

Unbecoming Conduct [FAC 11I-1.011(1)]: *"Unbecoming conduct includes any willful action or conduct which impedes the Department's efforts to achieve its goals, brings discredit on the Department or impairs the operation or efficiency of the Department or any employee."*

[Note: As a result of an initial assessment of this reported incident, GA Veiga was served with a notice regarding a possible charge of Negligence. After a thorough investigation of this incident a charge of Unbecoming Conduct was indicated in place of Negligence].

GA Veiga's alleged statements made to three separate law enforcement witnesses has caused an FDLE letter to be drafted/sent to law enforcement agencies in Miami-Dade, Broward and Monroe Counties using the Intoxilyzer 8000 instruments. The letter notified the agencies of a potential issue regarding the manner in which an FDLE Department Inspection was conducted. The letter further grants permission for agencies, if they wish, to duplicate/provide FDLE's letter to prosecutors for their evaluation.

Additionally, the Miami-Dade PD Intoxilyzer instrument (#80-000883) had to be removed from "on-line status" and sent to an authorized repair facility for reevaluation, with the costs borne by the FDLE.

Based on a preponderance of evidence and testimony, it was determined that GA Veiga's alleged statements and actions has brought discredit on the Department, and impaired the operation and efficiency of the Department.

Therefore, a finding of **SUSTAINED** is recommended in this matter.

V. ADDITIONAL FINDINGS

Violation of Law or Rules [11I-1.011(21) – Failure to give truthful or requested information during the course of an internal investigation. *"Failure to give truthful information includes lying, which consists of oral or written statements that are deliberately inaccurate, incorrect, incomplete or misleading, or a deliberate, material omission."*

Three independent witnesses from two different law enforcement agencies in Miami-Dade County furnished credible testimony that GA Veiga had stated to them generally how to avoid a failing Intoxilyzer 8000 test and/or how she (Veiga) previously evaded a failing test on an instrument that she was testing by shutting the instrument off. These incidents occurred at different times and dates.

The three independent witnesses also furnished the same information regarding the alleged statements made by GA Veiga to members of their respective departments (verbal and written memorandum). Officer Kimberly Velazquez, who is an Agency Inspector for the Miami-Dade PD, furnished credible testimony as to what the aforementioned witnesses had initially reported to her, verbally and in writing. Additionally, Officer Velazquez and Officer Kevin Millan (DUI Coordinator – Miami Beach PD), also contacted/reported this information to Program Manager Laura Barfield (FDLE – Tallahassee). Program Manager Barfield subsequently documented in

an IIF, of what the officers had informed her. All witness testimony and reporting person testimony was determined to be consistent and factual.

The statements made by GA Veiga during her Internal Affairs interview were determined to be inconsistent, evasive and/or not complete or realistic. Of specific note, GA Veiga stated that she had called PSA Espinoza late in the day to inform him that the inspection would not be completed by 5:00PM (June 18, 2008). GA Veiga's signed Department inspection report (ATP Form 41), however noted that the instrument in question (#80-000883) passed its Department (FDLE) inspection on June 18, 2008, at 1650 hours (4:50PM). Additionally, PSA Espinoza stated that his telephone conversation with GA Veiga occurred at approximately 4:45PM on June 18, 2008, and that GA Veiga stated to him (Espinoza) that she was having problems with the .20 solution.

GA Veiga stated that she had completed three inspections on that particular afternoon and that they all passed. Program Manager Laura Barfield verbally informed Inspector Demma that a Department Inspection takes approximately two hours to complete.

Based on the preponderance of the evidence and testimony provided, a finding of **SUSTAINED** is recommended.

FDLEFlorida Department of
Law Enforcement**DEPARTMENT INSPECTOR
FIELD NOTES**

un3

Agency: Miami-Dade PD
Doral StationInstrument Serial Number: 80-000883

<input checked="" type="checkbox"/> Annual <input checked="" type="checkbox"/> Inspection After Repair <input type="checkbox"/> Other: _____ <input checked="" type="checkbox"/> Remain in Service <input type="checkbox"/> Remove from Service	<input type="checkbox"/> Notification (Agency Inspection) <input type="checkbox"/> Contact <input type="checkbox"/> Other _____ Date: _____	The following records were collected: <input type="checkbox"/> Agency Inspection Reports <input type="checkbox"/> Breath Test Instrument Repair Records <input type="checkbox"/> Instrument Registration <input type="checkbox"/> Dry Gas Standard Certificate of Analysis
Comments: <u>B.P. Instrument - 1019</u> <u>B.P. Gauge - 1016</u> <u>Verified setup procedures</u>		

