the OIFP grant and to fully adhere to the Grant Requirements. This conduct represents a violation of WCPO Rules and Regulations Standard of Conduct Section II, Part Z as well as the WCPO Mission Statement Section III, Part B-11. Therefore a finding of **Sustained** is proposed.

It is proposed that some type of remedial measures be taken in regards to the DCJ OIFP Grant Management Coordination.

There is sufficient evidence to support the allegation that Sgt. Roncoroni acted with an intent to defraud the insurance fraud grant. However, Sgt. Roncoroni was out on extended sick leave and then separated from the WCPO, therefore it is unclear whether he actually was in a position to misuse the grant.

Candor

1. During his statement to SIB, **Sgt. Roncoroni** demonstrated a lack of candor in relation to his assertion that he would never want anyone assigned to the grant to complete false time sheets. It was demonstrated in the recorded conversations that he would justify hours on time sheets for personnel assigned with case numbers and activities like pole camera monitoring because OIFP would not be checking.

This investigation revealed sufficient evidence to support this allegation which is in violation of WCPO Rules and Regulations Section II, Part E and therefore the finding of Lack of Candor should be **Sustained**.

2. During his statement, the Prosecutor asserted that **Agent Guzzo** had returned from his interview at SIB and informed Office Manager Wendy Riley of the existence of the calendar he was shown during his interview. The Prosecutor said this was how he had become aware of the document. Following his interview, he contacted this writer via phone (and later email) to report that since it was so long ago his recollection was ‘foggy’ but he recalled that it may have actually been **Chief Devlin** that Agent Guzzo had reported the matter to and not Ms. Riley.

During a follow-up interview with Agent Guzzo, he reported that he had told Chief Devlin about the calendar.

During Chief Devlin’s interview, he denied any knowledge of time sheets or logs of hours kept by Det. Graham for the OFIP grant and denied speaking with anyone from WCPO who had been interviewed by SIB about the substance of their interview.

It is evident that someone is not being candid in this instance. However, there is insufficient evidence to establish exactly who was not truthful, therefore the finding of Lack of Candor should be **Not Sustained**.

Misuse of Victim Witness Grant Purchased Equipment

It was alleged that the First Assistant Prosecutor had been commuting to work in a vehicle purchased with victim witness funds while not being assigned to the victim witness grant.

This investigation found sufficient evidence to support that the FAP had indeed been driving this vehicle and it was indeed purchased using victim witness grant funds. It is understood that equipment purchased using victim witness grant funds are to be used only for victim witness business. There was no evidence found, contrary to the Prosecutor’s assertion³⁸, that the vehicle was removed from the grant. To be clear, in consultation with DCJ Grant Manager Robert Ash, it was determined that the WCPO was not submitting claims for mileage reimbursement which he advised would be egregious. Nonetheless, the use of this vehicle for anyone not assigned to victim witness activities and clearly delineated as such is not permitted under the Victim Witness grant and any sub-grants thereof. According to State and Federal guidelines³⁹ associated with Federal grants, equipment purchased with grant funds must be used for the program it was purchased to support and remain otherwise unencumbered. The guidelines further specify that disposition of equipment of a fair market value over \$5,000.00 must be coordinated with the agency that manages the grant under which the equipment was purchased. It is apparent that in cases where the fair market value of the equipment is over \$5,000.00 the agency that manages the grant is entitled to the fair market value of that equipment.

Based on this information it appears that the appropriate mechanism for removing the vehicle from the SANE/SART grant would have been a request to DCJ and likely a discussion about the

³⁸ Prosecutor’s Stmt. @ 44:00.

³⁹ DOJ Grants Financial Guide p. 59 “Disposition of Equipment”; State of New Jersey FY15 VOCA Grant Administration and Funding Guidelines p. 19 “Usage, Maintenance and Disposition of Property; 2 CFR 200.313(e).

payment fair market value of the vehicle. Based on discussions with DCJ Grants Manager Robert Ash there does not appear to have been any such request made to DCJ or any payment of fair market value made in reference to this vehicle.

Additionally, a vehicle assignment list which was sent via email by Det. Laoudis (the vehicle coordinator) to Chief Devlin, DC Fehr, Lt. Imboden and Wendy Riley indicates that the vehicle was being tracked as assigned to the victim witness section. This tends to contradict the assertion that the vehicle had been removed from the grant.

It appears that this assignment was made by members of the WCPO executive staff so no one individual can be held directly accountable for the actual assignment of the vehicle, however, there does appear to be an issue with how the vehicle's use has been represented within the context of this investigation and to DCJ Grants Management. Office Manager Riley stated that the vehicle was removed from the grant with the caveat that it would be made available for a SANE/SART nurse should the need arise. Without further evidence of a discussion of this decision with DCJ Grants, it can be inferred that this decision was made without such consultation and therefore outside of appropriate practice.