<input checked="" type="checkbox"/> Clean/Dry <input checked="" type="checkbox"/> Secure <input type="checkbox"/> Other	<input checked="" type="checkbox"/> Proper Number of Glucostere <input checked="" type="checkbox"/> Checked Glucostere for Air Leak Resistant Seal and Proper Temperature <input checked="" type="checkbox"/> Class A Glassware	<input checked="" type="checkbox"/> Distilled/Deionized Water <input checked="" type="checkbox"/> Mouth Alcohol Solution <input checked="" type="checkbox"/> Positive Block Solution <input checked="" type="checkbox"/> Alcohol Reference Solution <input checked="" type="checkbox"/> Dry Gas Standard <input checked="" type="checkbox"/> Mouth Pieces
Comments: <u>D/A</u> <div style="text-align: center;">RECEIVED JUN 20 2008 FDLE Alcohol Testing</div>		

<u>In compliance with 10-8 F.A.C.</u>	
<u>Sandra Vaz</u> Signature of Alcohol Testing Program Staff Member	<u>06/18/08</u> Date

Original - FDLE

Copy - Agency

June 2007

Florida Department of Law Enforcement Alcohol Testing Program

DEPARTMENT INSPECTION REPORT - INTOXILYZER 8000

Agency: MIAMI-DADE PD
Time of Inspection: 16:50

Date of Inspection: 06/18/2008

Serial Number: 80-000393
Software: 8100.27

Check or Test	YES	NO	Check or Test	YES	NO
Diagnostic Check (Pre-Inspection): OK	Yes		Date and/or Time Adjusted		No
Minimum Sample Volume Check: OK	Yes		Barometric Pressure Sensor Check: OK	Yes	
Alcohol Free Subject Test: 0.000	Yes		Mouth Alcohol Test: Slope Not Met	Yes	
Interferent Detect Test: Interferent Detect	Yes		Diagnostic Check (Post-Inspection): OK	Yes	

Alcohol Free Test (g/210L)	0.05g/210L Test (g/210L) Lot#:200708A Exp: 08/01/2009	0.08g/210L Test (g/210L) Lot#:200612D Exp: 12/14/2008	0.20g/210L Test (g/210L) Lot#:200708D Exp: 08/01/2009	0.08 g/210L Dry Gas Std Test (g/210L) Lot#:709481F Exp: 04/08/2009
0.000	0.050	0.084	0.206	0.080
0.000	0.052	0.084	0.207	0.080
0.000	0.051	0.084	0.207	0.079
0.000	0.052	0.084	0.206	0.079
0.000	0.051	0.084	0.206	0.080
0.000	0.051	0.084	0.207	0.080
0.000	0.051	0.083	0.206	0.080
0.000	0.051	0.084	0.207	0.079
0.000	0.051	0.084	0.207	0.079
0.000	0.051	0.083	0.207	0.080
Standard Deviations	0.0005	0.0004	0.0005	0.0005

Average Standard Deviation of 0.05, 0.08 and 0.20 g/210L Tests: 0.0004 Number of Simulators Used: 5

Remarks:

IN COMPLIANCE W 11E-8 F.A.C.

The above instrument complies (☒) does not comply (☐) with Chapter 11D-8, F.A.C.

I certify that I performed this inspection in accordance with the provisions of Chapter 11D-8, F.A.C.

Shirley F. Veiga

SHIRLEY F. VEIGA

Signature and Printed Name

I HEREBY CERTIFY THE AUTHENTICITY
OF THE SEAL AFFIXED HERETO.

06/18/2008
Date

RECEIVED

JUN 23 2008

FDLE/ATP Form 41 - Revised August 2005

FDLE
Alcohol Testing Program

FDLE

Florida Department of
Law Enforcement

DEPARTMENT INSPECTOR FIELD NOTES

JB

Agency: MIAMI - DABE

PA

Instrument Serial Number: 80-000883

- ☐ Registration
 - ☐ Request for Registration Attached
- ☒ Annual
- ☐ Inspection After Repair
- ☐ Other: _____

☒ Barometric Pressure:
1011 Gauge
1016 Instrument

☒ Instrument Set Up Verified

- ☐ Agency Inspection Notification
- ☐ Agency Contact
- ☐ Other: _____

Date of Notification/Contact: _____

Agency Inspector: _____

The following records were audited:

- ☐ Agency Inspection Reports
- ☐ Breath Test Instrument
Repair/Maintenance Records
- ☐ Instrument Registration
- ☐ Dry Gas Standard Certificate(s) of
Analysis

☐ Other: _____

☐ Other: _____

Comments:

Simulator Return part "O" Ring Replaced.
Lawyer Bartfield Present During Inspection
NO RECORDS, EQUIPMENT OR SUPPLIES AT THE AGENCY INSPECTED
MOUTH ALCOHOL: 2007-B ACETONE STOCK: 2007-C

- ☒ Clean/Dry
- ☐ Secure
- ☐ Limited Access 3 N/A
- ☐ Other: _____

Inspection Done AT
FALLS ATP/HQ

- ☐ Proper Number of Simulators
- ☐ Checked Simulators for Air Leak
Resistant Seal and Proper
Temperature
- ☐ Clean A Glassware

- ☐ Distilled/Deionized Water
- ☐ Mouth Alcohol Solution
- ☐ Acetone Stock Solution
- ☐ Alcohol Reference Solution
- ☐ Dry Gas Standard
- ☒ Mouth Pieces

Comments:

During The .05 simulator test, The Results were out
of "Acceptable Range". The simulator Heater was
not working, air-heating and water heating. used
.02 and .20 simulators to troubleshoot problem.
.05 NOW simulator and solution used.

- ☒ Instrument Complies with Chapter 11D-8, FAC
- ☐ Instrument Does Not Comply with Chapter 11D-8, FAC

- ☐ Place into Evidentiary Use
- ☐ Remain in Evidentiary Use
- ☐ Remove from Evidentiary Use
- ☐ Return to Evidentiary Use

- ☐ Conduct an Agency Inspection Before Evidentiary Use

Comments:

Maria D. Bayfield

RECEIVED

AUG 19 2008

FDLE
Alcohol Testing Program

[Signature]
Signature of Alcohol Testing Program Staff Member

8/19/08

Date

Original - FDLE

Copy - Agency

August 2008

Florida Department of Law Enforcement 7x VB

Alcohol Testing Program

DEPARTMENT INSPECTION REPORT - INTOXILYZER 8000

Agency: MIAMI-DADE PD
Time of Inspection: 13:07

Date of Inspection: 08/19/2008

Serial Number: 80-000883
Software: 8100.27

Check or Test	YES	NO	Check or Test	YES	NO
Diagnostic Check (Pre-Inspection): OK	Yes		Date and/or Time Adjusted		No
Minimum Sample Volume Check: OK	Yes		Barometric Pressure Sensor Check: OK	Yes	
Alcohol Free Subject Test: 0.000	Yes		Mouth Alcohol Test: Slope Not Met	Yes	
Interferent Detect Test: Interferent Detect	Yes		Diagnostic Check (Post-Inspection): OK	Yes	

Alcohol Free Test (g/210L)	0.05g/210L Test (g/210L) Lot#:200711D Exp: 11/01/2009	0.08g/210L Test (g/210L) Lot#:200612D Exp: 12/14/2008	0.20g/210L Test (g/210L) Lot#:200708D Exp: 08/01/2009	0.08 g/210L Dry Gas Std Test (g/210L) Lot#:709601I Exp: 04/08/2009
0.000	0.083 / 0.049	0.084	0.207	0.080
0.000	0.077 / 0.049	0.084	0.208	0.080
0.000	0.072 / 0.050	0.084	0.207	0.079
0.000	0.068 / 0.051	0.085	0.207	0.080
0.000	0.067 / 0.051	0.085	0.206	0.080
0.000	0.064 / 0.050	0.084	0.207	0.080
0.000	0.063 / 0.051	0.084	0.207	0.079
0.000	0.062 / 0.051	0.084	0.207	0.080
0.000	0.083 / 0.052	0.085	0.207	0.080
0.000	0.207 / 0.051	0.084	0.207	0.080
Standard Deviations	0.0437 / 0.0009	0.0004	0.0004	0.0004

Average Standard Deviation of 0.05, 0.08 and 0.20 g/210L Tests: 0.0005 Number of Simulators Used: 5

Remarks:

05: Control Outside Tolerance SIMULATOR PROBLEMS, HEATER, .

RECEIVED
AUG 19 2008
FDLE
Alcohol Testing Program

The above instrument complies (☒) does not comply (☐) with Chapter 11D-8, F.A.C.

I certify that I performed this inspection in accordance with the provisions of Chapter 11D-8, F.A.C.