This conduct represents a violation of WCPO Rules and Regulations Standard of Conduct Section II, Part Z as well as the WCPO Mission Statement Section III, Part B-11. It is therefore recommended that **Prosecutor Pfeiffer, FAP Robinson and Office Manager Riley** be **Sustained** for improper disposition of equipment purchased through a DCJ managed, Federal grant.

Failure to Cooperate with an Administrative Investigation

During the course of the investigation, the following collateral issues arose with respect to the Prosecutor's conduct towards this investigation.

1. Det. Graham reported for his initial witness interview in May of 2022. Det. Graham alleged that Deputy Chief Melissa Fehr had told his supervisor, Lt. Imboden, to inform Det. Graham that he could not provide any documents to SIB. Subsequently, Det. Graham was told that he could provide documents but he was ordered to provide DC Fehr with copies of what was provided.

This investigation revealed sufficient evidence to support this allegation. During a statement with DC Fehr it was revealed that she recalled that Det. Graham had provided his time sheets to either her or the FAP but she could not recall who. She also stated that this would have been at the discretion of the Prosecutor, FAP or Chief. These recollections account for two (2) witnesses reporting similar conduct.

There were also incidents of inconsistent statements among WCPO Executive staff personnel that seem to indicate a concerted effort to thwart an accurate telling of issues directly related to this investigation. For instance, and as noted above, the Prosecutor stated that Office Manager Wendy Riley had shown the calendar time sheet to him following Guzzo's interview. Then a short time later advised via email that it may have

actually been Chief Devlin. Of interest was that Chief Devlin denied seeing the time sheet and Riley denied as well. Guzzo reported that he had informed Chief Devlin about the time sheet following his initial interview with OPIA.

Additionally, the Prosecutor alleged that the calendar time sheet was a false document due to it not being an official office document and the headed not being centered. Office Manager Riley alleged that it was not an official document as it was only intended for informal use in tracking a member's paid time off. These instances potentially represent direct efforts to mitigate evidence derived during the course of this investigation and thus influence the course of same.

There were other instances of inconsistent statements involving personnel assigned to the OIFP grant in that Det. Pantuso denied seeing Det. Graham's time sheet or knowing how many hours he worked even though Graham reported giving Pantuso a copy of his calendar time sheet. This seems to have occurred after they were asked to complete their time sheets by Agent Guzzo and Det. Pantuso stated that he shredded his time sheets when he was told that they did not have to be submitted for 2021.

2. In September of 2022, OPIA requested access to WCPO emails for purposes of gathering potential evidence in support of this investigation.

Following a request to Prosecutor Pfeiffer from Director Eicher for access to WCPO emails, the Prosecutor responded with an email citing several reasons why he could not grant access to the emails. During a later conference call with Director Eicher and First Assistant Ruotolo, the Prosecutor stated that he wished to cooperate but he was mandated by his County Administration to maintain security over the email server and if SIB wanted access it would have to seek same through the County Administration. Yet, the investigation revealed that just days after Prosecutor Pfeiffer made that representation, his executive team was coordinating a key word search of the WCPO emails for communications relevant to this investigation. During his interview with SIB the Prosecutor stated that it was his legal opinion that he should not provide broad access to the emails and then ultimately deferred the request to County Administration.

During past investigations, this Office has received immediate cooperation when requests for access to internal documents had been made to other County Prosecutors and County Prosecutor's Offices. In this instance, the Prosecutor denied this request citing several issues which revolved around data privacy. The Prosecutor then advised that this denial was not ultimately his decision and that OAG would have to make this request through the Warren County Administrator. This caused the OAG to divulge the existence of the investigation as well as certain parties involved to civilian personnel not associated with any law enforcement function in Warren County. The OAG had to supersede the Prosecutor's authority in relation to this investigation in order to be able to move forward, and even still this investigation encountered resistance and interference.

When referring to his denial of OPIA's request to WCPO emails he said that it was his legal opinion as a former Judge and practicing attorney that he should withhold access to

the emails for the reasons cited in his September 7 email to Director Eicher. The Prosecutor added that attorneys have differing opinions all the time and suggested that this was no different.

This outcome and the reasoning behind it should be characterized as unacceptable in response to an OAG request for internal records related to an administrative investigation, especially when the Prosecutor is a potential subject.

Checks of emails at the WCPO indicated that the Prosecutor had forwarded his emails to and from Director Eicher to unknown parties shortly after he sent or received them. It is important to note that this writer had access to all WCPO emails save those that were filtered out in accordance with an agreement between OAG and Warren County Administration. Those email accounts that were filtered out included County human resource personnel as well as Administrator Lazorisak and County Counsel Joseph Bell.

This suggests that the Prosecutor had forwarded the emails to and from Director Eicher to at least one of the parties listed above. This can have the appearance of a breach of confidentiality but the possibility that Prosecutor Pfeiffer was seeking counsel cannot be discounted. Nonetheless, this further supports the fact that he maintained a differing legal opinion and was keeping the County abreast of OAG requests.