Matthew E. Malhot MATTHEW E. MALHOT
Signature and Printed Name

08/19/2008
Date

I HEREBY CERTIFY the authenticity of the seal affixed hereto.
FDLE/ATP Form 41 - Revised August 2005

Florida Department of Law Enforcement JLW

Alcohol Testing Program

DEPARTMENT INSPECTION REPORT - INTOXILYZER 8000

Agency: MIAMI-DADE PD
Time of Inspection: 15:08

Date of Inspection: 08/19/2008

Serial Number: 80-000883
Software: 8100.27

Check or Test	YES	NO	Check or Test	YES	NO
Diagnostic Check (Pre-Inspection): OK	Yes		Date and/or Time Adjusted		No
Minimum Sample Volume Check: OK	Yes		Barometric Pressure Sensor Check: OK	Yes	
Alcohol Free Subject Test: 0.000	Yes		Mouth Alcohol Test: Slope Not Met	Yes	
Interferent Detect Test: Interferent Detect	Yes		Diagnostic Check (Post-Inspection): OK	Yes	

Alcohol Free Test (g/210L)	0.05g/210L Test (g/210L) Lot#: 200711D Exp: 11/01/2009	0.08g/210L Test (g/210L) Lot#: 200612D Exp: 12/14/2008	0.20g/210L Test (g/210L) Lot#: 200708D Exp: 08/01/2009	0.08 g/210L Dry Gas Std Test (g/210L) Lot#: 7096012 Exp: 04/08/2009
0.000	0.051	0.083	0.206	0.080
0.000	0.051	0.083	0.207	0.080
0.000	0.051	0.083	0.207	0.080
0.000	0.051	0.082	0.207	0.081
0.000	0.051	0.082	0.207	0.080
0.000	0.051	0.082	0.207	0.080
0.000	0.051	0.082	0.207	0.080
0.000	0.052	0.082	0.207	0.080
0.000	0.052	0.082	0.207	0.080
0.000	0.051	0.082	0.207	0.080

Standard Deviations	0.0004	0.0004	0.0003	0.0003
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Average Standard Deviation of 0.05, 0.08 and 0.20 g/210L Tests: 0.0003 - Number of Simulators Used: 4

Remarks:

RECEIVED
AUG 19 2008
FILE
Alcohol Testing Program

The above instrument complies (☒) does not comply (☐) with Chapter 11D-8, F.A.C.

I certify that I performed this inspection in accordance with the provisions of Chapter 11D-8, F.A.C.

Matthew R. Malhot MATTHEW R. MALHOT
Signature and Printed Name

08/19/2008
Date

I HEREBY CERTIFY the authenticity of the seal placed hereon.
FDLE/ATP Form 41 - Revised August 2005

FDLE

Florida Department of
Law Enforcement

Gerald M. Bailey
Commissioner

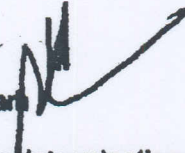
Criminal Justice Professionalism Program
Post Office Box 1489
Tallahassee, Florida 32302-1489
(850) 410-8800
www.fdle.state.fl.us

Charlie Crist, Governor
Bill McCollum, Attorney General
Alex Sink, Chief Financial Officer
Charles H. Bronson, Commissioner of Agriculture

NOTICE OF PROPOSED DISMISSAL

DATE: September 9, 2008

TO: Sandra Veiga, Government Analyst II, MROC

FROM: Michael Crews, Criminal Justice Professionalism Program 

SUBJECT: Notice of Proposed Dismissal and Member's Right to Predetermination Conference

You are hereby notified that the Department proposes to take final agency action against you in the form of a dismissal effective on September 25, 2008. You have five (5) working days from the receipt of this notice, whether by hand delivery or by certified mail, to submit a written request for a predetermination conference as described in Section 110.227(5)(a), Florida Statutes.

At the predetermination conference you may make and present an oral or written statement, or both, to the conference official to refute or explain the charges made against you. The conference will be conducted in an informal manner and is not in the nature of an evidentiary hearing. Neither discovery nor cross-examination are permissible. You may bring an attorney or qualified representative to advise or assist you during the conference.

In the event the Department decides to proceed with the proposed dismissal and take final action thereon, you will be notified of your right to appeal to the Public Employees Relations Commission (PERC) as provided by Section 110.227(5)(a), Florida Statutes or, in the event you are covered by a collective bargaining agreement, as an alternative you will be notified of your right to utilize your certified bargaining unit grievance procedures under Section 447.401, Florida Statutes. You will be similarly notified if no action is to be taken against you.

Assistant Executive Director Kenneth S. Tucker has been designated to conduct the predetermination conference should you choose to request one. Your request for a predetermination conference should be made in writing directly to Assistant Executive Director Tucker, Office of the Executive Director, Florida Department of Law Enforcement, Post Office Box 1489, Tallahassee, Florida 32302-1489, telephone number (850) 410-7001.

If you request a predetermination conference, it will be held during regular business hours in a manner and at a time and place to be determined by the Department. The purpose of the predetermination conference is to hear your side of the charges so as to protect you from erroneous or arbitrary action.

The specific charges and the facts forming the basis for your proposed dismissal are:

CHARGE #1: Rule 60L-36.005(3)(e), Florida Administrative Code (F.A.C.), entitled "Violation of Law or Agency Rules," to wit: violation of FDLE Policy 33.3[5], Values and Ethics, that reads *"Each FDLE member, whether on or off duty, should avoid any conduct (whether in the context of business, financial or social relationships) that might undermine the public trust in the member or FDLE, be considered unethical, or create or cause the appearance of impropriety. Particular caution is required when dealing with any person, entity or any agency subject to the regulation of, or doing business with, FDLE;"* and/or Rule 11I-1.011(2), F.A.C., entitled "Violation of Law or Rules," to wit: violation of FDLE Policy 33.3[5], Values and Ethics, that reads *"Each FDLE member, whether on or off duty, should avoid any conduct (whether in the context of business, financial or social relationships) that might undermine the public trust in the member or FDLE, be considered unethical, or create or cause the appearance of impropriety. Particular caution is required when dealing with any person, entity or any agency subject to the regulation of, or doing business with, FDLE."*

A review of the facts, circumstances, documentation, and sworn testimony in the investigation reveal that on different occasions in 2008 you made statements to personnel of the Miami Beach Police Department and the Miami-Dade Police Department about how you had preempted the testing of evidentiary DUI Instruments (Intoxilyzer 8000 Instruments), by intentionally turning off the power to such DUI Instruments when it is apparent that the instrument was going to fail required tests and how by turning off the instrument that there would be no documentation of the attempted test.

It was determined that the statements attributed to you in regards to this investigation were well founded in testimony and evidence. The statements by themselves reasonably created or caused the appearance of impropriety and could serve to undermine the public trust in you as the Department Inspector for such instruments and in the Florida Department of Law Enforcement.

CHARGE #2: Rule 60L-36.005(3)(f), Florida Administrative Code (F.A.C.), entitled "Conduct Unbecoming a Public Employee"; and/or Rule 11I-1.011(1), F.A.C., entitled "Unbecoming Conduct."

Your statements about the preemption of the testing of the Intoxilyzer 8000 instruments to members of the Miami Beach Police Department and the Miami-Dade Police Department caused the Florida Department of Law Enforcement to draft and send a letter to the law enforcement agencies in Miami-Dade, Broward and Monroe Counties that use the Intoxilyzer 8000 instruments. The letter notified the agencies of a potential issue regarding the manner in which an FDLE Department Inspection had been conducted. The letter further gave permission for the agencies, if they desired, to duplicate or provide this FDLE letter to prosecutors for their evaluation. In addition, as a result of your actions and statements, the Miami-Dade PD Intoxilyzer instrument (#80-000883) had to be removed from "on-line status" and sent to an authorized repair facility for reevaluation with FDLE bearing the costs for the reevaluation.

Veiga Memorandum
September 9, 2008
Page Three

Through your actions and statements you have brought discredit to the Florida Department of Law Enforcement and the State of Florida while also impairing the operation and efficiency of FDLE in its Breath Alcohol Testing Program.

CHARGE #3: Rule 60L-36.005(3)(e), Florida Administrative Code (F.A.C.), entitled "Violation of Law or Agency Rules," to wit: violation of Rule 11I-1.011[21], F.A.C., "Failure to Give Truthful or Requested Information During the Course of an Internal Investigation"; and/or Rule 11I-1.011[21], F.A.C., "Failure to Give Truthful or Requested Information During the Course of an Internal Investigation."

A review of the facts, circumstances, documentation, and sworn testimony in the investigation reveals that three independent witnesses from two different Miami-Dade County law enforcement agencies furnished credible evidence that you had told them how to avoid a falling Intoxilyzer 8000 test and/or how you had previously evaded a falling test on a tested instrument by turning it off prior to completion of the test. The statements that you gave during your internal investigation were determined to be inconsistent, evasive and/or not complete or realistic.

The following documents and exhibits in the Department's files support the charges set forth herein: Executive Investigations Case No. EI-79-1370 and all associated documents, memoranda, and recordings.

Should you not elect to request the aforementioned predetermination conference, the Department will proceed on the basis of the best information it has without such response.

cc: Executive Investigations
Human Resources
Finance and Accounting

MDC/