In June of 2022, Det. Graham was directed by Chief Devlin to report to a supervisor's meeting in his capacity as PBA President. According to witnesses interviewed in connection with this investigation, the presence of a non-supervisor at a supervisors meeting was highly irregular.

During the course of the meeting, Det. Graham was singled out by Prosecutor Pfeiffer and asked to relate what he had learned at a recent leadership class to other supervisors at the meeting. The Prosecutor reportedly specifically asked Det. Graham to share any methods he had learned on how to motivate troublesome employees.

During the same meeting, Prosecutor Pfeiffer reportedly singled out [REDACTED] for the length of his cases while not referencing the volume of his cases.

During the course of a different supervisors meeting later in 2022 the Prosecutor reportedly referenced this investigation and noted, in effect, that the WCPO was short staffed because this investigation was holding up insurance fraud reimbursement payments.

Shortly after the initial interview with Agent Guzzo, and during a call with Director Eicher, the Prosecutor related that he had become aware of Det. Graham's alleged calendar time sheet and claimed that the document was fabricated and it was potential evidence of Det. Graham passing false documents. This investigation revealed sufficient evidence to suggest that this document was genuine and that Det. Graham kept it as a good faith record of hours he had worked.

While the Prosecutor suggests that the document is false, he made no reference to other records used to track the participant hours as delineated in the OIFP Grant Requirements. Likewise, no other interviewed member of the WCPO Executive staff referenced other records used to track participant hours. This has the effect of appearing as an attempt to discredit Det. Graham and potentially falsely implicate him in a crime.

3. There were multiple instances where the complainants and one witness in this matter related what they perceived to be retaliatory actions by the Prosecutor and Chief. These involved assertions that their workloads increased, they lost 24-hour access to vehicles, they were singled out at meetings, and reported their general impressions that they were ostracized and felt like they would be fired or further targeted.

To the extent possible this writer probed these assertions and it appeared that most of the actions taken had plausible reasons. The vehicle situation was apparently due to an accident that occurred where a WCPO member, driving a County vehicle, had a family member in the vehicle. This reportedly created issues for the County's insurance carrier and led to the implementation of restrictions on vehicle use with exceptions for senior staff to include the Prosecutor, FAP, Chief and Deputy Chief.

As for being singled out in meetings, there is evidence that indicate that this occurred. [REDACTED] reported that it was his impression that the Prosecutor did single out Det. Graham. This can also be taken into consideration insofar as the Prosecutor's assertion that Det. Graham's calendar time sheet was a false document and insinuating that Det. Graham was implicated in a crime by presenting that document to OPIA SIB as authentic.

As far as general impressions and anecdotal reports of what they perceived as retaliation it must be noted that their reports were subjective in nature and were in the context of an overarching sentiment that they would be found out for reporting these issues and negative action would be taken against them. These assertions were taken at face value and objectively probed during the course of this investigation. The reports of the Prosecutor and Chief referencing, during supervisors meetings, this investigation's impact on the WCPO budget may have had a significant impact on the complainants' sentiment in this case.

Taken together, this pattern of conduct suggests a lack of cooperation with this investigation and obstructive conduct which affected the ability of this investigation to obtain a more complete picture of which individuals were responsible for some of the actions taken by WCPO in connection with the OIFG grant program.

While there may have been other members of the WCPO Executive Staff who had potentially interfered with this investigation, the instructions to refrain from doing so were related specifically to Prosecutor Pfeiffer on at least two separate occasions. This being the case, the Prosecutor seems to be most culpable for failure to cooperate with this investigation and it is therefore recommended that a finding of **Sustained** be made in relation to the Prosecutor's insubordination in this matter in violation of the following:

WCPO Rules and Regulations Section II, Parts B and CC
WCPO Mission Statement Section II, Part D
Code of Ethics for County Prosecutors Section 4, Part B

While it is not totally clear if retaliation can be sustained in this matter, this investigation cannot exonerate the Prosecutor as it is clear that an atmosphere where reporting misconduct to OPIA was fostered by the Prosecutor's own approach to cooperation with this investigation.

Brady/Giglio Implications

It was asserted to SIB during the pendency of the investigation that there were certain defendants who were prosecuted by WCPO who should have been made aware of an ongoing investigation into WCPO by OPIA. Lt. Boyce asserted on numerous occasions that these individuals had a right to Brady/Giglio disclosures and they were not forthcoming. He further asserted that the defendants in those matters would likely appeal based on the nature of this investigation.

Additionally, there were reports made [REDACTED] that FAP Robinson had been admonished during current proceedings and at least one case was dismissed due to his handling of exculpatory material in the matter. See State v. Sappah Docket No. A-2237-22.

These assertions should be reviewed by the Prosecutor Supervision and Training Bureau in consultation with the DCJ and OPIA Executive staff.

Complainant Demeanor Issue

[REDACTED]

That being said, these individuals are still bound by standards or conduct and it may be necessary to refer this apparent conduct an independent agency for review and action deemed appropriate.

[REDACTED]